



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

**Anti-Dumping
Commission**

CUSTOMS ACT 1901 - PART XV B

**STATEMENT OF ESSENTIAL FACTS
NO. 507**

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

17 October 2019

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ABBREVIATIONS

\$	Australian dollars
ABB Australia	ABB Australia Pty Ltd
ABB Chongqing	ABB Chongqing Transformer Co., Ltd
ABB Zhongshan	ABB Zhongshan Transformer Co., Ltd
ABF	Australian Border Force
ABS	Australian Bureau of Statistics
ADA	World Trade Organisation Anti-Dumping Agreement
ADN	Anti-Dumping Notice
the Act	<i>Customs Act 1901</i>
ADRP	Anti-Dumping Review Panel
Ampcontrol	Ampcontrol Pty Ltd
AMQ	Australian market questionnaire
the applicant or WTC	Wilson Transformer Company Pty Ltd
ChAFTA	China Australia Free Trade Agreement
China	the People's Republic of China
CHINT	CHINT Electric Co., Ltd
the Commission	the Anti-Dumping Commission
the Commissioner	the Commissioner of the Anti-Dumping Commission
CON 507	<i>Consideration Report No. 507</i>
CTC	Changzhou Toshiba Transformer Co., Ltd.
CTMS	cost to make and sell
the Customs Direction	<i>Customs (Extensions of Time and Non-cooperation) Direction 2015</i>
EPC	engineering procurement and construction
EPR	electronic public record available via www.adcommission.gov.au
FOB	free on board
GE Australia	GE Grid Australia Pty Ltd
GE Wuhan	GE High Voltage Equipment (Wuhan) Co., Ltd
GWh	giga watt hours
the goods	the goods the subject of the application as outlined at section 3.3 (also referred to as the goods under consideration)
Indonesia	the Republic of Indonesia
injury analysis period	from 1 January 2014
investigation period	1 January 2016 to 31 December 2018
INV 219	Investigation No. 219
Jiangsu Huapeng	Jiangsu Huapeng Transformer Co., Ltd
Korea	the Republic of Korea
kVA	kilo volt ampere

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the Manual	<i>Dumping and Subsidy Manual, November 2018</i>
the Minister	the Minister for Industry, Science and Technology
Ministerial Direction	<i>Ministerial Direction on Material Injury 2012</i>
MVA	mega volt ampere
NEM	National Electricity Market
OCOT	ordinary course of trade
PAD	Preliminary Affirmative Determination
PAD Direction	<i>Customs (Preliminary Affirmative Determination) Direction 2015</i>
R&D	research and development
the Regulation	<i>Customs (International Obligations) Regulation 2015</i>
REP 219	<i>Anti-Dumping Commission Report No. 219</i>
REQ	response to the exporter questionnaire
RFT	request for tender
ROI	return on investment
SEF	statement of essential facts
SG&A	selling, general and administration
Siemens Australia	Siemens Australia Pty Ltd
Siemens Jinan	Siemens Transformer (Jinan) Co., Ltd
Siemens Wuhan	Siemens Transformer (Wuhan) Co., Ltd
Thailand	the Kingdom of Thailand
TIC	Toshiba International Corporation Pty Ltd
Transgrid	NSW Electricity Networks Operations Pty Ltd
Tyree	Tyree Transformers Pty Ltd
UNINDO	PT. Unelec Indonesia
Vietnam	the Socialist Republic of Vietnam
WTO	World Trade Organisation

1 SUMMARY AND RECOMMENDATIONS

1.1 Summary

This statement of essential facts (SEF) no. 507 has been prepared in response to an application lodged by Wilson Transformer Company Pty Ltd ('WTC', or 'the applicant') for the publication of a dumping duty notice in respect of certain power transformers¹ ('power transformers' or 'the goods') exported to Australia from the People's Republic of China (China).

The applicant alleges that the Australian industry producing like goods has experienced material injury caused by the goods exported to Australia from China at dumped prices.

This SEF sets out the facts on which the Commissioner of the Anti-Dumping Commission (the Commissioner) proposes to terminate this investigation, subject to any submissions received in response to this SEF.

1.2 Application of law to facts

1.2.1 Authority to make a decision

Division 2 of Part XVB of *Customs Act 1901* (the Act)² describes, among other things, the procedures to be followed and the matters to be considered by the Commissioner in conducting investigations in relation to goods covered by an application under section 269TB(1).

1.2.2 Application

On 24 January 2019, the applicant lodged an application under section 269TB(1) alleging that the Australian industry has experienced material injury caused by exports of the goods to Australia from China at dumped prices.

Having considered the application and further information provided by the applicant, the Commissioner decided not to reject the application and on 18 March 2019 initiated an investigation into the alleged dumping of the goods from China.

Consideration Report No. 507 (CON 507) and a public notice (Anti-Dumping Notice (ADN) No. 2019/35) provide further details relating to the initiation of the investigation and are available on the Anti-Dumping Commission (the Commission) electronic public record (EPR) via www.adcommission.gov.au.³

1.2.3 Preliminary affirmative determination

In accordance with section 269TD(1), the Commissioner may make a preliminary affirmative determination (PAD) if satisfied that there appears to be sufficient grounds for

¹ The goods are defined at section 3.3.

² All legislative references in this SEF are to the *Customs Act 1901* unless otherwise specified.

³ Case 507 at EPR item nos. 02 and 03 respectively.

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the publication of a dumping duty notice or a countervailing duty notice or it appears that there will be sufficient grounds for the publication of such a notice subsequent to the importation of the goods into Australia.

A PAD may be made no earlier than day 60 of the investigation (in relation to this investigation day 60 was 17 May 2019). The Commonwealth may require and take securities at the time a PAD is made or at any time during the investigation after a PAD has been made if the Commissioner is satisfied that it is necessary to do so to prevent material injury to an Australian industry occurring while the investigation continues.

The Commissioner was not satisfied at day 60 of the investigation that there appeared to be sufficient grounds for the publication of a dumping duty notice in relation to exports of the goods from China. The Commission published a Status Report on 17 May 2019 detailing the Commissioner's reasons for not making a PAD.⁴

Section 9 of the *Customs (Preliminary Affirmative Determination) Direction 2015* (PAD Direction) requires the Commissioner to reconsider making a PAD after the publication of a Status Report at least once prior to the publication of the SEF. In preparing this SEF, the Commissioner reconsidered whether to make a PAD in view of the additional evidence available. However, this evidence did not establish sufficient grounds for the publication of a PAD.

As the Commissioner is not satisfied that there appears to be sufficient grounds for the publication of a dumping duty notice in respect of the goods exported to Australia from China, no PAD under subsection 269TD(1) has been made.

1.2.4 Statement of essential facts

The Commissioner must, within 110 days after the initiation of an investigation, or such longer period as allowed under section 269ZHI(3)⁵ place on the public record a SEF on which the Commissioner proposes to base a recommendation to the Minister for Industry, Science and Technology (the Minister) in relation to the application.⁶

The SEF was originally due to be placed on the public record by 8 July 2019, however the due date for the SEF and final report was extended on two occasions.⁷

The Commissioner is now required to place the SEF on the public record by 17 October 2019.

⁴ Case 507, ADN No. 2019/70 at EPR item no. 23.

⁵ This power of the Minister under section 269ZHI has been delegated to the Commissioner. Refer to ADN No. 2017/10, available on the Commission's website, for further information.

⁶ Section 269TDAA(1).

⁷ Case 507, ADN No. 2019/75 at EPR item no. 26 and ADN No. 2019/107 at EPR item no. 55. The reasons for the extensions are outlined in the respective ADNs.

1.2.5 Final report

The Commissioner’s final report and recommendations in relation to this investigation must be provided to the Minister on or before 2 December 2019, unless the investigation is terminated earlier or a further extension of time to provide the final report is granted.

1.3 Preliminary findings

The Commissioner’s findings in this SEF are based on available information at this stage of the investigation. A summary of the findings is provided below.

1.3.1 The goods and like goods (Chapter 3)

The Commissioner considers that locally produced power transformers are ‘like’ to the goods that are the subject of the application.

1.3.2 The Australian industry (Chapter 4)

The Commissioner 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.

1.3.3 The Australian market (Chapter 5)

The Australian market for power transformers is supplied by local production by WTC, Ampcontrol Pty Ltd (Ampcontrol) and Tyree Transformers Pty Ltd (Tyree) and by imports from China as well as other countries.

1.3.4 Dumping assessment (Chapter 6)

The Commission’s preliminary assessment of dumping is set out in Table 1 below:

Exporter	Dumping margin⁸
ABB Chongqing Transformer Co., Ltd (ABB Chongqing)	-4.6%
ABB Zhongshan Transformer Co., Ltd (ABB Zhongshan)	-1.0%
Changzhou Toshiba Transformer Co., Ltd (CTC)	16.1%
CHINT Electric Co., Ltd (CHINT)	20.6%
GE High Voltage Equipment (Wuhan) Co., Ltd (GE Wuhan)	42.4%
Jiangsu Huapeng Transformer Co., Ltd (Jiangsu Huapeng)	40.5%
Siemens Transformer (Jinan) Co., Ltd (Siemens Jinan)	-10.2%
Siemens Transformer (Wuhan) Co., Ltd (Siemens Wuhan)	-3.7%
Uncooperative and all other exporters	42.4%

Table 1 - Preliminary dumping margins

⁸ Dumping margins are expressed as a percentage of the export price.

1.3.5 Economic condition of the Australian industry (Chapter 7)

The Commission assessed the economic condition of the Australian industry from 1 January 2016 to 31 December 2018. Based on the Commission's assessment, the Commissioner is satisfied that the Australian industry has experienced the following:

- reduced sales volumes;
- reduced market share;
- price depression;
- price suppression;
- reduced profit;
- reduced profitability;
- reduced cash flow;
- reduced capacity utilisation;
- reduced return on investment (ROI);
- reduced productivity; and
- reduced revenue.

1.3.6 Is dumping causing material injury? (Chapter 8)

The Commissioner's preliminary finding is that, during the investigation period, while certain exports of the goods from China were dumped, the injury that has been caused, or may be caused by the dumping of these exports is negligible.

1.3.7 Non-injurious price

The Commissioner is proposing to terminate the entire investigation for the reasons outlined in Chapter 9. Therefore, the Commissioner is not proposing to recommend that the Minister publish a notice under sections 269TG(1) or (2).

As such, the Commissioner has not determined a non-injurious price for the purposes of this SEF.

1.3.8 Proposal to terminate the investigation (Chapter 9)

Section 269TDA provides for when the Commissioner must terminate an investigation.

Subject to any submissions received in response to this SEF, the Commissioner proposes to terminate the investigation in relation to:

- ABB Chongqing and Siemens Jinan, on the basis that there has been no dumping by those exporters of any of those goods the subject of the application, in accordance with section 269TDA(1)(b)(i);
- ABB Zhongshan and Siemens Wuhan, on the basis that the dumping margin for each exporter, worked out under section 269TACB, when expressed as a percentage of the export price or weighted average of export prices used to establish that dumping margin, is less than two per cent, in accordance with section 269TDA(1)(b)(ii); and
- China on the basis that the injury to the Australian industry that has been caused by exports from China is negligible, in accordance with section 269TDA(13).

2 BACKGROUND

2.1 Application

On 24 January 2019, WTC lodged an application under section 269TB(1) for the publication of a dumping duty notice in respect of the goods exported to Australia from China. The applicant alleged that the Australian industry had experienced material injury caused by exports of the goods from China at dumped prices.

The applicant claimed that the Australian industry has been injured through:

- loss of sales volume;
- reduced market share;
- price depression;
- price suppression;
- loss of profits;
- reduced profitability;
- reduced cash flow;
- reduced employment;
- reduced wages;
- reduced capacity utilisation;
- reduced ROI;
- reduced ability to raise capital; and
- reduced capital investment.

On a number of occasions up to and including 20 February 2019, the applicant provided further information and data in support of the application, without having been requested to do so, as provided for in section 269TC(2A).

Subsequent to receiving further information, the Commissioner decided not to reject the application and initiated an investigation into the alleged dumping of the goods exported to Australia from China.

Public notification of initiation of the investigation was made on 18 March 2019. ADN No. 2019/35⁹ and CON 507¹⁰ provide further details relating to the initiation of the investigation.

In respect of this investigation:

- the investigation period¹¹ for the purpose of assessing dumping is 1 January 2016 to 31 December 2018; and

⁹ Case 507, EPR item no. 03.

¹⁰ Case 507, EPR item no. 02.

¹¹ As that term is defined in section 269T(1).

- the injury analysis period for the purpose of determining whether material injury to the Australian industry has been caused by exports of dumped goods from China is from 1 January 2014 onwards.¹²

2.2 Submissions in response to the initiation of the investigation

2.2.1 Submissions

In response to the initiation of this investigation, the Commission received submissions from Toshiba International Corporation Pty Ltd (TIC)¹³ and its related entities¹⁴, and from Siemens Australia Pty Ltd (Siemens Australia)¹⁵ and its related entities.¹⁶

Siemens Australia and TIC submitted that the investigation should not have been initiated, mainly because there was no merit in WTC's claims regarding dumping, material injury and causation. It was further submitted that the Commissioner initiated the case based on false premises and assumptions that do not comply with Australia's anti-dumping legislation nor with World Trade Organisation (WTO) Anti-Dumping Agreement (ADA).

Siemens Australia submitted that the investigation should be terminated under section 269TDA(1) or section 269TDA(13).

TIC noted that the Commission had terminated a previous investigation in relation to the goods from China (Investigation No. 219 (INV 219)) and questioned what had changed to warrant a new investigation.

WTC made a submission¹⁷ in response to the submissions from TIC and Siemens Australia.

CON 507 outlines the Commissioner's consideration of whether there appeared to be reasonable grounds for the publication of a dumping duty notice in respect of the goods. A summary of the applicant's claims and further details of the various submissions are below.

The applicant's claims in relation to dumping – reasonable grounds

In its application, WTC estimated export prices and normal values for imports of the goods from China in order to demonstrate that there appeared to be reasonable grounds that the goods were dumped.

¹² The purpose of the injury analysis period is to allow the Commission to identify and examine trends in the market which in turn assists the Commissioner in the determination of whether material injury has occurred over the investigation period.

¹³ Case 507, EPR item nos. 04 and 13.

¹⁴ TIC is the Australian importer of the goods exported to Australia by related entity CTC.

¹⁵ Case 507, EPR item no. 05.

¹⁶ Siemens Australia is the Australian importer of the goods exported to Australia by related entities Siemens Jinan and Siemens Wuhan.

¹⁷ Case 507, EPR item nos. 20 and 21.

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WTC's estimates relied on information obtained in relation to a number of transactions, each representing a contemporaneous procurement of power transformers in the Australian market. These transactions related to instances where WTC was unsuccessful in a tender process and where a Chinese supplier had been identified as the preferred tenderer. WTC relied on its market knowledge or post-tender discussions with the purchaser in Australia to inform its estimated export prices and normal values.

WTC estimated the export prices at a free on board (FOB) basis by deducting Australian selling costs from the estimated winning tender price.

WTC estimated normal values using its own sales and cost data relating to the relevant tenders, and adjusted for differences of cost of labour, overhead and freight between China and Australia. TIC submitted that the estimates were unsubstantiated and inconsistent with Australian legislation and Article 5.2 of ADA.

Siemens Australia submitted that WTC's estimates based on unsuccessful bids as a starting point are speculative. Siemens Australia submitted that an unsuccessful bid may be much higher than the applicant's costs plus realistic profit margins. It considers that WTC's estimates of normal values on this basis are likely to be overestimated. Siemens Australia consider that a more appropriate method to estimate normal values would have been to use the applicant's costs in successful tenders as a starting point.

Siemens Australia also submitted that the applicant, by relying on World Bank 2017 data to make adjustments for labour, manufacturing, engineering and administration cost differences, may have overestimated costs in China. Siemens Australia further submitted that WTC's estimates were not adjusted for exchange rate variations and Chinese manufacturers' lower cost of sourcing components.

Siemens Australia and TIC both submitted that, by basing the estimations on WTC's own bids, the estimated normal values and export prices did not reflect the specific terms and conditions that vary for each project and each company.

In response to Siemens Australia and TIC, WTC noted that it does not have access to actual exporter data, and therefore its calculations must be based on estimates. It also noted that its approach for this application was consistent with its application for INV 219.

WTC further submitted that:

- unsuccessful bids are the only logical basis for calculating injury as lost business is the basis of its injury. Price depression and suppression, and the injury resulting from them, occur when contracts are lost when awarded to lower price tenders;
- World Bank 2017 labour costs are a reasonable basis for making adjustments to the relative costs between Australia and China and are consistent with those that were accepted in INV 219;
- there is no basis for adjusting for exchange gain or loss variations; and
- there is no basis for the claim that no allocation of administrative costs has been made.

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The applicant's claims in relation to material injury – reasonable grounds

TIC and Siemens Australia submitted that WTC had incorrectly measured the Australian market size and also incorrectly calculated WTC's market share as a percentage of sales value and not volume in its application.

The importers submitted that it is inconsistent with the ADA, which refers in certain Articles to volumes.

Siemens Australia's submission provided analysis of the applicant's injury claims and stated that there was no evidence that the applicant has suffered material injury.

The applicant's claims in relation to material injury caused by dumping – reasonable grounds

TIC submitted that WTC does not compete with it in the same market sector for power transformers in Australia because WTC cannot produce the power transformers required by its purchasers. TIC submitted that, if the Australian industry does not compete with certain imports, then it cannot claim injury from those imports.

Siemens Australia submitted that, to the extent that the applicant has suffered injury, it was not because of dumping but due to other injury factors such as:

- removal of import tariffs as part of the China Australia Free Trade Agreement (ChAFTA);
- the Australian industry's slow response to the requirements of the renewable energy sector; and
- competition from imports of competing products manufactured at greater scale in countries with lower manufacturing costs.

2.2.2 The Commission's assessment

Reasonable grounds to initiate the investigation

The Commission notes that there is no prescribed methodology that an applicant must adopt in making an application for a dumping duty notice. It is also noted that Article 5.2 of the ADA states that *'the application shall contain such information as is reasonably available to the applicant'*. The Commission acknowledged this in CON 507.

The Commission further noted in CON 507 that due to the bespoke nature of the goods, and the confidential nature of the tendering process, there is limited information available in the public domain for the purpose of estimating export prices and normal values, and by extension, dumping margins.

In CON 507, the Commission reviewed the applicant's methodology, evidence and assumptions and found that the estimated export prices and normal values were reasonable and reliable for the purpose of making an application for a dumping duty notice.

Similarly, in CON 507 the Commission reviewed the applicant's claims relating to material injury caused by dumping and found that there appeared to be reasonable grounds to support those claims.

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The Commissioner remains satisfied that it was appropriate to initiate the investigation.

Other matters raised in submissions in response to the initiation of the investigation are discussed in greater detail throughout this SEF. For example, the submissions as they relate to material injury are discussed in greater detail in chapter 7 and chapter 8.

2.3 Other cases involving power transformers

2.3.1 Investigation No. 219

On 29 July 2013, following an application by WTC, the Commissioner initiated INV 219 into whether power transformer had been exported to Australia from China, the Republic of Indonesia (Indonesia), Korea, Taiwan, the Kingdom of Thailand (Thailand) and the Socialist Republic of Vietnam (Vietnam) at dumped prices.¹⁸ INV 219 examined an investigation period of 1 July 2010 to 30 June 2013.

On 1 December 2014, the Commissioner terminated the investigation in relation to China and Korea.¹⁹ The Commissioner also terminated the investigation in relation to PT. Unelec Indonesia (UNINDO), an exporter from Indonesia.²⁰

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).

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

The anti-dumping measures applying to power transformers exported to Australia are set out in Table 2 below:

¹⁸ Case 219, ADN No. 2013/64 at EPR item no. 02.

¹⁹ ADN No. 2014/130 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 section 269TDA(1). The investigation was also terminated pursuant to section 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 three per cent of the total Australian import volume as prescribed in section 269TDA(4).

²⁰ 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 section 269TDA(1).

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Country	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 2 - Existing measures on power transformers

2.3.2 Continuation Inquiry No. 504

The anti-dumping measures imposed as a result of INV 219 are due to expire on 10 December 2019. In accordance with section 269ZHB(1), the Commissioner invited eligible persons to apply for a continuation of the measures.

On 11 February 2019, following the Commissioner's consideration of an application lodged by WTC seeking continuation of measures applying to the goods exported to Australia, Continuation Inquiry No. 504 was initiated.

The Commissioner's reasons for initiating this inquiry are detailed in ADN No. 2019/20 which is available on the EPR for Continuation Inquiry No. 504.

The SEF for Continuation Inquiry No. 504 was placed on the EPR on 22 August 2019. The SEF proposed to recommend to the Minister that she take steps to continue the measures in relation to Indonesia and Taiwan (with some alterations to the notice). The SEF also proposed that the measures in respect of Thailand be allowed to expire. The final report was provided to the Minister on 4 October 2019 and at the time of publication of this SEF is being considered by the Minister.

2.4 Conduct of the investigation

2.4.1 Australian industry

WTC's application lists the Australian industry as consisting of itself, Ampcontrol and Tyree.

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

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Based on information contained in the application, information obtained from Ampcontrol and that gathered during INV 219, the Commission is satisfied that WTC accounts for the majority of power transformers produced in Australia.

The Commission conducted a verification visit to WTC's premises in March 2019. A verification report in relation is available on the EPR.²¹

2.4.2 Importers

The Commission identified several listed importers in the Australian Border Force (ABF) import database that declared imports of the goods from China during the investigation period. The Commission forwarded importer questionnaires to the largest listed importers and placed a copy of the importer questionnaire on the Commission's website for completion by other importers who were not contacted directly. The Commission received fully completed questionnaire responses from four importers:

- Siemens Australia;
- GE Grid Australia Pty Ltd (GE Australia);
- ABB Australia Pty Ltd (ABB Australia); and
- TIC.

The Commission verified the information provided by Siemens Australia, GE Australia and TIC by undertaking on-site verification visits. Verification reports relating to these three importers are available on the EPR.²²

2.4.3 Exporters

At the outset of the investigation, the Commission forwarded exporter questionnaires to major exporters of the goods from China via their Australian importer of the goods and also placed a copy of the exporter questionnaire on the Commission's website for completion by other exporters who were not contacted directly.

After granting various extensions of time to the initial deadline for the receipt of questionnaires (24 April 2019)²³ the Commission received completed responses to the exporter questionnaire (REQ) from the following exporters:

- ABB Zhongshan;
- ABB Chongqing;
- CTC;
- CHINT;
- GE Wuhan;
- Jiangsu Huapeng;
- Siemens Jinan; and
- Siemens Wuhan.

²¹ Case 507, EPR item no. 50.

²² Case 507, EPR item nos. 39, 44 and 46.

²³ Case 507, EPR item no. 12.

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The Commissioner undertook in country verification visits to the following exporters:

- CTC;
- GE Wuhan; and
- Siemens Jinan.

At the visit to Siemens Jinan, the Commission had access to the financial records of Siemens Wuhan, and conducted a targeted verification of the information contained in Siemens Wuhan's REQ.

According to verified sales data and data obtained from the ABF import database, the four exporters verified in-country represent approximately 70 per cent of the volume of goods and approximately 80 per cent of the value of the goods exported to Australia from China during the investigation period.

Given the relatively small volume of exports from the remaining four exporters that submitted a REQ, the Commission elected to conduct remote verifications.

Uncooperative exporters

An uncooperative exporter, in relation to an investigation, is defined in section 269T(1) as an exporter that did not cooperate by providing information considered to be relevant to the investigation within a reasonable period, or an exporter that significantly impeded the investigation.

The Commissioner had regard to both section 269T(1) and the *Customs (Extensions of Time and Non-cooperation) Direction 2015* (the Customs Direction) and determined CTC to be an uncooperative exporter.

CTC provided a REQ, however through follow up emails and a verification visit conducted by the Commission between 27 May 2019 and 31 May 2019, it was identified that CTC's REQ was materially deficient, in particular in relation to domestic sales and domestic costs. These deficiencies are directly relevant to determining the normal value of the goods in China in accordance with the Act and regulations.

As a result of CTC's failure to rectify these deficiencies, the Commissioner was satisfied that CTC did not provide the information he considered to be relevant to the investigation within a reasonable period, and that the deficiencies that remained could not be rectified quickly and easily in a further response.

The Commissioner notified CTC of his decision to treat it as an uncooperative exporter pursuant to section 269T(1) on 18 June 2019.

In addition to CTC, the Commissioner considers all other exporters other than those listed above to be uncooperative exporters.

This finding is on the basis that these exporters did not cooperate with the investigation by providing information considered to be relevant to the investigation within a reasonable period.

Assessments in relation to the variable factors for uncooperative exporters will be based on all relevant information.

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In a submission dated 30 July 2019²⁴, CTC argued that the Commissioner's finding that CTC is an "uncooperative exporter" is incorrect.

CTC claims that:

- the Commission has been able to verify the completeness, accuracy and reliability of CTC's domestic sales and domestic cost to make and sell (CTMS) through management accounts and audited financial accounts;
- the fact that the Commission was not provided with the domestic sales listing and domestic CTMS listing in the preferred format, that is in the format of worksheets D2 and G3 of the REQ, should not disadvantage CTC; and
- the Commissioner's finding that he was not provided "relevant" domestic sale and domestic CTMS information lacks logic when all power transformers are unique and the terms and conditions on which they are supplied are unique.

The Commission undertook an on-site verification of the information contained in CTC's REQ in May 2019. The verification team attempted to reconcile the values in worksheets 'B-4 Upwards Sales' and 'G-8 Upwards Costs' by tracing the domestic sales and costs listings to audited financial statements in accordance with ADN No. 2016/30.

Having regard to all information provided by CTC to the verification team, the verification team identified that material variances existed between worksheet D-2 domestic sales listing and worksheet B-4, and between the G-3 Domestic Cost listing and worksheet G-8. These issues are described in Chapter 3.1 of the CTC exporter verification report.²⁵ As a result, the verification team was unable to reconcile worksheets D-2 and G-3 to the financial statements in accordance with ADN No. 2016/30, and could therefore not be satisfied that the information was complete and relevant.

Through the verification process, it was found that CTC provided domestic sales and costs for a sample only. The Commission is of the view that CTC had opportunities to provide complete and relevant information via worksheets D-2 and G-3, including all sales of like goods in the investigation period, having been requested to do so in the exporter questionnaire, before the visit via email and during the verification visit. CTC provided the worksheets with additional sales on 7 June 2019, after the conclusion of the on-site verification, limiting the verification team's opportunity to verify this additional information.

The Commission accepts that entities may not always provide information in the Commission's preferred format. The Commission considers that, in respect of CTC, reasonable flexibility was employed in assessing the information provided regardless of format — as has been the case with other exporters who have cooperated with this investigation. To that end, the Commissioner's finding goes to whether he can be satisfied that the domestic sales and domestic costs data is complete, relevant and accurate. In relation to CTC, that level of satisfaction has not been achieved, regardless of the presentation of the data, because the data in worksheets D-2 and G-3 could not be reconciled to audited financial statements in accordance with ADN No. 2016/30.

²⁴ Case 507, EPR item no. 48.

²⁵ Case 507, EPR item no. 45.

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In accordance with ADN No. 2016/30, the verification team assessed, inter alia, the relevance of domestic sales and domestic costs. The purpose of this test is to assess whether the data in worksheets D-2 and G-3 relates only to like goods sold on the domestic market during the investigation period, and does not include items that do not meet these characteristics. The Commission assesses whether an exporter has provided relevant data on domestic sales and domestic costs in order to establish a normal value under section 269TAC.

The Commission considers that like goods are power transformers sold by CTC on the domestic market that are identical to, or have characteristics closely resembling, the goods exported to Australia. The Commission considers that CTC's sales of like goods constitute its domestic sales of liquid dielectric power transformers with power ratings of equal to or greater than 10 MVA and a voltage rating of less than 500kV whether assembled or unassembled, complete or incomplete. This definition is consistent with the goods description set out in ADN No. 2019/35. The Commission notes that CTC did not object to this definition of like goods during the verification visit and CTC had attempted to complete its worksheets D-2 and G-3 on the basis of this definition.

The Commission is satisfied that CTC sold like goods on the domestic market during the investigation period. In establishing a normal value under sections 269TAC(1) or 269TAC(2)(c), the Commission requires data regarding like goods sold on the domestic market during the investigation period. In order to rely on CTC's data, the Commission must be satisfied that the data is complete, relevant and accurate. However, having regard to all information provided by CTC, the Commission could not be satisfied that the domestic sales and domestic costs data was complete, relevant and accurate.²⁶

2.4.4 Purchasers

In addition to information received from the applicant, importers and exporters, the Commission sought the participation of purchasers of power transformers in Australia during the investigation period by requesting the completion of an Australian Market Questionnaire (AMQ).

The Commission received AMQs from the following purchasers of power transformers in the Australian market:

- Ausgrid Operator Partnership;
- BHP Billiton Iron Ore Pty Ltd;
- Endeavour Energy;
- Energy Queensland;
- Essential Energy;
- Hydro Tasmania;
- NSW Electricity Networks Operations Pty Ltd (Transgrid);
- Powerlink Queensland;

²⁶ While the Commission is satisfied that CTC provided sales data for some of its domestic sales of goods, the Commission could not be satisfied that this list included all sales or that all the goods listed were, in fact, like goods. This finding is in relation to domestic sales (and domestic costs associated with those sales) and does not relate to other areas of the REQ that the Commission considers are complete, relevant and complete, such as export sales and costs.

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- RJE Global Pty Ltd (RJE); and
- Zenviron.

Following the Commission's evaluation of the information contained in the AMQ's, teleconferences were held between the Commission and:

- Endeavour Energy;
- Hydro Tasmania;
- Powerlink Queensland;
- RJE;
- Transgrid; and
- Zenviron.

These teleconferences were conducted for the purpose of gaining further information about the Australian market and the procurement decisions of purchasers in the market. File notes for each of these teleconferences are available on the EPR.

The Commission summarised the information gathered from the AMQ's and follow up teleconferences and published a file note on 24 July 2019.²⁷ This information is also summarised below:

- Generally power transformers are purchased through a competitive tendering process, however purchasers may also approach a supplier directly from time to time depending on the circumstances of the procurement;
- Purchasers may implement standard offer arrangement contracts (panel supply arrangements or panels). The Commission understands that panels consist of approved suppliers that have confirmed their ability to build to a required specification and agreed delivery schedules. Pricing is included but generally with some movement allowable for changes in input costs. Several purchasers advised that while the panels are a convenient vehicle for supply, there are instances when suppliers outside of the panel are invited to bid for a power transformer. The Commission understands that the panels are not exclusive arrangements. Delivery and installation costs are also not typically included in the original agreement and these additional costs may impact the final bid price;
- There was a general consensus from purchasers that WTC's like goods are built to an acceptable standard. A minority of purchasers discussed issues with WTC's like goods, acknowledging that these occurred prior to the investigation period;
- Some purchasers commented that WTC are slow to provide bids for transformer projects. The Commission understands from the purchasers that this is an issue when a project has a short deadline. The purchasers recognised some suppliers as being more responsive than WTC; and
- Some purchasers indicated that they will approach WTC for power transformers in the small and medium range but have less confidence in WTC's ability to supply large transformers (above 180MVA). There appeared to be some consensus

²⁷ Case 507, EPR item no. 41.

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among purchasers that large, international manufacturers, including Chinese manufacturers, have more experience with larger sized power transformers.

Submissions in respect of the AMQ

TIC

TIC submitted²⁸ that the information published in the Commission's file note correlated closely with the information it had furnished to the Commission.

TIC asserted that purchasers have considerable concerns regarding WTC's performance. TIC stated that WTC does not respond to purchaser requests for bids on projects in a timely manner and presumably is then excluded from such bids, and that purchasers are not confident that WTC has the ability to reliably supply large power transformers (i.e. those above 180 MVA).

TIC also asserted that, to its understanding, WTC did not bid on 50 per cent of the projects that were won by TIC during the investigation period. TIC also believes that there was a large project in which the purchaser outlined issues with WTC's capability.

TIC does not believe that WTC can credibly claim injury caused by TIC, given the circumstances.

TIC submitted that, on the basis of information it has submitted to the Commission, and the information contained in the file note, the investigation should be terminated, at least insofar it relates to TIC.

WTC

WTC submitted that:²⁹

- it had experienced a small number of manufacturing issues in the past, however these issues were addressed and the transformers were fully tested and despatched. It noted that all manufacturers of power transformers have issues from time to time in manufacture and test due to the complex nature and variability of the products;
- it supports the Australian market with more bids than any other supplier and rebutted claims by its competitors that it is not actively competing; and
- demand for power transformers 180MVA and above has been higher internationally than in Australia, providing some international suppliers with more experience. While only a minority of WTC's sales have exceeded 180MVA capacity, WTC has proven experience supplying power transformers above this power rating.

The Commission's assessment

²⁸ Case 507, EPR items no. 43 and no. 47.

²⁹ Case 507, EPR item no. 54.

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The Commission has had regard to the information gathered from purchasers of power transformers and the submissions received from TIC and WTC on the subject when analysing the Australian market and factors that may have caused injury to Australian industry. The Commission's findings in this regard are contained in Chapters 7 and 8.

2.5 Submissions received

Upon initiation of this investigation, interested parties, as defined by section 269T(1), were invited to lodge submissions concerning the publication of the dumping duty notice sought in the application, no later than 24 April 2019.³⁰ The Commissioner is not obliged to have regard to submissions received after this date if to do so would, in his opinion, prevent the timely placement of the SEF on the public record.

All relevant issues raised in submission are discussed in the appropriate sections of this SEF. The submissions received are listed in Table 3 below:

EPR No.	Entity	Entity type	Subject	Date published on the EPR
04	TIC	Importer	Initiation	15 April 2019
05	Siemens Australia	Importer	Initiation	26 April 2019
13	TIC	Importer	Further submission	26 April 2019
20	WTC	Australian industry	Response to TIC submissions	16 May 2019
21	WTC	Australian industry	Response to Siemens Australia's submission	16 May 2019
22	TIC	Importer	Letter to ADC	17 May 2019
24	GE Australia	Importer	PAD	17 May 2019
30	GE Australia	Importer	Injury to Australian industry	13 June 2019
31	WTC	Australian industry	Response to GE Australia Injury submission	18 June 2019
34	TIC	Importer	No title (concerns anti-competitive conduct)	25 June 2019
35	WTC	Australian industry	Response to GE Australia PAD submission	25 June 2019
37	TIC	Importer	Response to WTC submission	28 June 2019
40	GE Australia	Importer	Causation	23 July 2019
43	TIC	Importer	Grounds for termination	29 July 2019
47	TIC	Importer	Response to ADC file note re AMQ	31 July 2019
48	CTC	Exporter	Response to verification report	31 July 2019
51	WTC	Australian industry	Response to GE Australia causation submission	2 August 2019
52	GE Wuhan	Exporter	Calculation of normal value	6 August 2019

³⁰ Case 507, ADN No. 2019/35 at EPR item no. 03.

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53	TIC	Importer	Case issues	6 August 2019
54	WTC	Australian industry	Response to Toshiba submission	8 August 2019

Table 3 - Submissions

2.6 Preliminary affirmative determination

2.6.1 Background

In accordance with section 269TD(1), the Commissioner may make a PAD if satisfied that:

- there appears to be sufficient grounds for the publication of a dumping duty notice or a countervailing duty notice or;
- it appears that there will be sufficient grounds for the publication of a dumping duty notice or a countervailing duty notice subsequent to the importation of the goods into Australia.

A PAD may be made no earlier than day 60 of the investigation (in relation to this investigation, 17 May 2019). The Commonwealth may require and take securities at the time a PAD is made or at any time during the investigation after a PAD has been made if the Commissioner is satisfied that it is necessary to do so to prevent material injury to an Australian industry occurring while the investigation continues.

In accordance with the PAD Direction, 60 days after the initiation of such an investigation the Commissioner must either make a PAD or provide a Status Report outlining the reasons why a PAD has not been made.

On day 60 of this investigation, in accordance with section 269TD(2), the Commissioner considered making a PAD, but elected to issue a Status Report, after having regard to:

- WTC's application;
- an on-site visit to WTC;
- submissions received by day 37 of the investigation, being 24 April 2019, concerning publication of the dumping duty notice in response to the initiation of the investigation;
- responses to importer, exporter and end-user questionnaires (noting that, at this stage of the investigation, the information and data contained within these responses had not been fully analysed and verified); and
- any other matters considered relevant.

In accordance with the PAD Direction, the Commissioner must again consider the need for a PAD prior to the SEF.

2.6.2 Submissions in respect of the consideration of a PAD

TIC's submission of 26 April 2019³¹ and GE Australia's submission of 17 May 2019³² both referred to consideration of a PAD. WTC responded to GE Australia's submission on 25 June 2019.³³

TIC and GE Australia

TIC and GE Australia both stated in their submissions that any injury claimed by the Australian industry is incurred at the time when it is not the successful tenderer and that any such injury cannot subsequently be remedied by securities on imports pursuant to contracts that have been awarded.

TIC queried the evidence the Commission would have that the taking of securities will prevent injury from occurring during the remainder of the investigation and what injury would be so prevented from occurring to the Australian industry.

In respect of sufficient grounds for the publication of a dumping duty notice, GE Australia submitted that, where the Commission believes that it has identified instances of dumping, it can only be satisfied that the initial threshold has been met if the following inquiries have been made:

- a. whether WTC in fact tendered for the particular contract;
- b. if WTC did in fact tender, was it a transformer of specifications of which WTC is viewed as a proven supplier;
- c. if WTC lost the tender, did it lose on price to a lower priced tender;
- d. if WTC did lose on price to a lower priced tender, were there any other tenders priced between the winning dumped price and the unsuccessful WTC tender. If so, were these lower priced unsuccessful bids:
 - from the Australian industry;
 - from a third country;
 - from a Chinese exporter that was not found to be dumping.

WTC

WTC submitted that the reasons suggested by GE Australia for the Commissioner not to consider the imposition of a PAD are not convincing, and that a PAD would have the desired effect of ensuring the Australian industry is not subjected to further injury.

WTC submitted that the Commissioner is required to be satisfied that sufficient grounds exist for the publication of a dumping duty notice. WTC stated that based upon the available information sourced from the verification visit with WTC, the exporter questionnaire responses and visits with Australian importers, the Commissioner was well positioned to form a view as to the appropriateness of a PAD in advance of publication of the SEF and that WTC had evidenced to the Commission that it has experienced material

³¹ Case 507, EPR item no. 13.

³² Case 507, EPR item no. 24.

³³ Case 507, EPR item no. 35.

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injury in the form of price suppression and impact on profits and profitability during the investigation period.

WTC stated that the GE Australia submission did not contain sufficient or adequate evidence that would prevent the Commissioner from considering the publication of a PAD at the earliest opportunity.

WTC urged the Commissioner to publish a PAD as soon as practicable prior to the publication of the SEF to minimise further injury to the Australian industry manufacturing like goods.

The Commission's assessment

The Commissioner was not satisfied at day 60 of the investigation that there appeared to be sufficient grounds for the publication of a dumping duty notice in relation to exports of the goods from China. The Commission published a Status Report on 17 May 2019 detailing the Commissioner's reasons for not making a PAD.³⁴

Section 9 of the PAD Direction requires the Commissioner to reconsider making a PAD after the publication of a Status Report at least once prior to the publication of the SEF. In preparing this SEF, the Commissioner reconsidered whether to make a PAD in view of the evidence available. However, the available evidence does not establish sufficient grounds for the publication of a PAD.

As the Commissioner is not satisfied that there appears to be sufficient grounds for the publication of a dumping duty notice in respect of the goods exported to Australia from China, no PAD under subsection 269TD(1) has been made.

2.7 Responding to this SEF

This SEF sets out the facts on which the Commissioner proposes to base his final recommendations to the Minister or to terminate the investigation.

This SEF represents an important stage in the investigation. It informs interested parties of the facts established and allows them to make submissions in response to the SEF.

It is important to note that the SEF may not represent the final views of the Commissioner.

Interested parties have 20 days to respond to the SEF. The Commissioner will consider these responses in making his final report to the Minister or in deciding to terminate the investigation. If a report is made to the Minister such report will recommend whether or not a dumping duty notice should be published, and the extent of any interim duties that are, or should be, payable.

Responses to this SEF should be received by the Commissioner no later than **6 November 2019**. The Commissioner is not obliged to have regard to any submission

³⁴ Case 507, ADN No. 2019/070 at EPR item no. 23.

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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 a report, if applicable, to the Minister.

The Commissioner's final report and recommendations in relation to this investigation must be provided to the Minister on or before 2 December 2019, unless the investigation is terminated earlier or a further extension of time to provide the final report is granted.

Submissions should preferably be emailed to investigations3@adcommission.gov.au.

Alternatively, they may be sent to fax number +61 2 6275 6990, or posted to:

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

Confidential submissions must be clearly marked accordingly and a non-confidential version of any submission is required for inclusion on the EPR.

A guide for making submissions is available at the Commission's website via www.adcommission.gov.au.

The EPR contains non-confidential submissions by interested parties, the non-confidential versions of the Commission's visit reports and other publicly available documents.

Documents on the EPR should be read in conjunction with this SEF.

3 THE GOODS AND LIKE GOODS

3.1 Preliminary finding

The Commissioner considers that locally manufactured power transformers are a like good to the goods the subject of the application and is satisfied there is an Australian industry producing those like goods, which comprises of WTC, Ampcontrol and Tyree.

3.2 Legislative framework

Section 269TC(1) requires that the Commissioner must reject an application for a dumping duty notice if, inter alia, the Commissioner is not satisfied that there is, or is likely to be established, an Australian industry in respect of like goods.

In making this assessment, the Commissioner must firstly determine that the goods produced by the Australian industry are “like” to the imported goods. Section 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”.

An Australian industry can apply for relief from injury caused by dumped or subsidised imports even if the goods it produces are not identical to those imported. The industry must however, produce goods that are “like” to the imported goods.

Where the locally produced goods and the imported goods are not alike in all respects, the Commissioner assesses whether they have characteristics closely resembling each other against the following considerations:

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

3.3 The goods

3.3.1 Goods under consideration

The goods that are under consideration 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;

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- 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.

3.3.2 Submissions in respect of the goods under consideration

TIC

TIC submitted³⁵ that WTC had not bid on various projects involving large power transformers, because in TIC's view WTC lacks the capability to manufacture such power transformers. TIC questioned WTC's objective in applying for anti-dumping measures over an extended range of power transformers, and if this range of power transformers match the goods that the applicant is capable of producing.

TIC further submitted that the Commission should request WTC to provide details on what requests for tenders it bid on and to verify information relating to the sizes of power transformers that WTC produce.

The Commission's assessment

As part of the Commission's analysis of the Australian market, the Commission requested and analysed all WTC's tender submissions by power rating expressed in MVA, during the investigation period and found that WTC had bid for contracts in the higher end of the goods under consideration. More detail of the analysis can be found at section 7.4.1 of this report.

3.4 Tariff classification of the goods

The goods are generally 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 41.³⁶

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 kVA);
- 8504.22.00 (liquid dielectric transformers having a power handling capacity exceeding 650 kVA but not exceeding 10,000 kVA);

³⁵ Case 507 at EPR item no. 04.

³⁶ The Commission notes that the tariff subheadings are provided for administrative convenience and customs purposes. The written goods description in section 3.3 defines the goods under consideration.

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- 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).

3.5 Like goods assessment

3.5.1 Legal framework

An application can only be made if there exists an Australian industry producing 'like goods' to the goods the subject of the application. Like goods are defined under section 269T(1) as '*goods that are identical in all respects to the goods under consideration or, although not alike in all respects to the goods under consideration have characteristics closely resembling those goods under consideration*'.

Sections 269T(2), 269T(3), 269T(4), 269T(4A), 269T(4B) and 269T(4C) are relevant to determining whether the like goods are produced in Australia and whether there is an Australian industry.

3.5.2 WTC's application

In its application WTC stated that, although power transformers are engineered to order products, the imported and locally produced goods are fundamentally the same, noting that, among other things, they:

- are assembled from the same or similar core components.
- compete directly in the Australian market;
- have identical end uses, being engineered to meet the requirements of each purchaser;
- are manufactured using similar processes;
- are manufactured in accordance with a range of Australian standards, including the standards numbered 2374, 2312, 60044, 60076, 60137 and 9001; and
- are manufactured to meet the purchasers' specifications in relation to power handling capacity, voltage ratio, efficiency and durability.

3.5.3 Submissions in respect of like goods

Submission from TIC

TIC submitted³⁷ that the application is over simplified when stating that the imported and locally made goods are fundamentally the same in their performance characteristics of power handling, voltage ratio, efficiency durability, meeting the purchaser's specifications and delivery lead times. TIC again noted that power transformers are engineered to order.

³⁷ Case 507, EPR item no. 04.

In TIC's view, this means that the power transformers are designed and engineered in accordance with skills and technologies available to the manufacturing company, and that it is quite possible for power transformers to have a number of differences for the same functional requirements of any given project.

3.5.4 The Commission's assessment – like goods

The Commission's *Dumping and Subsidy Manual* (the Manual) states:

“Where two goods are identical they are like goods. In many applications differences may be identified between the locally produced goods and the imported goods. Where two goods are not alike in all respects, the Commission will assess whether they have characteristics closely resembling each other against the considerations below.”³⁸

The following analysis is based on information gathered by the Commission from INV 219, the application, AMQs, REQs and verifications and submissions received, and outlines the Commission's assessment of whether the locally produced goods are identical to, or closely resemble, the goods the subject of the application and are therefore like goods:

Physical likeness

While power transformers can vary significantly due to varying purchaser specifications in relation to power handling capacity, voltage ratio, efficiency and durability, the product engineered for that purchaser will be physically alike or closely resembling whether it be produced locally or imported. The Commission notes the existence of Australian standards that need to be met by the manufacturers supplying the Australian market.

The Commission is satisfied that both the imported goods and the goods produced by the Australian industry are physically alike.

Commercial likeness

The Commission assessed whether the goods are directly competitive in the market. The Commission found that locally produced and imported power transformers compete directly within the Australian market through a bid and contract award process, open to domestic and foreign manufacturers.

The Commission further assessed to what extent the purchasers were willing to switch between sources of the goods and like goods. Based on Commission's extensive research of the Australian market (refer to chapter 5) and information received from purchasers in response to the AMQs (refer section 2.4.4) the Commission is satisfied that the large purchasers of power transformers, such as utilities, procured power transformers from domestic as well as imported sources during the investigation period.

³⁸ *Dumping and Subsidy Manual* (November 2018), available via the Commission's website.

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The Commission is satisfied that, in respect of commercial likeness, the locally produced power transformers closely resemble the power transformers the subject of the application.

Functional likeness

The Commission found that power transformers are capital products that are procured by the purchaser through a tender process. The successful tenderer must demonstrate the capacity to meet tender specifications, to which end the imported and locally produced power transformer must be functionally identical.

The Commission is satisfied that imported power transformers and those produced locally are functionally alike.

Production likeness

The Commission received production process charts from WTC and the cooperative Chinese exporters, in addition to conducting factory tours as part of the on-site verification visits to WTC, GE Wuhan, CTC and Siemens Jinan. The Commission has compared the respective processes and is satisfied that imported and locally produced power transformers are alike in regards to their production.

3.5.5 Conclusion – like goods

Based on the above assessment, the Commissioner is satisfied that the Australian industry produces 'like' goods to the goods the subject of the application, and that the domestically produced goods are 'like goods' as defined in section 269T(1).

4 THE AUSTRALIAN INDUSTRY

4.1 Preliminary finding

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.

4.2 Legislative framework

The Commissioner must be satisfied that the “like” goods are in fact produced in Australia. Sections 269T(2) and 269T(3) specify that for goods to be regarded as being produced in Australia, they must be wholly or partly manufactured in Australia. In order for the goods to be considered as partly manufactured in Australia, at least one substantial process in the manufacture of the goods must be carried out in Australia.

4.3 Production process

Power transformers are custom designed capital goods engineered to order and manufactured to the specifications of the purchaser. 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 and pre-handover testing is undertaken. Smaller power transformers may be delivered complete.

4.4 Production of power transformers in Australia

4.4.1 Application

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

4.4.2 TIC submission

TIC submitted³⁹ that WTC imports most, if not all, of the components it uses to assemble power transformers in Australia and raised the question whether WTC is a manufacturer of power transformers or simply assembles the components of power transformers that it imports.

4.4.3 The Commission's assessment

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. Despite sourcing some components from overseas, WTC operates a capital intensive facility in Australia and undertakes substantial processes relating to the design, manufacturing, testing and installation of power transformers in Australia.

The Commission contacted Ampcontrol and Tyree during the conduct of the investigation to seek further information about production and sales of power transformers. Ampcontrol partially 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.

4.5 Conclusion

Having regard to the available information, the Commissioner 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 Australian industry meet the requirements of sections 269T(2) and 269T(3), and therefore there is an Australian industry producing like goods.

³⁹ Case 507, EPR item no. 04.

5 AUSTRALIAN MARKET

5.1 Preliminary finding

The Commissioner has found that the Australian market for power transformers is supplied by the Australian industry and imports from a number of countries, including China.

5.2 Background

5.2.1 Procurement and manufacture of power transformers

Power transformers are custom designed equipment engineered to suit the requirements of each application, and manufactured to the specifications of the individual utilities, generating facilities and industrial users that purchase the product. Power transformers involve significant capital expenditure and long manufacturing lead times. The purchase of power transformers is generally through a competitive tender process. When a purchaser plans a new or replacement transformer, it puts out 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. For the bidders, the process is quite opaque. They will not always know who they are competing against and, if they lose, who won the contract.

5.2.2 Estimating the size of the Australian market – data and methodology

The Commission has analysed the Australian market for power transformers based on two sets of data. One set of data is based on sales during the investigation period and one which is based on tender activities during the same period.

The market segmentation analysis in section 5.5 is based on data relating to tender activities during the investigation period. Due to manufacturing lead times, not all of these projects would have been delivered in the investigation period.

The market size analysis in section 5.7 is based on actual sales data during the investigation period.

5.2.3 The Australian electricity market

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.⁴⁰

5.3 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 like hydro stations, commercial developments etc.

5.4 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 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.

⁴⁰ [AER: State of the Energy Market, May 2017, page 22.](#)

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).

5.5 Marketing and distribution arrangements

WTC outlined the marketing and distribution arrangements in its application:

- Sales are generally made directly by the manufacturers to the end user, particularly where the purchasers are utilities;
- 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 following steps outlined in Figure 1 below. WTC stated that the lead times indicated in Figure 1 below is indicative for very large power transformers. For small and medium transformers the lead times are shorter, in particular when required for the renewable projects.

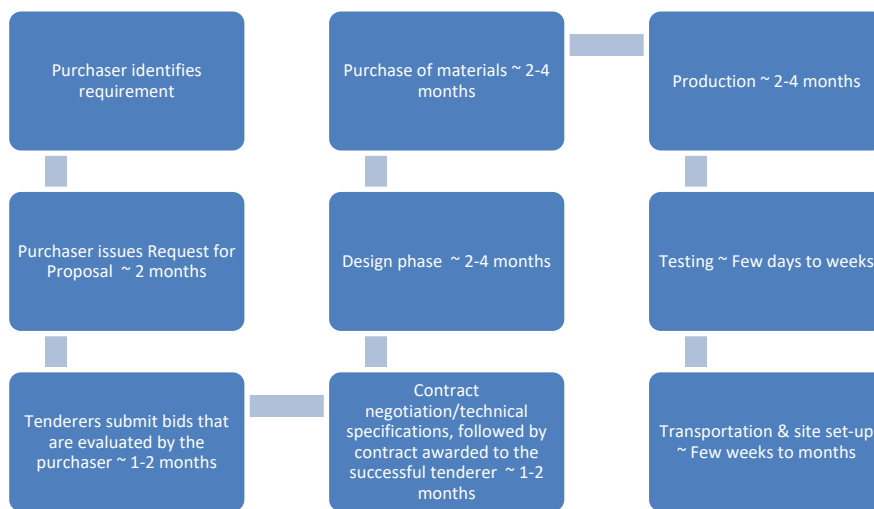


Figure 1 - Procurement and manufacturing process chart for large power transformers⁴¹

5.6 Sales process

Based on findings from INV 219, WTC’s application, submissions received, and information gathered by the Commission during the course of this investigation, the Commission finds that power transformers are generally purchased by the purchasers through a tender process where the purchaser issues a request for quotation, detailing

⁴¹ This process chart was created by the Commission based on the process chart contained in WTC’s application. The Commission has added some additional words 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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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 requests for tender (RFT), 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 RFT process.

A RFT 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 RFT 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 RFT. There are many design options that may satisfy the specifications 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.

5.7 Market segmentation

WTC identified the following market segmentation in relation to power transformers:

- the market for transformers is frequently segmented between power transformers and distribution transformers. This can be caused by different organisations requiring the different products; e.g. transmission utilities purchase primarily power transformers and distribution utilities purchase primarily distribution transformers;
- specification and purchase quantity differences can also segment the market; e.g. power transformers are usually purchased in quantities of less than five, but distribution transformers are frequently purchased in quantities greater than ten; and
- there is little, if any, geographic market segmentation of power transformers.

During the course of the investigation the Commission collected data in relation to over 400 power transformer tender activities representing in excess of 700 individual power transformers within the investigation period. The data was collated, and cross referenced to avoid duplication, from material received from the applicant, importers, exporters and purchasers. The bulk of the data was sourced from the applicant who provided a list of all tenders won and lost during the investigation period. ABB Australia, GE Australia, TIC

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and Siemens Australia also provided lists of their lost tenders during the period. Information from purchasers was obtained through the AMQ.

The following should be noted in respect of this data:

- tender activity data included purchaser details, project name, power rating expressed in MVA, voltage ratio expressed in kV, quantities requested by the purchaser, and usually tender closing date;
- not all tenders involved a Chinese bidder, however for the purposes of the investigation the Commission focussed its analysis on those tenders involving Chinese bidders;
- one project may be tendered by multiple entities where EPCs are involved;
- not all requests for tenders result in a contract, for example when purchasers approach the market for pricing for equipment prior to securing finance and the relevant approvals for the project;
- the Commission was unable to access price data for all of these tender activities and the analysis made for the purpose of market segmentation is therefore expressed in quantity (units) and power rating (MVA); and
- WTC did not tender for all of the identified tender activities during the investigation period.

The Commission has analysed the data by size of power transformer (as represented by MVA) and by market sector.

The Commission's analysis is located at **Confidential Attachment 1**.

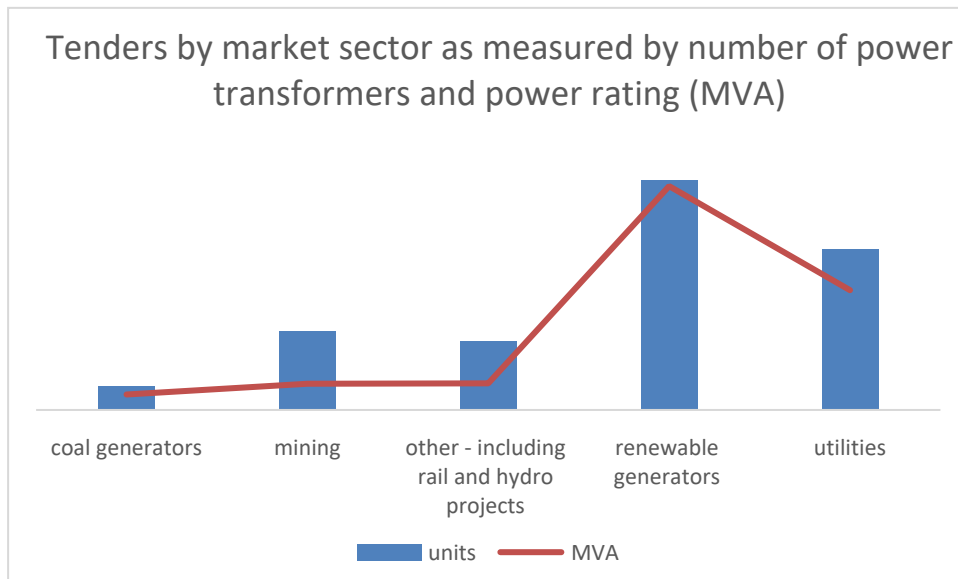


Figure 2 - Power transformer sales by market segment in the investigation period as measured by units and power rating (MVA)

Figure 2 above breaks down the market by purchaser category as measured in units of power transformers. The chart illustrates that the renewable generators and utilities made up the largest categories during the investigation period both by units and by MVA. Since MVA is an indicator of size, and by extension price, of a power transformer, the data shows that on average the large transformers were purchased by the renewables sector.

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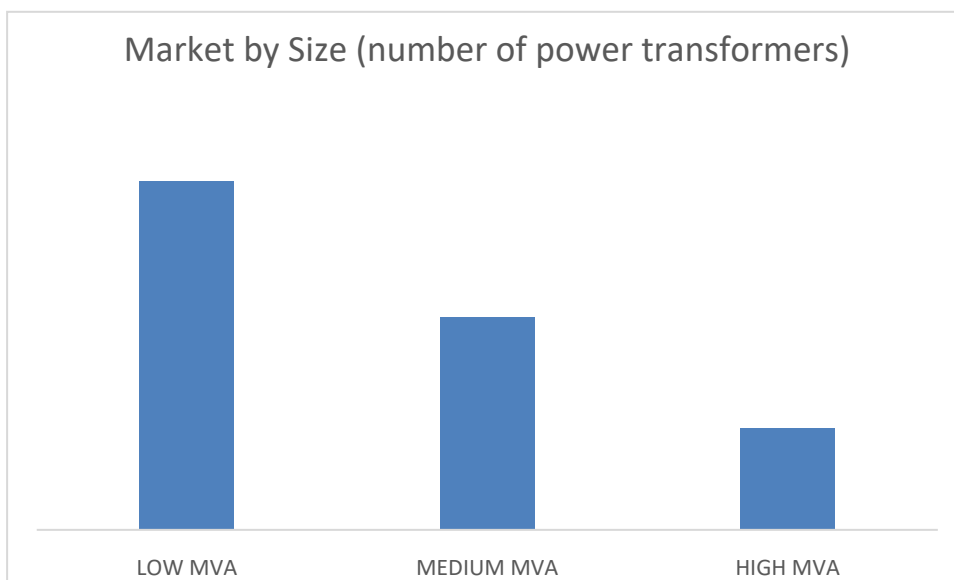


Figure 3 - Number of tenders during the investigation period by size of power transformer

In Figure 3 above the Commission categorised the projects by power rating. For the purpose of this analysis 'low MVA' is considered to be less than 100 MVA, 'medium MVA' between 100 and 200 MVA and 'high MVA' 200 MVA and above. Figure 3 indicates that power transformers under 100MVA are the most commonly tendered in the Australian market.

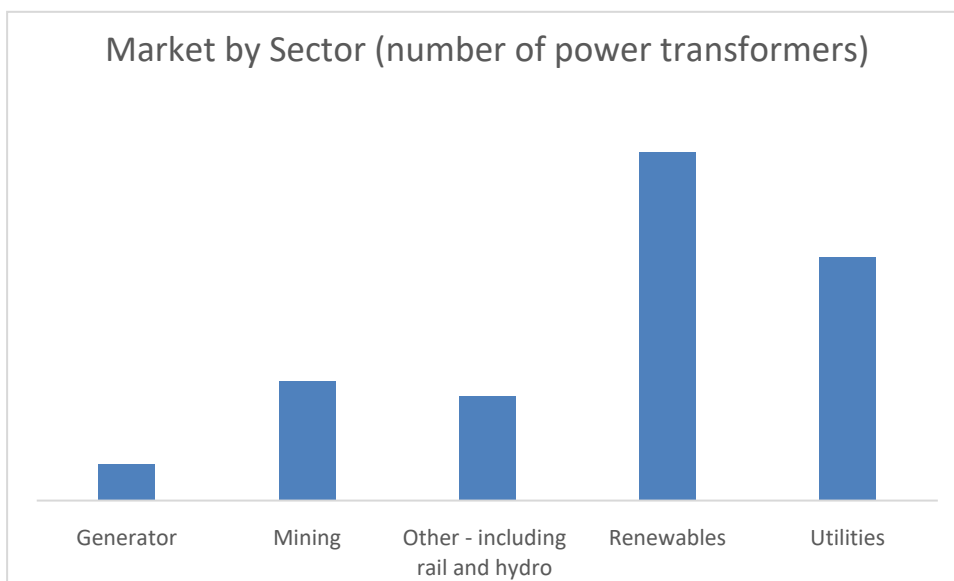


Figure 4 - Number of tenders during the investigation period by market sector

Figure 4 indicates that the utilities and renewables sectors are responsible for the greatest number of tenders in the Australian market during the investigation period. ,

The Commission found that the Australian market for power transformers can be segmented by power rating, expressed in MVA, and by purchaser category. The Commission found that utilities and renewable generators generally purchased larger power transformers, whilst purchasers from the other segments tended to purchase transformers of lower power ratings.

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5.8 Demand variability

In its application 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
- 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.

5.9 Market size

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

5.9.1 Submissions in respect of market size

TIC's submission of 12 April 2019⁴² noted that the applicant's claims relating to the Australian market were based on "sales value". TIC contested this being incorrect, and inconsistent with Article 3.1 of the ADA.

5.9.2 The Commission's assessment

Based on findings from INV 219 and information gathered by the Commission during the course of this investigation the Commission finds that in terms of assessing the size of the Australian market, power transformers can be aggregated in terms of dollars, units, and total capacity (expressed in 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.

Therefore, for the purposes of this report, and in the absence of capacity data, the Commission 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;
- production, sales and exportation information provided within REQs received from eight Chinese exporters, as well as two exporters that submitted questionnaire responses in relation to the continuation inquiry recently concluded;
- purchasing information provided within AMQ responses received from ten purchasers; and
- importation data obtained from the ABF import database under the tariff classifications detailed at section 3.4 above. The ABF data obtained was cleansed by reference to the description of the goods provided and by value. Line items with a final line Customs value of under \$150,000 per unit were excluded.

The estimated size of the Australian market during the injury analysis period in terms of the number of power transformers sold is illustrated in Figure 5 below.

⁴² Case 507, EPR item no. 04.

Australian Market Size (Units)

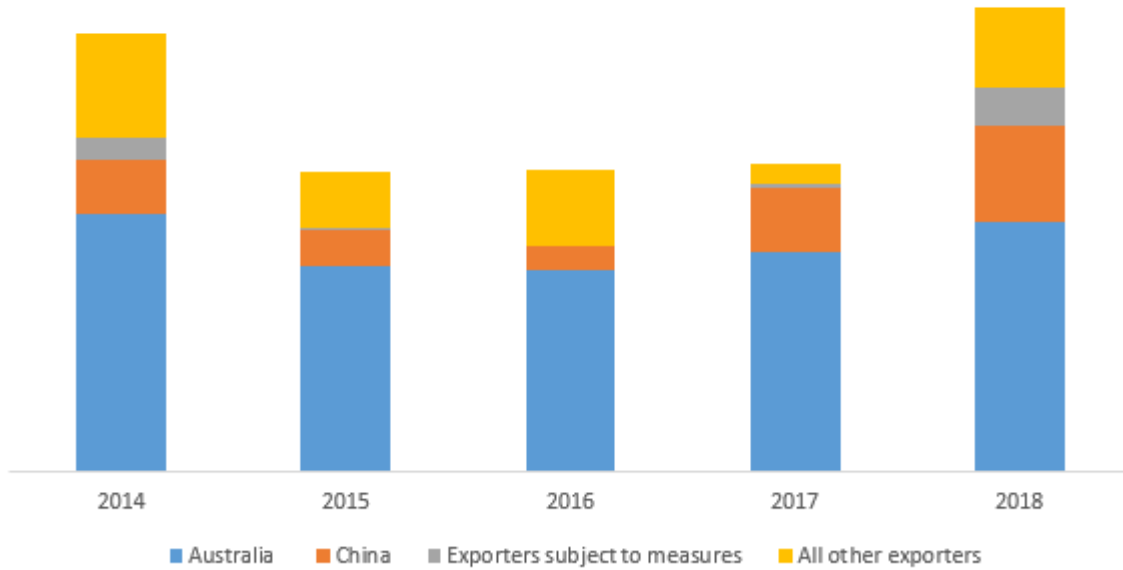


Figure 5 - The Australian market for power transformers (by number of units sold)

The estimated size of the Australian market during the injury analysis period in terms of the value of power transformers sold is illustrated in the Figure 6 below.

Australian Market Size (Sales Value \$AUD)

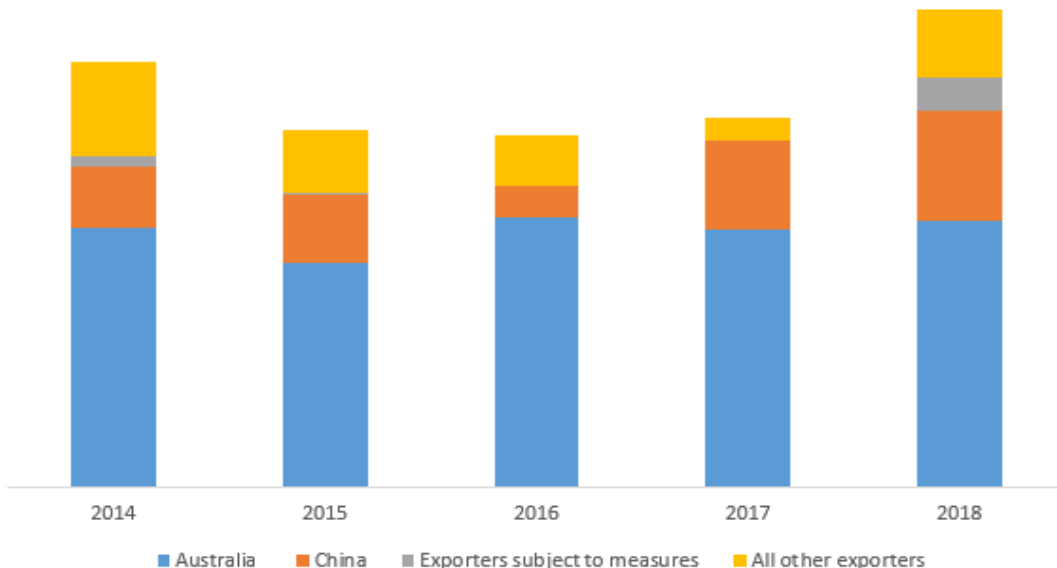


Figure 6 - The Australian market for power transformers (by \$AUD sales value)

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The Commission noted that the size of the Australian market as measured by both units and value increased considerably in 2018. The Commission further noted that the market has grown significantly more than the growth in Australia industry's sales.

5.10 Conclusion

The Australian market for power transformers is supplied by the Australian industry and imports from a range of countries including China, countries subject to measures and other countries not subject to measures. China supplied approximately 20 per cent of the Australian market (as measured by both the number and value of power transformers sold) during the investigation period.

The Commission found the procurement of power transformers generally is conducted through a tender process, which may be open to all or a select number of suppliers.

Each power transformer is manufactured to meet individual technical specifications.

The utilities and renewables sectors are the largest sectors in the Australian market, while the bulk of power transformers tendered for are under 100MVA.

The Commission estimated the size of the market by transformer size (as measured by power rating and expressed in MVA) and by value.

The Commission's market size analysis is contained in **Confidential Attachment 2**.

6 DUMPING INVESTIGATION

6.1 Preliminary finding

The Commission has found that the goods exported to Australia from China, on a weighted average basis by:

- ABB Chongqing, ABB Zhongshan, Siemens Jinan and Siemens Wuhan were not at dumped prices; and
- CHINT, CTC, GE Wuhan and Jiangsu Huapeng were at dumped prices and that the dumping margins were not negligible (e.g. they were above two per cent).

The dumping margins are summarised in the Table 4 below:

Exporter	Dumping margin
ABB Chongqing	-4.6%
ABB Zhongshan	-1.0%
CHINT	20.6%
CTC	16.1%
GE Wuhan	42.4%
Jiangsu Huapeng	40.5%
Siemens Jinan	-10.2%
Siemens Wuhan	-3.7%
All other exporters	42.4%

Table 4 - Dumping margins

The Commission's calculations of export prices, normal values and dumping margins are confidential, and included as Confidential Attachments to this SEF.

6.2 Introduction and legislative framework

In any report to the Minister under section 269TEA(1), the Commissioner must recommend whether the Minister ought to be satisfied as to the grounds for publishing a dumping duty notice under section 269TG.

Under section 269TG, one of the matters the Minister must be satisfied of in order to publish a dumping duty notice is that the goods have been dumped.

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 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 in this chapter.

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

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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 of the exported goods under section 269TAC(1).

In these circumstances, the Commission considers it appropriate to have regard to section 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.

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

Dumping margins are determined under section 269TACB. For all dumping margins calculated, the Commission compared the weighted average of export prices over the whole of the investigation period with the weighted average of corresponding normal values over the whole of that period, in accordance with section 269TACB(2)(a).

6.3 Dumping assessment – ABB Chongqing

6.3.1 Verification

Based on the volume of ABB Chongqing's exports relative to the total export volume during the investigation period the Commission elected to verify ABB Chongqing's REQ via a desktop verification.

The desktop verification satisfied the Commissioner that the information contained in ABB Chongqing's REQ is accurate, relevant and complete. This data was used to calculate a dumping margin.

A report covering the verification findings is available on the EPR.⁴³

6.3.2 Export price

Having regard to the findings contained in the verification report, the Commission is satisfied that:

- ABB Chongqing was the exporter of the goods to Australia; and

⁴³ Case 507, EPR item no. 57.

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- the export sales between ABB Chongqing and its Australian purchaser were the result of arms length transactions.

Therefore, the export price for ABB Chongqing has been established at the FOB level under section 269TAB(1)(a), as the price paid by the importer to the exporter less transport and other costs arising after exportation.

6.3.3 Normal value

The Commission is satisfied that because of the absence of sales of like goods in the market of the country of export that would be relevant for the purpose of determining a normal value, the normal value of goods exported to Australia cannot be ascertained under section 269TAC(1).

For ABB Chongqing, the normal value has been calculated as:

- the cost to make of the goods exported to Australia in accordance with section 43(2) of the Regulation;
- the SG&A in accordance with section 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; and
- an amount of profit in accordance with section 45(2) of the Regulation, based on the production and sale of like goods by ABB Chongqing in the OCOT.

6.3.4 Adjustments to normal value

To ensure the comparability of normal values to export prices, the Commission made adjustments pursuant to section 269TAC(9)⁴⁴ as follows:

Adjustment Type	Deduction/addition
Domestic credit	Deduct the cost of domestic credit
Export inland transport and handling	Add the cost of export inland transport and handling
Export credit	Add the cost of export credit

Table 5 - Adjustments to ABB Chongqing's normal value

6.3.5 Dumping margin – ABB Chongqing

The Commission has calculated the dumping margin for ABB Chongqing as **negative 4.6 per cent**.

The Commission's calculations are included at **Confidential Attachment 3**.

⁴⁴ For all exporters where the normal value was calculated under section 269TAC(2)(c) to ensure the comparability of normal values to export prices, the Commission considers that adjustments are required for maintaining price comparability pursuant to section 269TAC(9).

6.4 Dumping assessment – ABB Zhongshan

6.4.1 Verification

Based on the volume of ABB Zhongshan's exports relative to the total export volume during the investigation period the Commission elected to verify ABB Zhongshan's REQ via a desktop verification.

The desktop verification satisfied the Commissioner that the information contained in ABB Zhongshan's REQ is accurate, relevant and complete. This data was used to calculate a dumping margin.

A report covering the verification findings is available on the EPR.⁴⁵

6.4.2 Export price

Having regard to the findings contained in the verification report, the Commission is satisfied that:

- ABB Zhongshan was the exporter of the goods to Australia; and
- ABB Zhongshan sold the goods bound for export to Australia to an unrelated trading company, who then sold the goods to the Australian purchaser.

Based on the above, the Commission is unable to calculate the export price under sections 269TAB(1)(a) or (b). The export price for ABB Zhongshan has been established under section 269TAB(1)(c), having regard to all the circumstances of the exportation. The Commission has calculated an ex-works export price being the price paid by the unrelated trading company to ABB Zhongshan.

6.4.3 Normal value

The Commission is satisfied that because of the absence of sales of like goods in the market of the country of export that would be relevant for the purpose of determining a normal value, the normal value of goods exported to Australia cannot be ascertained under section 269TAC(1).

For ABB Zhongshan, the normal value has been calculated as:

- the cost to make of the goods exported to Australia in accordance with section 43(2) of the Regulation;
- the SG&A in accordance with section 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; and
- an amount of profit in accordance with section 45(2) of the Regulation, based on the production and sale of like goods by ABB Zhongshan in the OCOT.

⁴⁵ Case 507, EPR item no. 57.

6.4.4 Adjustments to normal value

To ensure the comparability of normal values to export prices, the Commission made adjustments pursuant to section 269TAC(9) as follows:

Adjustment Type	Deduction/addition
Domestic credit	Deduct the cost of domestic credit

Table 6 - Adjustments to ABB Zhongshan's normal value

6.4.5 Dumping margin – ABB Zhongshan

The Commission has calculated the dumping margin for ABB Zhongshan as **negative 1.0 per cent**.

The Commission's calculations are included at **Confidential Attachment 4**.

6.5 Dumping assessment – CHINT

6.5.1 Verification

Based on the volume of CHINT's exports relative to the total export volume during the investigation period the Commission elected to verify CHINT's REQ via a desktop verification.

The desktop verification satisfied the Commissioner that the information contained in CHINT's REQ is accurate, relevant and complete. This data was used to calculate a dumping margin.

A report covering the verification findings is available on the EPR.⁴⁶

6.5.2 Export price

Having regard to the findings contained in the verification report, the Commission is satisfied that CHINT was the exporter of the goods to Australia and all sales were undertaken on arms length terms.

In respect of Australian sales of the goods by CHINT to the Australian purchaser listed in the REQ, the Commission considers that the export price cannot be determined under section 269TAB(1)(a) or 269TAB(1)(b) as CHINT is responsible for the importation of the goods and sells them on DDP terms. The export price has been calculated under section 269TAB(1)(c) having regard to all the circumstances of the exportation, specifically the DDP invoice price less all post exportation costs.

In respect of Australian sales of the goods by CHINT made through a related party trading company, the Commission considers that the export price cannot be determined under section 269TAB(1)(a) or 269TAB(1)(b) as CHINT did not sell the goods to the importer.

⁴⁶ Case 507, EPR item no. 56.

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The export price has been calculated under section 269TAB(1)(c) having regard to all the circumstances of the exportation, specifically the price paid to CHINT by the trading company.

6.5.3 Normal value

The Commission is satisfied that because of the absence of sales of like goods in the market of the country of export that would be relevant for the purpose of determining a normal value, the normal value of goods exported to Australia cannot be ascertained under section 269TAC(1).

For CHINT, the normal value has been calculated as:

- the cost to make of the goods exported to Australia in accordance with section 43(2) of the Regulation;
- the SG&A in accordance with section 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; and
- an amount of profit in accordance with section 45(2) of the Regulation, based on the production and sale of like goods by CHINT in the OCOT.

6.5.4 Adjustments to normal value

To ensure the comparability of normal values to export prices, the Commission made adjustments pursuant to section 269TAC(9) as follows:

Adjustment Type	Deduction/addition
Domestic credit	Deduct the cost of domestic credit
Export inland transport and handling	Add the cost of export inland transport and handling
Export credit	Add the cost of export credit

Table 7 - Adjustments to CHINT's normal value

6.5.5 Dumping margin – CHINT

The Commission has calculated the dumping margin for CHINT as **20.6 per cent**.

The Commission's calculations are included at **Confidential Attachment 5**.

6.6 Dumping assessment – CTC

6.6.1 Verification

The Commission conducted an in-country visit to CTC's facility in China during May 2019 to verify the information disclosed in its REQ.

The Commission toured CTC's facility and is satisfied that it is the producer of the goods and like goods.

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A report covering the visit findings is available on the EPR.⁴⁷

As outlined in section 2.4.3 above the Commissioner determined that CTC is an uncooperative exporter pursuant to section 269T(1).

As such, the Commissioner has relied on all relevant information available in making recommendations and findings in relation to CTC.

6.6.2 Export price

As an uncooperative exporter, the Commission has determined the export price for CTC having regard to all relevant information in accordance with section 269TAB(3).

The Commission is satisfied that the goods imported by TIC from CTC:

- 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.

Therefore, the export price for CTC has been established at the FOB level as the price paid by the importer to the exporter less transport and other costs arising after exportation.

6.6.3 Normal value

As an uncooperative exporter, the Commission has determined the normal value for CTC having regard to all relevant information in accordance with section 269TAC(6). The Commission notes that while CTC has been determined to be an uncooperative exporter, certain information provided by CTC was considered to be complete, relevant and accurate and has been used in determining the normal value for CTC.

For CTC, the normal value has been calculated as:

- CTC's cost to make the goods exported to Australia; plus
- CTC's SG&A amounts on the assumption that the goods, instead of being exported, were sold domestically (at ex-works terms); and,
- an amount for profit based on the weighted average of the verified actual amounts realised by cooperating exporters from the sale of like goods in the OCOT in the domestic market.

6.6.4 Adjustments to normal value

To ensure the comparability of normal values to export prices, the Commission made adjustments as follows:

Adjustment Type	Deduction/addition
Export packing	Add the cost of export packing

⁴⁷ Case 507, EPR item no. 45.

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Adjustment Type	Deduction/addition
Export inland transport and handling	Add the cost of export inland transport and handling
Export credit expenses	Add the cost of export credit expenses

Table 8 - Adjustments to CTC's normal value

6.6.5 Dumping margin – CTC

The Commission has calculated the dumping margin for CTC as **16.1 per cent**.⁴⁸

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

6.6.6 Submissions in relation to CTC's dumping margin calculation

CTC

CTC lodged a submission⁴⁹ in relation to the calculation of its dumping margin, specifically in regard profit and adjustments.

In relation to profit, CTC assert that the Commission has determined a profit for CTC based on section 45(3)(b) of the Regulation whereas the profit should have been determined based on section 45(3)(a) of the Regulation, being no profit. CTC assert that this is the level of profit that CTC have made a commercial decision to achieve, and was verified by the Commission. CTC further assert that no explanation was given in relation to the cooperative exporters the Commission relied upon for determining a profit for CTC, nor how that was determined.

In relation to adjustments, CTC asserted that the Commission made positive adjustments for export packaging, inland transport and handling charges at port of export and export credit terms but has failed to make negative adjustments for the equivalent domestic costs. CTC requested that the appropriate negative adjustments be made for domestic packaging, domestic inland transport and handling charges and domestic credit terms.

The Commission's assessment:

As discussed above, the Commission could not be satisfied that CTC's domestic sales and costs were complete, relevant and accurate, and was unable to verify CTC's information concerning its amount of domestic profit. On 11 July 2019, the Commissioner determined CTC to be an uncooperative exporter. As a result, the Commission must calculate the normal value for CTC under section 269TAC(6), having regard to all relevant information.

In determining the normal value under section 269TAC(6), the Commission calculated

⁴⁸ The dumping margin for CTC has increased from the verification report due to a change to the profit used in calculating a normal value. The profit applied increased following the verification of additional cooperating exporters.

⁴⁹ Case 507, EPR item no. 48.

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an amount for profit based on the weighted average of the verified actual amounts realised by cooperating exporters from the sale of like goods in the OCOT in the domestic market. The Commission had regard to all relevant information and considers that this amount for profit is relevant information for the determination of CTC's normal value.

The Commission confirms that it has not provided CTC with information regarding specifications of the power transformers included in the calculation or the specific sales revenue and profit values used in the calculation. The Commission has not provided this information in the interests of preserving relevant stakeholder confidentiality.

The Commission notes that section 45 of the Regulation on profit determination is not relevant to the assessment of normal value under section 269TAC(6). Section 45(1) of the Regulation states that Regulation 45 relates to sections 269TAC2(c)(ii) and 4(e)(ii) only.

In relation to adjustments, the Commission considers that it would be inappropriate to apply negative adjustments for domestic selling expenses given that the amount for SG&A used to construct the normal value is at ex-works terms and is exclusive of direct selling expenses, being domestic packaging, domestic inland transport and handling charges, and domestic credit terms.

6.7 Dumping assessment – GE Wuhan

6.7.1 Verification

The Commission conducted an in-country visit to GE Wuhan's facility in China during May 2019 to verify the information disclosed in its REQ.

The Commission toured GE Wuhan's facility and is satisfied that it is the producer of the goods and like goods.

A report covering the visit findings is available on the EPR.⁵⁰

6.7.2 Export price

Having regard to the findings contained in GE Wuhan's verification report, the Commission is satisfied that:

- GE Wuhan was the exporter of the goods to Australia; and
- the export sales between GE Wuhan and its Australian purchaser were the result of arms length transactions.

Therefore, the export price for GE Wuhan has been established at the FOB level under section 269TAB(1)(a), as the price paid by the importer to the exporter less transport and other costs arising after exportation.

⁵⁰Case 507, EPR item no. 49.

6.7.3 Normal value

The Commission is satisfied that because of the absence of sales of like goods in the market of the country of export that would be relevant for the purpose of determining a normal value, the normal value of goods exported to Australia cannot be ascertained under section 269TAC(1).

For GE Wuhan, the normal value has been calculated as:

- the cost to make of the goods exported to Australia in accordance with section 43(2) of the Regulation;
- the SG&A in accordance with section 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; and
- an amount of profit in accordance with section 45(2) of the Regulation, based on the production and sale of like goods by GE Wuhan in the OCOT.

6.7.4 Submissions in relation to GE Wuhan's dumping margin calculation

With regard to the calculation of profit under section 45(2) of the Regulation, GE Wuhan argued that the OCOT test cannot be applied due to the nature of the goods, which limits the calculation of recoverability under section 269TAAD(3). GE Wuhan notes that in INV 219 the Commission found that it was not reasonably possible to calculate the profit on the sale of the goods made in the OCOT in accordance with section 45(2) of the Regulation.

GE Wuhan argued, in the alternative, that section 45(2) of the Regulation cannot apply as the profit margin was based on a single sale which GE Wuhan alleges was not in the OCOT, due to the specific characteristic of that transaction.⁵¹

The Commission acknowledges that the methodology applied in this investigation differs to that employed for the purposes of INV 219. The methodology applied in the investigation is however consistent with the Commission's current policy and practice in relation to this issue, which has evolved in the intervening period of time, and which is detailed in *Anti-Dumping Commission Report No. 487* (REP 487). In REP 487 the Commission found that "having established that like goods are sold in the [Chinese] domestic market, there is no basis for derogating from section 45(2) of the Regulation"⁵².

As such, the Commission considers that for unprofitable domestic sales in the investigation period, the recoverability test has been appropriately applied, with unprofitable power transformers being of an equivalent model, and a weighted average calculated based on the costs of each power transformer.

In relation to GE Wuhan's secondary argument, the Commission does not accept that the circumstances of the single profitable domestic sale preclude it from being in the OCOT.

⁵¹ Case 507, EPR item no. 52.

⁵² *Anti-Dumping Commission Report No. 487* at page 36.

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Specifically, the Commission considers that the transaction was entered into with an unrelated party, and although GE Wuhan may have had a competitive advantage in obtaining the contract, it has not been demonstrated that the transaction was negotiated in a way that lacked genuine negotiation. Furthermore it has not been established that other parties could not have satisfied the “Dual Site End Use Requirement” or end use of the transformer. In these circumstances, the Commission considers that the price would have still been set through a competitive process, and that the purchaser was not precluded from sourcing from a third party supplier had the negotiations been unreasonable.

Accordingly, the Commission does not consider that the sale was so unusual as to be considered outside the OCOT, and has found it practicable to calculate the amount of profit from this sale under section 45(2) of the Regulation.

6.7.5 Adjustments to normal value

To ensure the comparability of normal values to export prices, the Commission made adjustments pursuant to section 269TAC(9) as follows:

Adjustment Type	Deduction/addition
Export packing	Add the cost of export packing
Export inland transport and handling	Add the cost of export inland transport and handling
Export warranty expenses	Add the cost of export warranty expenses

Table 9 - Adjustments to GE Wuhan's normal value

6.7.6 Dumping margin – GE Wuhan

The Commission has calculated the dumping margin for GE Wuhan as **42.4 per cent**.

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

6.8 Dumping assessment – Jiangsu Huapeng

6.8.1 Verification

Based on the volume of Jiangsu Huapeng’s exports relative to the total export volume during the investigation period the Commission elected to verify Jiangsu Huapeng’s REQ via a desktop verification.

As part of this process, the Commission sought additional information from Jiangsu Huapeng in support of its REQ.

The Commission assessed Jiangsu Huapeng’s responses and identified that the REQ contained deficiencies. The Commission considered that the nature and scope of the deficiencies were extensive.

Pursuant to the Customs Direction, the Commission notified Jiangsu Huapeng by letter on 30 September 2019 that it could not be satisfied that certain key information was accurate

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and reliable. The letter additionally outlined that the Commission was unable to reliably determine individual variable factors (including a dumping margin) for Jiangsu Huapeng based on the information it had provided. Additional time to provide a further response was not provided on the basis that it would significantly impede the proper conduct of the investigation in a timely and efficient manner.

The Commission notified Jiangsu Huapeng that findings in respect of it may be made on the basis of all relevant information.

6.8.2 Export price

Section 269TAB(4) provides that the Minister, for the purposes of determining export price, may disregard any information considered unreliable. The Commissioner proposes to disregard the export sales information provided by Jiangsu Huapeng on the basis that it is unreliable. The Commissioner is also satisfied, pursuant to section 269TAB(3), that sufficient information has not been furnished or is not available to enable the export price to be ascertained under the preceding sections.

As such, the export price for Jiangsu Huapeng must be determined under section 269TAB(3), having regard to all relevant information.

Specifically, the export price has been determined as the weighted average export price of the two cooperating exporters found to be dumping during the investigation period.

6.8.3 Normal value

Section 269TAC(7) provides that the Minister, for the purposes of determining normal value, may disregard any information considered unreliable. The Commissioner proposes to disregard the normal value information provided by Jiangsu Huapeng on the basis that it is unreliable. The Commissioner is satisfied, pursuant to section 269TAC(6), that sufficient information has not been furnished or is not available to enable the normal values to be ascertained under the preceding sections.

As such, the normal value for Jiangsu Huapeng must be determined under section 269TAC(6), having regard to all relevant information.

Specifically, the normal value has been determined as the weighted average normal value of the two cooperating exporters found to be dumping during the investigation period.

6.8.4 Dumping margin – Jiangsu Huapeng

The Commission has calculated the dumping margin for Jiangsu Huapeng as **40.5 per cent**.

The Commission's calculations are included at **Confidential Attachment 8**.

6.9 Dumping assessment – Siemens Jinan

6.9.1 Verification

The Commission conducted an in-country visit to Siemens Jinan's facility in China during May 2019 to verify the information disclosed in its REQ.

The Commission toured Siemens Jinan's facility and is satisfied that it is the producer of the goods and like goods.

A report covering the visit findings is available on the EPR.⁵³

6.9.2 Export price

Having regard to the findings contained in the combined Siemens Jinan's verification report, the Commission is satisfied that:

- Siemens Jinan was the exporter of the goods to Australia; and
- the export sales between Siemens Jinan and its Australian purchaser were the result of arms length transactions.

Therefore, the export price for Siemens Jinan has been established at the FOB level under section 269TAB(1)(a), as the price paid by the importer to the exporter less transport and other costs arising after exportation.

6.9.3 Normal value

The Commission is satisfied that because of the absence of sales of like goods in the market of the country of export that would be relevant for the purpose of determining a normal value, the normal value of goods exported to Australia cannot be ascertained under section 269TAC(1).

For Siemens Jinan, the normal value has been calculated as:

- the cost to make of the goods exported to Australia in accordance with section 43(2) of the Regulation;
- the SG&A in accordance with section 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; and
- an amount of profit in accordance with section 45(2) of the Regulation, based on the production and sale of like goods by Siemens Jinan in the OCOT.

6.9.4 Adjustments to normal value

To ensure the comparability of normal values to export prices, the Commission made adjustments pursuant to section 269TAC(9) as follows:

⁵³ Case 507, EPR item no. 42.

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Adjustment Type	Deduction/addition
Domestic credit	Deduct the cost of domestic credit
Export packing	Add the cost of export packing
Export inland transport and handling	Add the cost of export inland transport and handling
Export credit	Add the cost of export credit

Table 10 - Adjustments to Siemens Jinan's normal value

6.9.5 Dumping margin – Siemens Jinan

The Commission has calculated the dumping margin for Siemens Jinan as **negative 10.2 per cent**.

The Commission's calculations are included at **Confidential Attachment 9**.

6.10 Dumping assessment – Siemens Wuhan

6.10.1 Verification

As detailed at section 6.9.1 above, the Commission conducted an in-country visit to Siemens Jinan's facility in China during May 2019. At that visit the Commission had access to the financial records of Siemens Wuhan, and conducted a targeted verification of the information contained in Siemens Wuhan's REQ.

While the Commission was not able to conduct a tour of Siemens Wuhan's facility for this investigation, the Commission has previously done so during verification for INV 219 and is satisfied that Siemens Wuhan is the producer of the goods and like goods.

A report covering the visit findings is available on the EPR.⁵⁴

6.10.2 Export price

Having regard to the findings contained in the combined Siemens Wuhan's verification report, the Commission is satisfied that:

- Siemens Wuhan was the exporter of the goods to Australia; and
- the export sales between Siemens Wuhan and its Australian purchaser were the result of arms length transactions.

Therefore, the export price for Siemens Wuhan has been established at the FOB level under section 269TAB(1)(a), as the price paid by the importer to the exporter less transport and other costs arising after exportation.

⁵⁴ Case 507, EPR item no. 42.

6.10.3 Normal value

The Commission is satisfied that because of the absence of sales of like goods in the market of the country of export that would be relevant for the purpose of determining a normal value, the normal value of goods exported to Australia cannot be ascertained under section 269TAC(1).

For Siemens Wuhan, the normal value has been calculated as:

- the cost to make of the goods exported to Australia in accordance with section 43(2) of the Regulation;
- the SG&A in accordance with section 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; and
- an amount of profit in accordance with section 45(2) of the Regulation, based on the production and sale of like goods by Siemens Wuhan in the OCOT.

6.10.4 Adjustments to normal value

To ensure the comparability of normal values to export prices, the Commission made adjustments pursuant to section 269TAC(9) as follows:

Adjustment Type	Deduction/addition
Domestic credit	Deduct the cost of domestic credit
Export packing	Add the cost of export packing
Export inland transport and handling	Add the cost of export inland transport and handling
Export credit	Add the cost of export credit

Table 11 - Adjustments to Siemens Wuhan's normal value

6.10.5 Dumping margin – Siemens Wuhan

The Commission has calculated the dumping margin for Siemens Wuhan as **negative 3.7 per cent**.

The Commission's calculations are included at **Confidential Attachment 10**.

6.11 Uncooperative exporters and all other exporters

Section 269TACAB(1) sets out the provisions for calculating export prices and normal values for uncooperative exporters. This provision specifies that for uncooperative exporters, export prices are to be calculated under section 269TAB(3) and normal values are to be calculated under section 269TAC(6).

The Commission has therefore determined an export price pursuant to section 269TAB(3) after having regard to all relevant information. Relevant information in these circumstances was considered to be the export price of the cooperating exporter with the highest dumping margin. Accordingly, the Commission ascertained an export price for uncooperative and all other exporters at the same amount as that exporter.

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The Commission has determined normal value for the uncooperative exporters pursuant to section 269TAC(6) after having regard to all relevant information. Relevant information in these circumstances was considered to be the normal value of the cooperating exporter with the highest dumping margin. Accordingly, the Commission ascertained a normal value for uncooperative and all other exporters at the same amount as that exporter.

This dumping margin for uncooperative and all other exporters is **42.4 per cent**.

The Commission notes that while CTC was determined to be an uncooperative exporter, as detailed in section 6.6 above, certain information provided by CTC was considered to be complete, relevant and accurate and was used in determining variable factors for CTC. For this reason CTC is not subject to the uncooperative and all other exporter rate detailed in this section.

6.12 Volume of dumped imports

Pursuant to section 269TDA(3), the Commissioner must terminate the investigation, in so far as it relates to a country, if satisfied that the total volume of goods that are dumped is a negligible volume. Section 269TDA(4) defines a negligible volume as less than three per cent of the total volume of goods imported into Australia over the investigation period if section 269TDA(5)(c) does not apply. Pursuant to section 269TDA(6), the volume of goods at negligible dumping margins are not prevented from being taken into account for the purposes of section 269TDA(3).

Using the ABF import database and having regard to the information collected and verified from the importers and exporters, the Commission determined the volume of imports in the Australian market. Based on this information, the Commission is satisfied that, when expressed as a percentage of the total Australian import volume of the goods, the volume of allegedly dumped goods from China was greater than three per cent of the total import volume and is therefore not negligible.

Accordingly, the Commissioner does not propose to terminate this investigation against China under section 269TDA(3).

The Commission's assessment of the volume of imported goods in the Australian market is at **Confidential Attachment 11**.

6.13 Level of dumping

Section 269TDA(1)(b)(i) provides that the Commissioner must terminate a dumping investigation, in so far as it relates to an exporter of the goods, if satisfied that there has been no dumping by the exporter of any of those goods.

The Commission is satisfied that there has been no dumping of any of the goods exported by ABB Chongqing and Siemens Jinan.

Accordingly, the Commissioner proposes to terminate the dumping investigation in relation to these exporters, pursuant to section 269TDA(1)(b)(i).

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Section 269TDA(1)(b)(ii) provides that the Commissioner must terminate a dumping investigation, in so far as it relates to an exporter of the goods, if satisfied that the dumping margin for the exporter, or each such dumping margin, worked out under section 269TACB, when expressed as a percentage of the export price or weighted average of export prices used to establish that dumping margin, is less than two per cent.

The Commission is satisfied that, in relation to ABB Zhongshan and Siemens Wuhan, the dumping margin for each exporter, worked out under section 269TACB, when expressed as a percentage of the export price or weighted average of export prices used to establish that dumping margin, is less than two per cent.

Accordingly, the Commissioner proposes to terminate the dumping investigation in relation to these exporters, pursuant to section 269TDA(1)(b)(ii).

7 ECONOMIC CONDITION OF THE INDUSTRY

7.1 Preliminary finding

Based on an analysis of the information contained in the application and obtained and verified during the Australian industry verification visit, the Commission considers that the Australian industry has experienced injury in the form of:

- reduced sales volumes;
- reduced market share;
- price depression;
- price suppression;
- reduced profit;
- reduced profitability;
- reduced cash flow;
- reduced capacity utilisation;
- reduced ROI;
- reduced productivity; and
- reduced revenue.

7.2 Introduction

Analysis of injury is based on verified data provided by the applicant, WTC. The Commission has found that the applicant's sales consistently accounted for over 85 per cent of the Australian industry's sales during the injury analysis period. As a result the following assessment is considered indicative of injury to the Australian industry as a whole.

In its application WTC claimed that material injury arising from the price effects of the allegedly dumped goods from China commenced in financial year 2012/13 and that material injury arising from the volume effects of the allegedly dumped goods commenced in financial year 2013/14. WTC states that the reason price effects predate the volume effects is due to long lead times between tender submissions to the purchaser and the final delivery date of the product.

The injury analysis period is from 1 January 2014, with an investigation period from 1 January 2016 to 31 December 2018.

7.3 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 application⁵⁵ 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

⁵⁵ Case 507, EPR item no. 01.

time between the issue of requests for tender by purchasers and delivery, resulted in the injury being experienced some time after the lost tender.

WTC⁵⁶ submitted that there is a flow on effect between a lost 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 any the flow on impact on sales volumes and market share. The Commission has limited the tenders analysed to the investigation period. Sales are also reviewed for the investigation period. It is noted that some of the sales are related to tenders won prior to the investigation 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 depicted in Figures 1, 2, 5 and 6 are provided as a guide only.

7.4 Volume effects

7.4.1 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 investigation period. The Commission analysed these by project and by the estimated sales revenue to the business based on WTC's bid price (inclusive of delivery and installation).

In its submission dated 11 April 2019, TIC argued that as Ampcontrol and Tyree (the other Australian industry producers) manufacture power transformers at the lower end of the goods description and TIC has generally bid for larger power transformers, it cannot be said to be injuring the Australian industry.⁵⁷ While the following analysis is based on bids by the applicant only, the Commission has found that the applicant's sales consistently accounted for over 85 per cent of the Australian industry's sales during the injury analysis period. As a result the following is considered indicative of injury in the form of reduced volumes experienced by the Australian industry.

⁵⁶ Case 507, EPR item no. 20.

⁵⁷ Case 507, EPR item no. 04.

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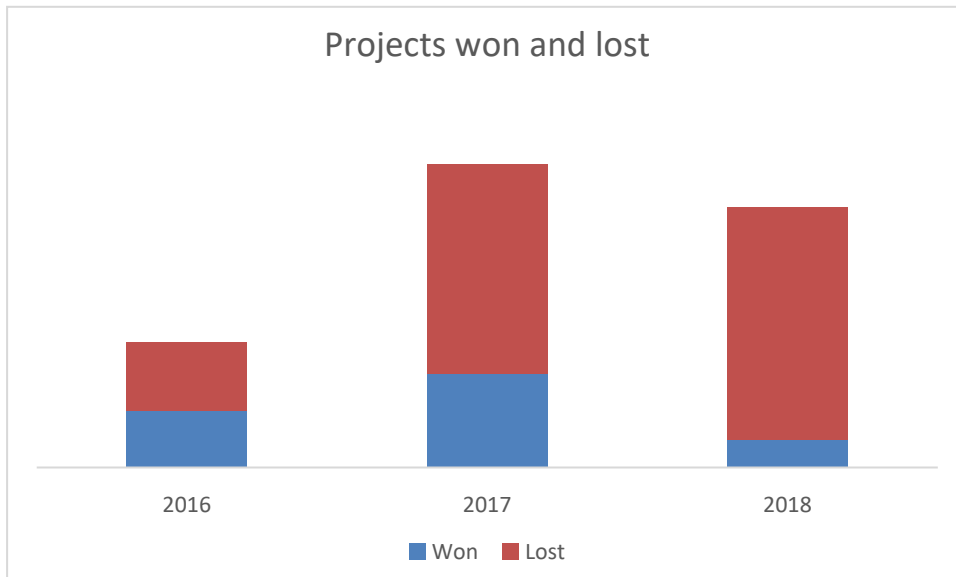


Figure 7 - Outcome of WTC's bids (by project)

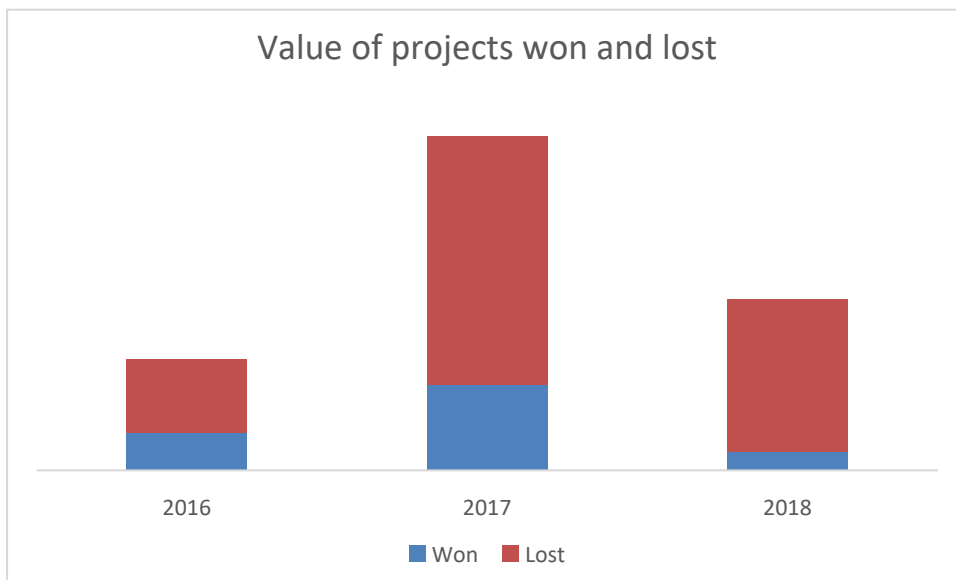


Figure 8 - Outcome of bids by value

Figure 7 and 8 above show that the Australian market experienced a significant increase in tender activity during 2017 in terms of the number of projects and value of those projects. While WTC was successful in winning an increased number of projects in 2017, its proportion of won projects diminished. WTC's winning proportion further diminished in 2018.

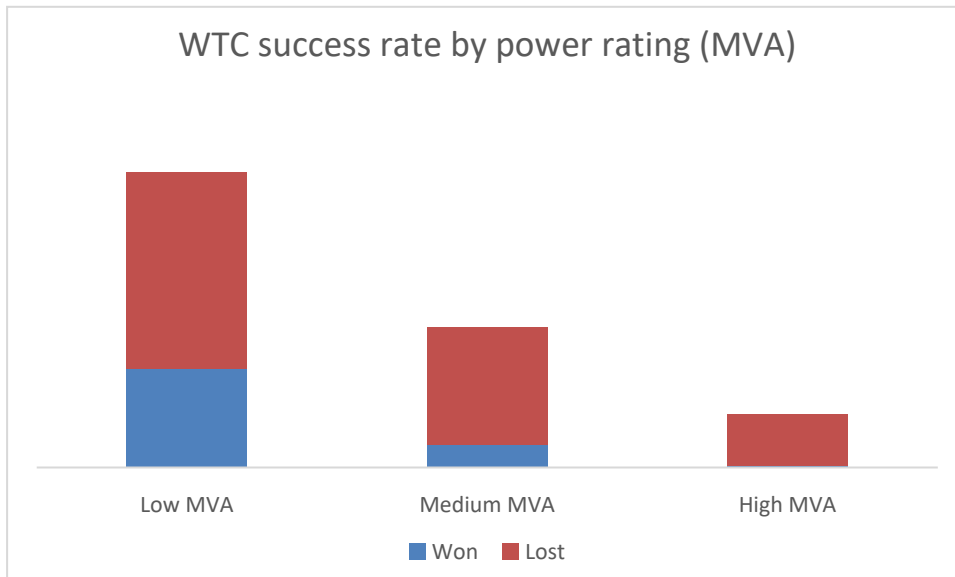


Figure 9 - WTC tender success rate by power rating (MVA)

Figure 9 above demonstrates the Commission’s analysis of projects for which WTC had bid for in the investigation period by size of power transformer. For the purpose of this analysis ‘low MVA’ is considered to be less than 100 MVA, ‘medium MVA’ between 100 and 200 MVA and ‘high MVA’ 200 MVA and above. The Commission found that WTC had been proportionally more successful in winning tenders when the requirement was for a low MVA transformer.

During the course of the investigation, the Commission sourced further information from other parties to these tenders. The Commission also requested further information from purchasers in order to ascertain the importance of various evaluation criteria in their purchasing decisions. The analysis of tenders that WTC lost to Chinese imports or won against competing bids for Chinese sourced transformers is in section 8.4.

The Commission’s analysis of WTC’s tender information is contained at **Confidential Attachment 12**.

7.4.2 Sales

In the application, WTC claims that the market share of Chinese exporters has increased during the injury analysis 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 5 and 6 in section 5.9. It is observed that while Australian industry’s volume increased during the investigation period, and the value of those sales increased marginally, the market increased to a significantly greater extent. The increase in value and volume of the sales of Chinese exporters was significantly greater than Australian industry’s gains. In accordance with the *Ministerial Direction on Material Injury*

2012 (Ministerial Direction),⁵⁸ a decline in an industry’s rate of growth may be just as relevant as the movement of an industry from growth to decline.

7.4.3 Market share

The Commission analysed the share of the market that the sales volume and value represents.

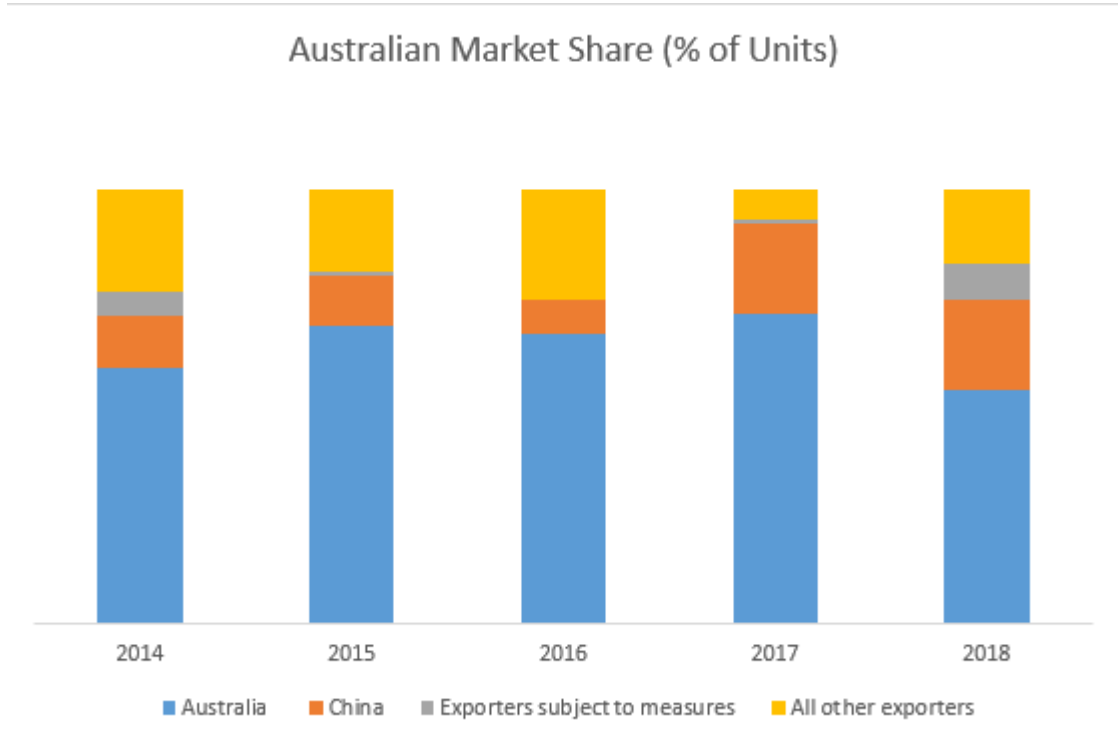


Figure 10 - Australian market share (units)

⁵⁸ Ministerial Direction on Material Injury 2012 available at <https://www.industry.gov.au>.

Australian Market Share (% of Value)

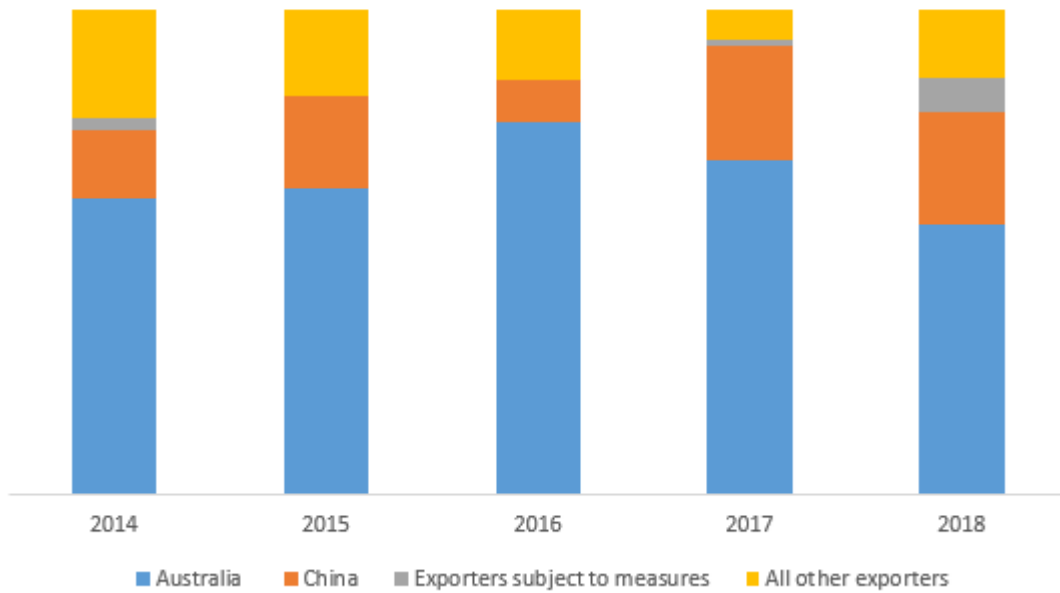


Figure 11 - Australian market share (\$AUD sales value)

The decline in the market share of the Australian industry is most pronounced in the analysis of sales value, where there has been a consistent reduction during the investigation period.

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

7.4.4 Conclusion

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

7.5 Price effects

WTC provided sales and 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.

7.5.1 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.

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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 investigation period.

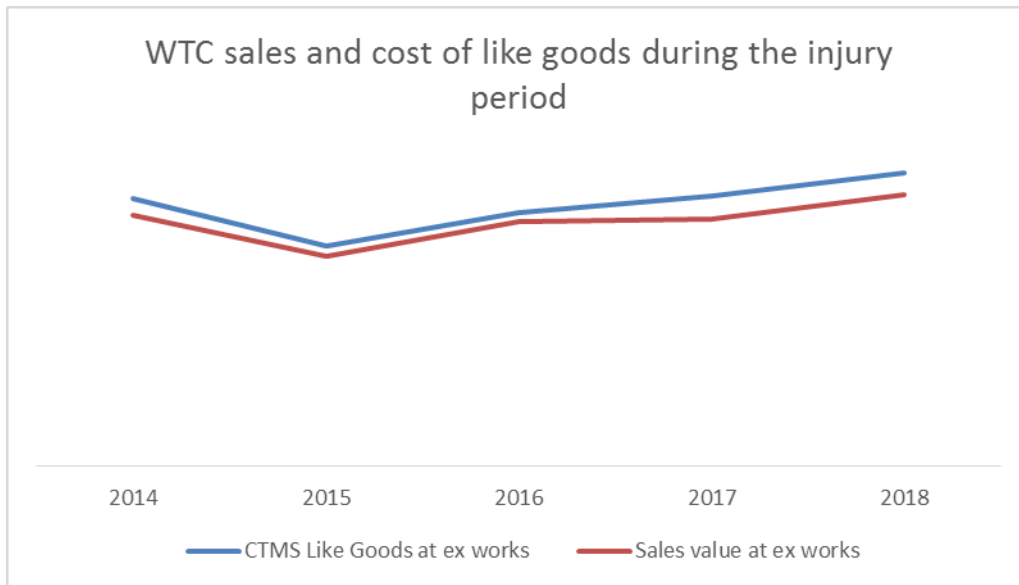


Figure 12 - Yearly CTMS and yearly sales revenue

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

7.5.2 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 each transformer, 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 investigation 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 13**.

7.6 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 12 above, yearly costs have consistently been above yearly sales values in relation to like goods, leading to reduced profit margins. In addition, WTC has experienced a smaller proportion of successful tenders over the investigation period (Figures 3 and 4 refer). The Commission is also satisfied that WTC reduced its bid prices during the course of tender negotiations for certain projects in the investigation 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.

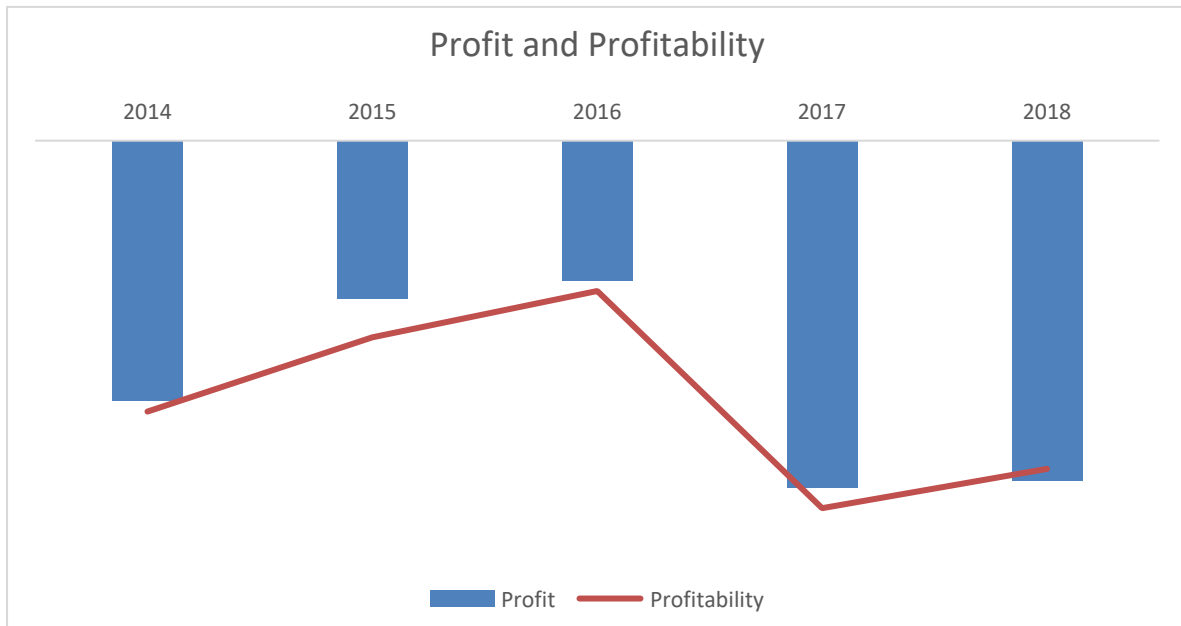


Figure 13 - WTC's Australian profit and profitability of like goods

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 13**.

7.7 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 research and development (R&D) expenditure; and

- reduced capital investment.

7.7.1 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 14 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. Siemens Australia’s comments concerning cash flow following the publication of CON 507⁵⁹ was based on the cash flow position deteriorating while profits improved. As seen in section 7.6 and below, both cash flow and profit and profitability have declined over the period. The Commission is satisfied that the Australian industry has experienced injury in the form of reduced cash flow.

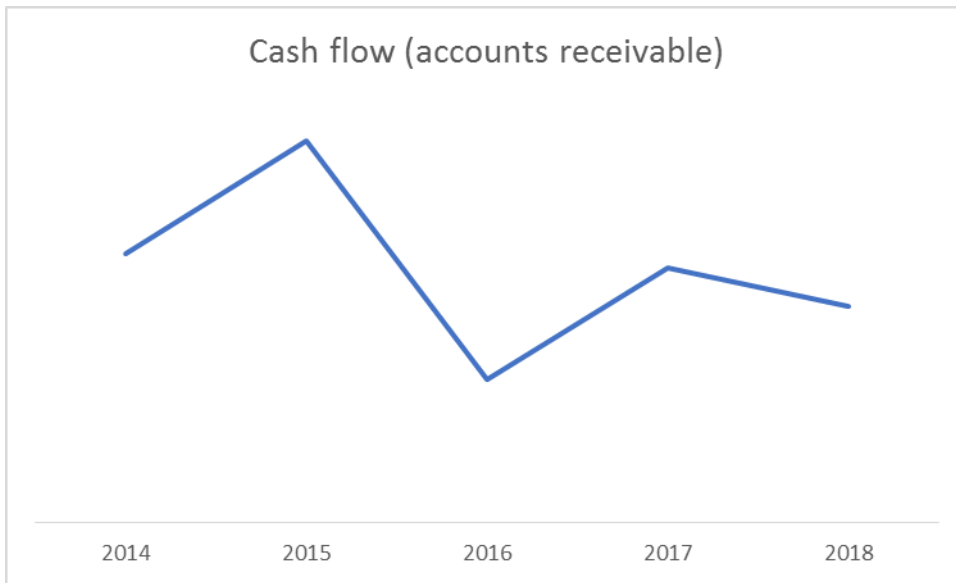


Figure 14 - WTC’s Cash flow

7.7.2 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 worked out total 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 15 below. The Commission is satisfied that the Australian industry has experienced injury in the form of reduced capacity utilisation.

⁵⁹ Case 507, EPR item no. 05.

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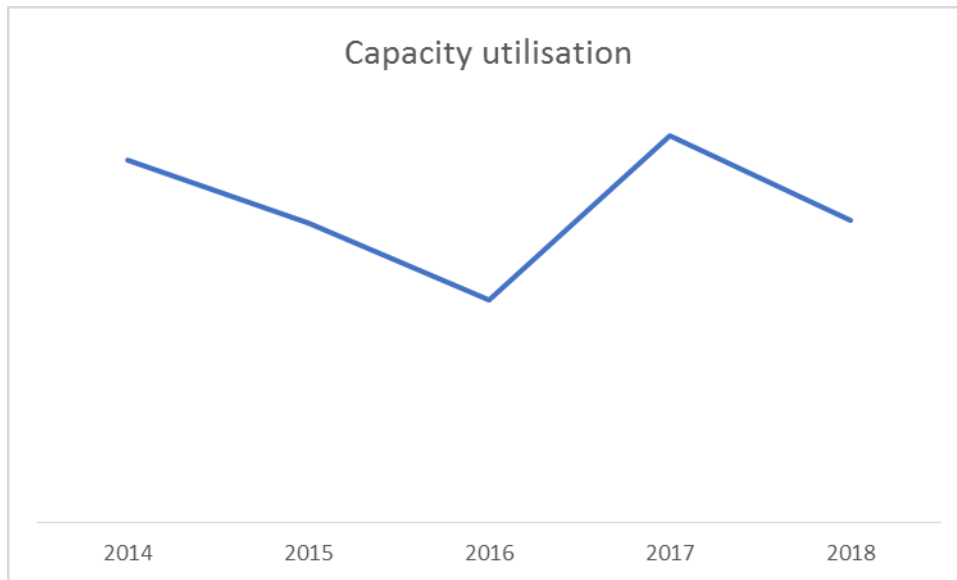


Figure 15 - WTC's Capacity utilisation

7.7.3 Return on investment

WTC claimed injury in the form of reduced 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.

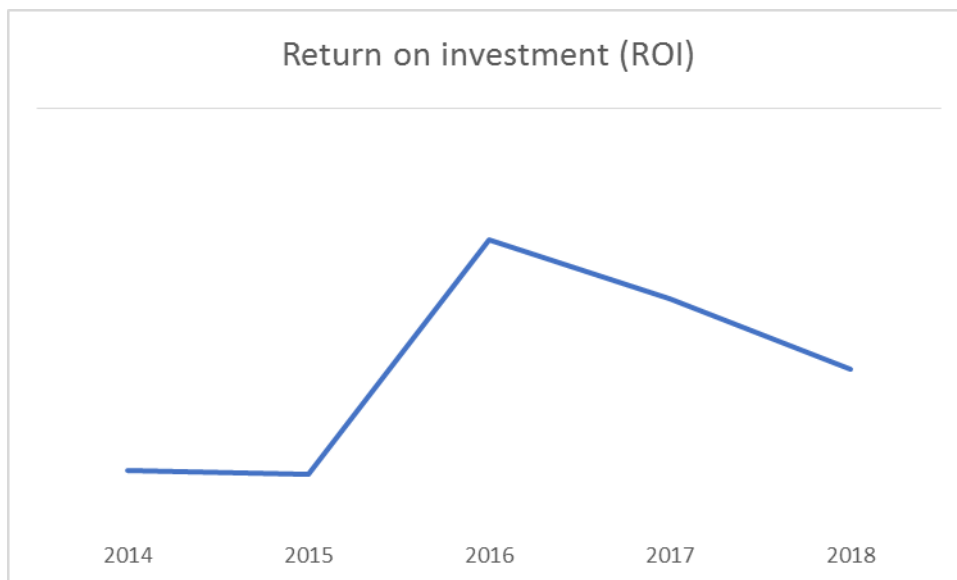


Figure 16 - WTC's return on investment

7.7.4 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

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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.

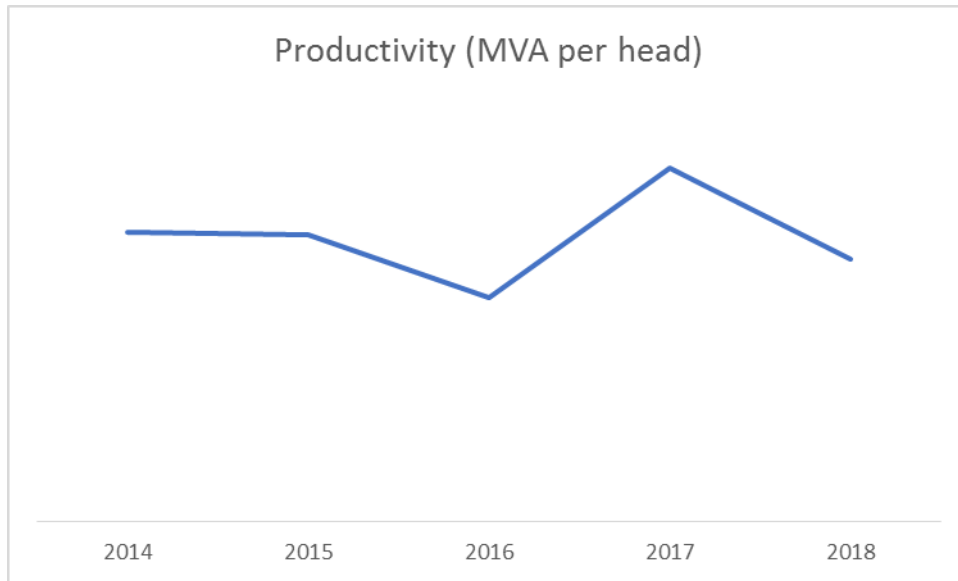


Figure 17 - WTC's productivity

7.7.5 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 7.4 of this report. The Commission is satisfied that the Australian industry has experienced injury in the form of reduced revenue.

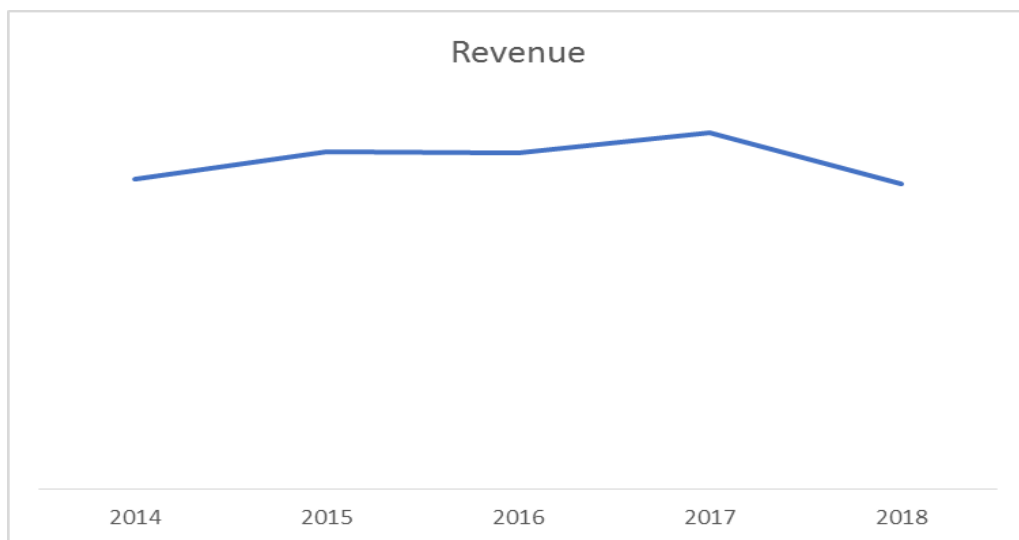


Figure 18 – WTC's revenue

7.7.6 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.

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

R&D Expense – While WTC has experienced a decline in R&D expense during the investigation 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 14**.

7.8 Conclusion

Based on an analysis of the information provided in the application and verified during and after the visit, the Commission is satisfied that the Australian industry has experienced injury in the form of:

- reduced sales volumes;
- reduced market share;
- price depression;
- price suppression;
- reduced profit;
- reduced profitability;
- reduced cash flow;
- reduced capacity utilisation;
- reduced return on investment;
- reduced productivity; and
- reduced revenue.

The Commission is not satisfied that the Australian industry has experienced injury in the form of:

- reduced employment;
- reduced wages;
- reduced assets;
- reduced R&D expense; and
- reduced capital investment.

8 HAS DUMPING CAUSED MATERIAL INJURY?

8.1 Preliminary finding

As part of the investigation, the Commission sought information from the Australian industry, importers, exporters and purchasers. The Commission analysed 62 tenders won and lost by the Australian industry during the investigation period for the supply of 102 power transformers.

The Commission is satisfied that injury to the Australian industry as a result of dumped goods from China was negligible. This conclusion is based on:

- WTC's largest competitors in terms of tenders lost were Siemens Jinan and Siemens Wuhan. Both exporters were found not to be dumping during the investigation period;
- analysis of won and lost tenders as well as responses from purchasers show that the lowest priced bidder is not always successful and non-price factors are often considered to be as important as price in tender evaluations; and
- analysis of tenders lost by the Australian industry to Chinese manufacturers found to be dumping indicates that, in the absence of dumping, the Australian industry is unlikely to have won these tenders based on the submitted bid prices.

8.2 Legislative framework and approach to causation analysis

Under section 269TG, one of the matters the Minister must be satisfied of in order to publish a dumping duty notice is that, because of the dumping, material injury has been, or is being caused, or is threatened to the Australian industry producing like goods.

Section 269TAE(1) outlines the factors, to which the Commissioner has had regard, that may be taken into account in determining whether material injury to an Australian industry has been, or is being, caused or threatened.

Section 269TAE(2A) requires that consideration must be given to whether any injury to an industry is being caused by a factor other than the exportation of the goods and provides examples of such factors.

In this Chapter, the Commission analyses the cause of the injury factors detailed in Chapter 7.

Due to the complex nature of the goods the Commission has, for the purposes of this SEF, assessed injury and causation by examining:

- 62 tenders awarded in the investigation period, relating to the supply of 102 power transformers, including tenders won and lost by WTC when in competition with Chinese exports, tenders won by Chinese exports where WTC was not in competition, and tenders won by non-Chinese exports where WTC believed those tenders had been won by Chinese exports;
- price and volume effects during the investigation period in conjunction with ABF data; and
- the broader context of the economic condition of the Australian industry.

8.3 Size of the dumping margins

Section 269TAE(1)(aa) provides that regard may be given to the size of each of the dumping margins, worked out in respect of goods of that kind that have been exported to Australia.

As concluded in section 6 above, ABB Chongqing, ABB Zhongshan, Siemens Jinan and Siemens Wuhan were not found to be dumping during the investigation period. Exports from these exporters accounted for approximately 38 per cent of the number of units exported from China during the investigation period, and approximately 36 per cent of the value. The Commission has not attributed injury to the Australian industry in relation to exports from China by ABB Chongqing, ABB Zhongshan, Siemens Jinan and Siemens Wuhan.

The remaining dumping margins range from 16.1 to 42.4 per cent. The Commission has taken these dumping margins into account in its analysis of the tenders won by Chinese suppliers during the investigation period. In relation to the dumped goods exported from China, as:

- the goods are capital intensive, and are not commodity products;
- price is only one factor taken into consideration when awarding tenders in the Australian power transformers market;
- the Commission's price undercutting analysis, as outlined in the section below; and
- the Commission's analysis of bid prices in the absence of dumping;

the Commissioner is not satisfied that the size of the dumping margin was determinative in decisions to award tenders for goods from China during the investigation period.

Consequently, the Commission considers that the size of the dumping margins have not materially impacted the Australian industry's overall economic performance, including volumes, prices or profits.

Analysis of the effect of the dumping margin on bid prices is included at **Confidential Attachment 15**.

8.4 Tenders

8.4.1 Approach to assessing tenders

In order to understand the extent of WTC's participation in the Australian market during the investigation period, the Commission requested a full listing of all tenders for which WTC submitted a formal bid during this time. WTC provided a listing including:

- the year of the bid;
- purchaser and project name;
- number of power transformers and technical specifications being sought;
- WTC's preliminary bid separated into an ex-works value for the power transformer as well as delivery and installation components;
- any subsequent bid, again separated into the various components; and
- the outcome of the bid.

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The Commission cross referenced this listing against information obtained from the ABF import database as well as information obtained from other participants in the Australian market, including:

- sales and forward order information contained in RIQs submitted by importers;
- listings of lost bids requested by the Commission from importers that had submitted an RIQ;
- sales information contained in REQs submitted by exporters;
- purchase information provided by purchasers who submitted an AMQ, as well as other purchasers identified by the Commission that did not submit an AMQ but provided information concerning relevant purchases.

By consolidating and analysing this information, the Commission was able to isolate 62 tenders awarded in the investigation period, relating to the supply of 102 power transformers for installation either during or after the investigation period for detailed evaluation. The Commission categorised these into four categories:

1. projects won by Chinese manufacturers for which WTC had submitted a formal bid;
2. projects won by WTC for which Chinese manufacturers, through their Australian affiliates, had submitted a formal bid;
3. projects won by non-Chinese overseas manufacturers for which WTC had submitted a formal bid; and
4. projects won by Chinese manufacturers for which WTC had not made a formal bid.

For the first two categories, where the Commission had established that WTC was in direct competition for the supply of power transformers with Chinese manufacturers, the Commission sought from WTC, and the entity bidding on behalf of the Chinese manufacturer, source documents evidencing its final bid. Where the Commission established that WTC had made revised bids for a particular project the Commission also sought source documents for the initial bid made by WTC.

The following details the Commission's assessment of the four categories.

8.4.2 Projects won by Chinese manufacturers for which WTC had submitted a formal bid

As submitted by WTC,⁶⁰ the Commission considered that unsuccessful tenders are the logical starting point for assessing injury due to the flow on effects from tenders to other economic indicators as discussed in section 7.4. The Commission's evaluation of projects won by Chinese manufacturers for which WTC submitted a formal bid is at **Confidential Attachment 15**.

⁶⁰ Case 507, EPR item no. 20.

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By collating and cross referencing data obtained using the methodology described in section 1 above, the Commission identified 27 projects that were won by Chinese manufacturers of power transformers for which WTC had submitted a formal bid.

These 27 projects involved the manufacture of 39 power transformers, 24 of which were delivered during the investigation period, and the remaining 15 were contracted for delivery in 2019 or thereafter. Nine of these projects involved bids from WTC in competition with multiple Chinese manufacturers.

Of these 27 projects, 17 were won by Siemens Jinan and Siemens Wuhan and one by ABB Chongqing.

As detailed in section 6 above, neither of the Siemens entities nor ABB Chongqing were found to be dumping during the investigation period. As such the Commission does not attribute injury to Australian industry from the loss of these tenders to dumping. These 18 projects were removed from the Commission's causation analysis. While CTC was found to be dumping during the investigation period, one of the power transformers exported by CTC was found to be undumped. Again as injury is not attributed to dumping, this project was removed from the causation analysis.

After the removal of these projects, eight projects remained. For these remaining eight projects the Commission adjusted the bid prices for the exported power transformers to reflect the impact of dumping. To do this, the Commission added the amount of dumping to the FOB value of the goods using:

- the amount of dumping calculated for each individual power transformer where verified information is available; or
- where the amount of dumping could not be calculated, such as in the case of a project won in the investigation period for which manufacture and delivery had not been completed as at the time of the verification, the weighted average dumping margin as detailed in Chapter 6 for the relevant entity.

The Commission then compared these adjusted bid prices to the bid prices of WTC. The results of the Commission's analysis are presented in Figure 19 below:

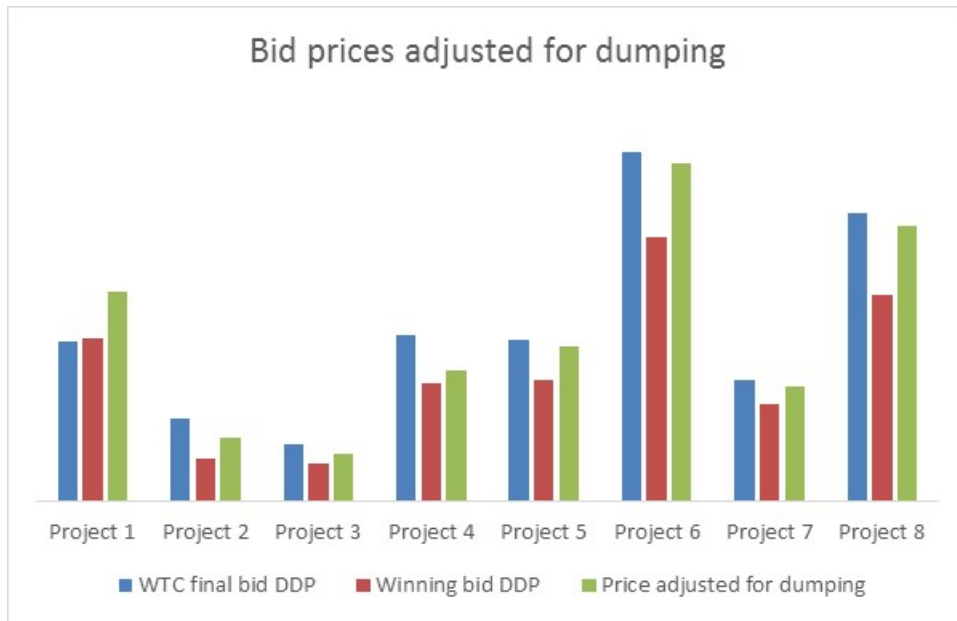


Figure 19 - WTC tenders lost against dumped imports

Following this analysis, the Commission identified the following scenarios:

- a project where WTC would have been the less expensive bidder once the Chinese competitor's price had been adjusted for dumping; and
- projects where WTC would have remained the more expensive bidder once the competitor's price had been adjusted for dumping.

A project where WTC would have been less expensive than its Chinese competitor

Project 1

In respect of Project 1, WTC was the lower priced offer but was still unsuccessful in the tender. The purchaser of the power transformer elected not to participate in the investigation and as such the Commission does not have information directly from the purchaser concerning the factors contributing to the decision not to award the project to WTC. However, the Commission received information from both WTC and the winning bidder which demonstrates that non-price factors were the determining factor in WTC losing this tender. The evidence and the non-price factors are discussed in more detail in **Confidential Appendix 1**. Given the evidence provided, the Commission considers it is unlikely that WTC would have won this tender in the absence of dumping.

The Commission does not consider that WTC suffered injury in relation to Project 1 due to dumped exports from China.

Projects where WTC remained more expensive

The Commission determined that, in relation to seven projects, WTC's final bid remained above that of the winning bid adjusted for dumping.

The Commission has verified information relevant to the investigation period concerning the difference between WTC's and its competitor's bid price where WTC had won the tender despite being the higher priced bidder. This provided the Commission a threshold

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within which it is possible to assume that WTC may still win a tender despite being the higher priced bidder (refer **Confidential Attachment 16** for analysis of WTC's winning bids). Of the remaining seven projects where WTC was the higher priced bidder once the competitor bid is adjusted for dumping, the Commission separated these into projects where the difference is within this threshold and those that are above.

The price difference in Projects 2, 3, and 4 was above this threshold. If the tender evaluations were based solely on price, the Commission considers that WTC was unlikely to have won these tenders. The Commission does not consider that WTC suffered injury in relation to Projects 2, 3, and 4 due to dumped exports from China.

In relation to Projects 5, 6, 7 and 8, the Commission found that once adjusted for dumping, while WTC's bid price remained above the adjusted bid price, the price differential narrowed to within the threshold in respect of won tenders as explained above. This being the case, the Commission requested further information in order to ascertain the likelihood of WTC being successful in these tenders. Due to the confidential nature of the information obtained the Commission has reviewed these projects in more detail in **Confidential Appendix 1**, however a summary follows.

Project 5

In respect of Project 5, the Commission obtained tender evaluation documentation from the purchaser, which the Commission was able to compare against bid information provided by WTC and multiple Chinese suppliers.

The Commission found that the winning entity was the second most competitive bidder on price, however was awarded the contract on a "value for money" principle that incorporated both technical and commercial considerations. Further, the tender evaluation documents indicated that WTC ranked lower on the "value for money" principle than suppliers from countries other than China, indicating that had the Chinese supplier not won the tender, a supplier from a country other than China would likely have done so rather than WTC.

The Commission is satisfied that the purchaser engages broadly with local and foreign manufacturers of the goods and employs a tender evaluation strategy that incorporates a range of factors beyond pricing.

In addition, the Commission notes that this purchaser had purchased other power transformers from WTC during the investigation period, including the awarding of a contract to WTC despite WTC being the higher priced bid. The Commission considers that this evidences the purchaser's use of an objective broad ranging evaluation criteria that encompasses various technical and commercial considerations.

The Commission does not consider that WTC suffered injury in relation to Project 5 due to dumped exports from China.

Project 6

Project 6 involved the supply of a large power transformer. The purchaser had a transformer panel for this size category in place. This panel did not include WTC. Panel arrangements and reasons why WTC were not on this panel are discussed further in

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section 8.4.6. The purchaser decided to source bids more widely and as a result WTC and other non-panel manufacturers submitted bids for this project in addition to panel members. The purchaser provided the Commission with internal documentation indicating its shortlisting of the bidders. Based on this evidence the Commission has concluded that if this tender evaluation was based solely on price, and if the winning entity's price was adjusted for dumping, the project would have been awarded to the second placed bidder which was not WTC. The second placed bidder was not a Chinese manufacturer of power transformers. The Commission considers that WTC would not have won this project in the absence of dumping.

The Commission does not consider that WTC suffered injury in relation to Project 6 due to dumped exports from China.

Project 7

The Commission reviewed bids from WTC as well as two other suppliers of Chinese transformers. The winning bid was a supplier of Chinese transformers and was the lowest bid the purchaser received. The Commission discussed tender evaluations with this purchaser and has received internal tender evaluation documentation for this project. The Commission was satisfied that the tender evaluation included an analysis of technical and commercial considerations before awarding the tender. In this case the technical considerations appeared to have been satisfied by both parties and the tender was awarded to the lower priced bidder. The Commission has not seen any evidence that indicates that had the price been closer (while still higher) the project would have been awarded to WTC instead.

As such, on the basis of the evidence before the Commission, the Commission cannot come to a conclusion concerning the outcome of this tender in the absence of dumping.

Project 8

The Commission is aware of only two parties that participated in the tender (the importer of Chinese transformers and WTC). Once the competitor price is adjusted for dumping, it is still lower than the WTC bid, however, is closer in price. This project is in the low MVA size category of power transformers where WTC generally tends to be more successful (Figure 9 in section 7.4.1 refers). The purchaser advised the Commission that while it tries to purchase locally where possible, this is one of several considerations in its purchasing decision. The tender evaluation weighted the technical and non-technical criteria equally, however the significant price difference appears to have influenced the purchaser to purchase from the Chinese producer. While price appears to be the deciding factor in this tender, the Commission cannot assume that, in the absence of dumping, the smaller difference in price would have been close enough to sway the purchaser to accept the higher priced bid from WTC.

In this instance, the Commission cannot come to a conclusion concerning the outcome of this tender in the absence of dumping.

Conclusion

The analysis of the tenders lost by WTC where the Commission is aware that the transformers were supplied from China found that:

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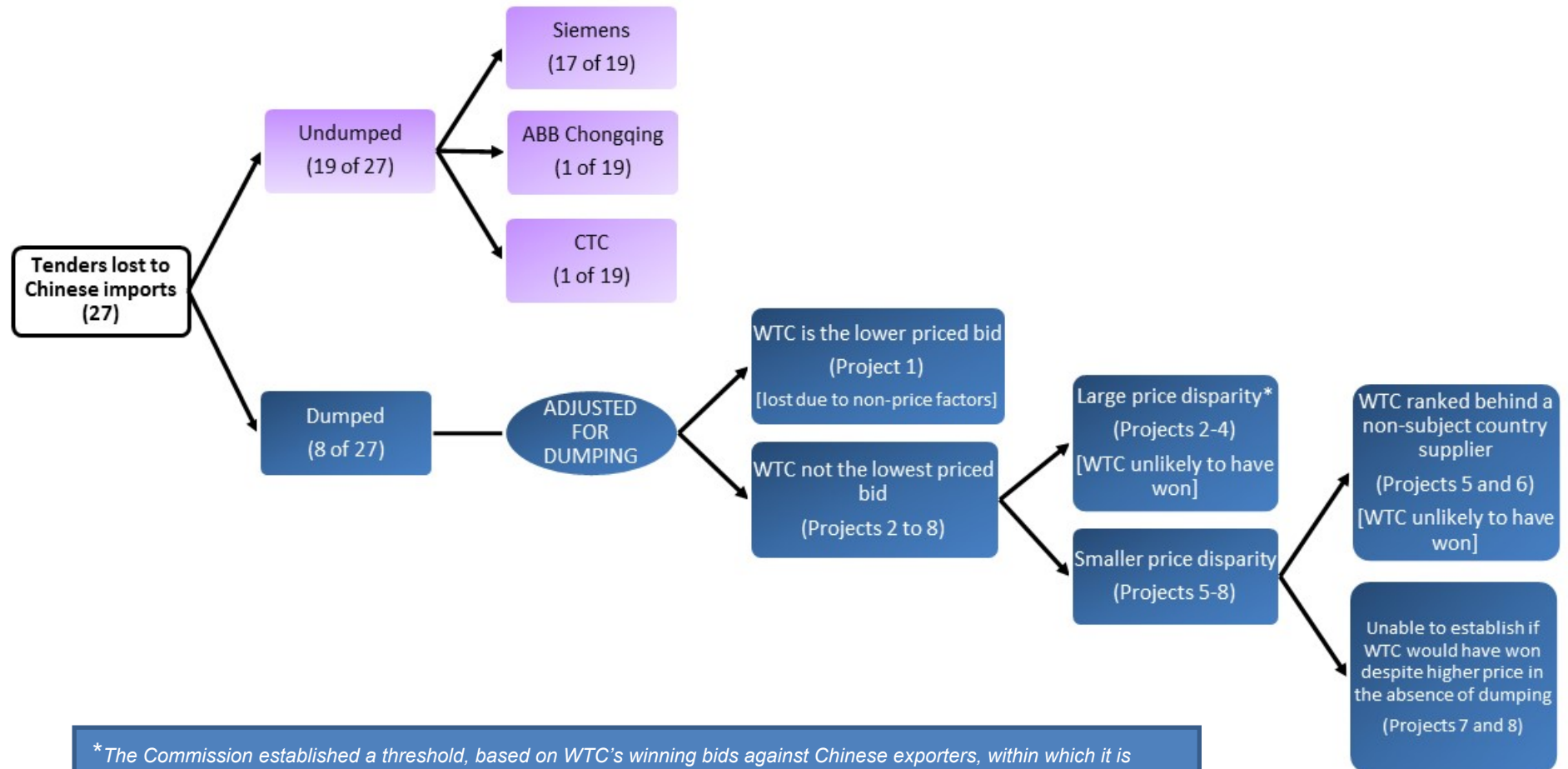
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- the majority of these transformers were undumped (19 of 27);
- once the competitor bids in the remaining eight tenders are adjusted for dumping, in one of the eight WTC is the lower priced bid. However, in this case there is evidence that non-price factors resulted in WTC not winning the tender;
- of the remaining seven projects:
 - three projects involved a large price disparity once the competitor bids were adjusted for dumping. The Commission established a threshold based on WTC's winning bids against Chinese exporters, within which it is possible to assume WTC may still have won these tenders despite being higher priced. The price disparity in these three projects is above this threshold and WTC were unlikely to have won these tenders in the absence of dumping;
 - for two projects WTC ranked behind a supplier from a non-subject country and WTC would not have won these projects in the absence of dumping;
 - for two projects there is insufficient evidence to establish that the purchaser would have purchased from WTC where it was the higher priced bidder, in the absence of dumping.

These findings are set out graphically in Figure 20 below.

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Figure 20 – Graphical presentation of the analysis of tenders lost by WTC to Chinese imports



*The Commission established a threshold, based on WTC's winning bids against Chinese exporters, within which it is possible to assume that WTC may still win a tender despite being the higher priced bidder. Projects 2-4 were above this threshold.

Submissions concerning other factors in tender evaluations

TIC, in its submissions dated 11 and 26 April 2019, claimed that a variety of considerations are involved in tender decisions, and that it is an over-simplification to state that the producer that offers the lowest price and can meet the specifications and delivery will receive the order.⁶¹

From the above analysis, the Commission has concluded that, while the applicant has experienced injury as a result of losing these 27 projects, the Commission cannot be satisfied that the injury was caused by dumping.

The Commission further notes that when purchasers refer to 'price' it is not generally the cost of the asset but is a 'total cost of ownership' which includes 'load losses' (loss of electricity and a function of the efficiency of the design) which is calculated for the life of the transformer. While the asset price will form a part of the total cost of ownership, the end user may choose to award the contract to a more efficient design despite the higher asset price.

TIC submitted⁶² that as exporters supply power transformers to importers the appropriate point of comparison is the supply price of exporters and the prices of Australian industry to the end user. It argues that sales by importers to end users are irrelevant to an assessment of injury. The Commission disagrees with this view. The decision point, where any injury in the form of lost volumes are crystallised, is when a tender is evaluated and a winning party is chosen. Those submitting bids to a tender are Australian industry and importers. While importers may discuss supply pricing with the exporter, it will then add any additional costs and margins on to this supply price before making the bid. This is the point of head to head competition.

8.4.3 Projects won by WTC for which Chinese manufacturers, through their Australian affiliates, had submitted a formal bid

The Commission gathered bid information from various parties to tenders in which WTC was the successful bidder. In some of these cases there were multiple bids from importers. The Commission also discussed the evaluation criteria with the purchasers. Of the ten tenders for which the Commission was able to gather bid information, in four tenders WTC was successful despite being the higher priced bid. This supports the Commission's understanding of the importance of non-price factors in the evaluation of tenders.

Of these four tenders, three were won in competition against Siemens entities (undumped), and the fourth against a supplier than has been found to be dumping. In relation to this fourth tender, the Commission found that while WTC was the higher priced bid, it was successful on a 'value for money' basis.

The Commission's evaluation of projects won by WTC against Chinese competitors is at **Confidential Attachment 16**.

⁶¹ Case 507, EPR item nos. 04 and 13.

⁶² Case 507, EPR item no. 43.

8.4.4 Projects won by non-Chinese overseas manufacturers for which WTC had submitted a formal bid

In its application, WTC identified 22 tenders that, based on its market knowledge, it believed were lost to Chinese manufacturers.

The Commission established by cross referencing ABF import data against information obtained from importers and purchasers that eight of these tenders had in fact been lost to manufacturers in countries other than China, including Thailand, Korea and India. None of these manufacturers are subject to anti-dumping measures.

The Commission considers that WTC cannot have suffered injury as a result of dumping from China in relation to these projects.

The Commission's identification of these projects is at **Confidential Attachment 17**.

8.4.5 Projects won by Chinese manufacturers for which WTC had not made a formal bid

By cross referencing information obtained from importers and purchasers against the listing of tenders submitted by WTC during the investigation period, the Commission established that WTC did not bid on multiple projects in the market.

The Commission sought additional information from WTC in relation to these projects. WTC indicated that, due to the complexity of designing and manufacturing power transformers, preparing a formal bid can be a costly enterprise, and as such a level of commercial pragmatism is required in allocating resources toward projects with the greatest chance of success.

With this in mind, the Commission identified three categories of project where WTC did not make a formal bid:

- WTC was aware of a competitive market tender and elected not to submit a formal bid;
- WTC was aware of a competitive market tender and submitted a budget or indicative price rather than submitting a formal bid; and
- WTC was unaware of the project or was not invited to submit a bid.

The Commission's evaluation of projects won by Chinese competitors for which WTC had not made a formal bid is at **Confidential Attachment 18**.

WTC elected not to submit a formal bid

The Commission established that six projects were supplied by Chinese manufacturers during the investigation period and that WTC did not bid for these projects.

The Commission sought reasons from WTC concerning why it did not bid for these projects. These reasons are discussed **Confidential Appendix 1** for each of these projects.

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The Commission considers that WTC cannot claim to have been materially injured by dumped exports from China where they elected not to participate in the competitive tendering process for those projects.

WTC submitted a budget or indicative bid rather than a formal bid

WTC advised the Commission that due to its position as the premier supplier of Australian made power transformers it will from time to time be approached prior to the release of a tender to provide an indicative price to a purchaser.

The Commission identified four projects during the investigation period where such indicative pricing was provided by WTC for a project that was ultimately supplied by a Chinese manufacturer. In these instances a formal bid was not sought from WTC after the indicative price was provided. The Commission gathered information concerning two of these projects. These are discussed further in **Confidential Appendix 1**. The Commission is satisfied that the reasons why these bids did not progress are not related to lower priced offers from Chinese exporters.

WTC was unaware of the project

The Commission identified six projects during the investigation period for which WTC had no market knowledge and therefore did not make a formal bid.

The Commission identified two categories where WTC did not have knowledge of these projects:

- Projects supplied through a panel arrangement which did not include WTC; and
- Power transformers supplied outside of an open tender process.

8.4.6 Panel arrangements

The Commission assessed the impact of panels on the ability to supply new projects. Some purchasers provided the Commission with information concerning the use of panels for the purchase of power transformers. The purchaser sets out the required specifications and invites bids from potential suppliers. The purchasers 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 purchaser. A 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. In its submission GE Australia⁶³ provided examples of tenders that it believes WTC was excluded from due to it not being included on the purchaser panel.

Following discussions with purchasers and suppliers in the market, the Commission observed that panels are not exclusive arrangements. The applicant and other suppliers

⁶³ Case 507, EPR item no. 30.

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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 purchasers' ability to approach the market.

The Commission identified two projects involving the use of panels during the investigation period. One was for the provision of large power transformers (Project 6 discussed in section 8.4.2). The Commission understands that WTC was not on this panel. In discussions with the Commission, the purchaser claimed that the reason that WTC was not on this panel was that the upper limit of the size of the transformers to be supplied by the panel was above what it considered was in WTC's capability to produce. It is noted that the upper limit as discussed with the purchaser includes power transformers beyond the goods description for this investigation. The purchaser ultimately purchased the transformer from a member of the panel.

The Commission was not able to access any information concerning the second tender that was through a panel agreement from the purchaser.

8.4.7 Power transformers supplied directly rather than through a tender process

The Commission identified four projects that appear to have been supplied directly rather than through a tender process.

GE Australia⁶⁴ provided an example of a power transformer supplied as part of a turn-key project. The Commission understands that the purchaser did not seek tenders for the standalone supply of the power transformers. As WTC could not supply the entire sub-station, it could not tender for the supply of the power transformers.

A second overseas entity advised the Commission that it had undertaken several projects in Australia without tendering for the supply of power transformers. The Commission has sought information concerning these projects from WTC and importers and (other than the ultimate supplier) no other parties have submitted bids for these projects. It appears that this purchaser approached its preferred supplier directly and agreed terms.

In one project which was a replacement of a transformer at the end of its life, WTC suggested the purchaser may have approached the original supplier of the transformer. While WTC was not aware of the details of this project, it stated that it would not be unusual for a purchaser to approach the previous supplier of a power transformer should a replacement be required.

The Commission accepts that there may be reasons for a purchaser to source the supply of power transformers directly from a supplier rather than through a competitive tender process. In the context of the overall size of the Australian market for power transformers during the investigation period, in the Commission's view, they form a small minority of purchases. The Commission does not consider that a purchaser's decision to source power transformers directly from a supplier rather than through a competitive tender

⁶⁴ Case 507, EPR item no. 30.

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process, and to the exclusion of WTC, is injury caused by dumping as there is no evidence of price comparison with dumped imports.

8.4.8 Providing transformers as a part of a suite of products

One of the importers, Siemens Australia, advised that EPC contractors purchase various components for projects and must contract with several suppliers. It claimed that the ability to contract with one supplier for multiple assets provides it (and similar businesses) with an advantage over the applicant that is a producer of transformers only.⁶⁵ The Commission found three projects during the investigation period that were won by importers where the power transformer formed a part of a much larger purchase by the EPC contractor. The importer provided the full suite of assets. WTC was not invited to bid for these projects. The Commission agrees that the ability to offer multiple assets to one project may be an advantage for some suppliers.

8.4.9 Australian industry's response to a changing market

In its submission dated 24 April, Siemens Australia⁶⁶ claimed that Australian industry has been slow to respond to the requirements of renewable energy projects such as faster delivery times. It claimed further that Australian industry has lagged behind in responding to a change in the market that has shifted away from resources projects due to the downturn in the mining sector. In the absence of evidence to support this claim, and as the Commission has observed that Australian industry has bid for, and been successful in winning, renewable energy projects the Commission did not find that this factor has impacted Australian industry to any great degree.

8.4.10 Ability to produce various internal core structures

GE Australia⁶⁷ questioned WTC's ability to produce a 5 limb design, as opposed to the 3 limb design that it currently supplies. WTC⁶⁸ advised that it had offered 5 limb designs and intends to build a 5-limb core in the near term. In its analysis of tenders the Commission found that the lack of experience producing a 5 limb internal core did adversely affect WTC in certain tenders.

8.4.11 Requirement for experience producing larger transformers

In its submission dated 13 June 2019,⁶⁹ GE Australia advised the Commission that in several of its transactions during the investigation period WTC was not invited to bid as it was not a proven supplier of transformers with a MVA/kV rating of a larger size. The Commission cannot comment on these specific transformers due to confidentiality considerations (discussed further in **Confidential Appendix 1**). However, during the course of the investigation the Commission found that WTC has the ability to produce

⁶⁵ Case 507, EPR item nos. 04 and 41.

⁶⁶ Case 507, EPR item no. 05.

⁶⁷ Case 507, EPR item no. 40.

⁶⁸ Case 507, EPR item no. 51.

⁶⁹ Case 507, EPR item no. 30.

larger sized power transformers, as also advised by WTC in its submission dated 18 June 2019.⁷⁰

In view of WTC's sales of large transformers, reservations concerning WTC's production of larger transformers are not held by some purchasers in the market. The Commission has not received any evidence to suggest that WTC is unable to build larger transformers (still within the goods description), as suggested in TIC's submissions dated 17 May and 26 July 2019.⁷¹ GE Australia questioned WTC's capability to perform temperature rise and impulse testing for larger transformers⁷² and WTC claimed that it is able to perform both types of tests for transformers within the goods description.⁷³ The Commission requested and was provided with examples of larger transformers built by WTC. Examples were also submitted by WTC in its submission dated 18 June 2019.⁷⁴ The Commission also noted that one of the units won during the investigation period was a 255MVA 220kV/33kV power transformer.

Despite this, the requirement in many RFT documents for references of similar transformers hampers WTC's ability to win these contracts. The exporters the Commission met with have a global purchaser base and have had the opportunity to produce many larger power transformers with differing internal core structures. This in turn provided the purchaser with comfort around the supplier's production abilities. WTC provided the Commission with evidence of RFT requirements for references of larger transformers built in the recent past (in one case a requirement for a large number of transformers built in this category). In one instance, WTC declined to bid as it expected that the purchaser would not award the tender to WTC due to its relatively less experience with larger transformers. One purchaser informed the Commission that WTC was not included in its panel of suppliers for larger transformers as it claimed WTC did not have the capability to produce transformers that were on the upper end of its scale (section 8.4.6 refers). The Commission observes that these larger transformers are also the higher priced contracts, the loss of which has caused injury to Australian industry.

8.4.12 Imperfect knowledge in the market

The Commission notes that WTC's imperfect knowledge of its competition was consistent with the imperfect knowledge of other participants in the market.

The Commission obtained listings of lost tenders from importers during the investigation period which included their views as to who the successful entity was. The importers incorrectly assessed the successful bidder on multiple occasions. WTC also provided its views on successful bidders to a tender which was incorrect in several instances. Tenders in this industry are blind tenders and feedback from purchasers, if provided, is several months following a tender. In some instances there is a Best and Final Offer process where the bidder puts forward their best offer and there is no further opportunity to negotiate or provide a revised offer. Due to the bespoke nature of power transformers it is

⁷⁰ Case 507, EPR item no. 31.

⁷¹ Case 507, EPR item nos. 22 and 43.

⁷² Case 507, EPR item no. 40.

⁷³ Case 507, EPR item no. 51.

⁷⁴ Case 507, EPR item no. 31.

not possible for a supplier to base its pricing on power transformers that have been imported in prior periods.

The Commission's findings in relation to imperfect market knowledge are informed by **Confidential Attachment 17**.

8.5 Effects of dumping

8.5.1 Price suppression

The Commission finds that injury in the form of price suppression was not caused by dumping.

The Commission detailed its observations concerning price suppression in section 7.5.1. While there are other Australian industry manufacturers, the Commission has found that WTC's sales consistently accounted for over 85 per cent of the Australian industry's sales during the injury analysis period. As such, the findings for injury in the form of price suppression is considered indicative of injury to the Australian industry.

Figure 7 shows that the Australian industry's annual CTMS was consistently higher than the annual sales revenue across the injury analysis period, with the gap widening since 2016. An increase in sales revenue or a reduction in costs would be required to reduce the margin. The sales revenue as depicted in Figure 7 is a result of tenders that have been won by the applicant. WTC, in its application claimed that it is unsuccessful in tenders in competition with dumped imports from China. In the absence of dumping, therefore, WTC would expect to see an increase in sales revenue addressing the injury in the form of price suppression.

In the Commission's analysis of lost tenders in sections 8.4.2 and 8.4.4 (27 tenders and eight tenders respectively), it was found that WTC lost these tenders to Chinese suppliers who were not dumping or to suppliers from other countries or due to non-price factors. The Commission has not found that these tenders were lost due to dumping.

8.5.2 Price depression

The Commission finds that injury in the form of price depression experienced during tender negotiations was not caused by dumping.

The Commission discussed its observations of price depression in section 7.5.2.

Siemens Australia⁷⁵ submitted that there are revisions to bid prices in some tenders and that there may be several bids before the final bid is submitted. WTC⁷⁶ claimed that there is a practice of purchasers soliciting lower prices during a tender negotiation.

The Commission noted in the context of tenders lost by WTC to Chinese manufacturers (discussed in section 8.4.2) that WTC provided revised bids that were lower than the original bid on nine occasions. Seven of these nine revised bids related to projects won

⁷⁵ Case 507, EPR item no. 05.

⁷⁶ Case 507, EPR item no. 21.

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by Siemens entities with undumped prices. On this basis the Commission considers that the price reductions are in an attempt to position itself to be competitive in the course of a sale negotiation and there is no clear link between dumped prices from China and WTC's reduced bids during the investigation period.

The Commission noted in the context of tenders won by WTC that were in competition with Chinese manufacturers (discussed in section 8.4.3) that WTC provided revised bids that were lower than the original bid on seven occasions. In two instances a single bid only was provided, and in the final project pricing increased due to specification changes.

The Commission notes from information gathered during the investigation that tenders in the power transformers market are generally blind tenders, and that purchasers are seeking bids from both local and Chinese manufacturers, as well as a range of other international suppliers. The Commission considers that it is a key feature of the process that suppliers may provide multiple revised bids either voluntarily or in response to purchaser prompting. The Commission considers that the opaque nature of the tender process during the investigation period, as discussed in the section above, reduces the potential for a link between dumped prices and the bids submitted by the Australian industry. Consequently, the Commission does not find that dumping has caused injury in the form of price depression experienced during tender negotiations.

8.5.3 Volume effects

The Commission finds that injury in the form of reduced sales volume and reduced market share was not caused by dumping.

The Commission discussed its observations of volume related injury in section 7.4 as well as related injury in the form of reduced capacity utilisation and productivity among others in section 7.7.

WTC claims in its application that the reduced volumes are a result of its inability to compete with dumped prices in tenders.

As discussed in the sections above, the Commission did not find a clear link between lost tenders and dumped imports from China. As a result, the Commission finds that injury in the form of reduced sales volumes and reduced market share were not caused by dumping.

8.5.4 Profit effects

The Commission finds that injury in the form of reduced profits and profitability was not caused by dumping.

In section 7.6, the Commission found that the Australian industry has experienced injury in the form of reduced profits and profitability. While it is reasonable that the sales revenue lost as a result of lost tenders will impact on the Australian industry's profitability, following the analysis detailed in section 8.4, the Commission cannot be satisfied that the loss of tenders to Chinese imports was caused by dumping. As a result, the Commission finds that injury in the form of reduced profits and profitability were not caused by dumping.

8.5.5 Other economic factors

As detailed in section 7.7, the Commission found that the Australian industry experienced injury in the form of other economic factors relating to the production of power transformers.

However, these other economic factors are largely a function of either volume, price or profit, and flow on from lost tenders. Noting the findings outlined in section 8.4 and above in sections 8.5.1 to 8.5.4, the Commission does not attribute injury experienced in the form of reduced cash flow, capacity utilisation, ROI, productivity and revenue to dumped exports from China.

8.6 Materiality of injury

In the analysis of 62 tenders, the Commission concluded overall that injury was not caused by dumping. Most of the tenders lost were to undumped imports or due to non-price factors.

Overall, the Commission has found that purchasers evaluated tenders based on price and non-price factors and in some instances technical considerations such as the ability to produce a specific internal core or timely delivery held greater weight in tender evaluations. The Commission observed several instances where the higher priced bidder was awarded the tender (discussed in section 8.4.2 and 8.4.3) due to non-price factors.

Further the tenders in this market appeared to be blind tenders where bidders had imperfect knowledge of competitors and their pricing when placing a bid (section 8.4.2 refers). Power transformers are bespoke assets and the specific design to meet the requirements of the technical specifications may vary and this may result in significantly disparate bids from potential suppliers.

It is the Commission's view that, based on analysis of tenders lost to dumped imports from China, these tenders were evaluated using price and non-price factors. The Commission does note that the importance of price may vary from tender to tender. More significant is the fact that based purely on price WTC would not have been successful in most of the tenders evaluated in section 8.4.2 as it was undercut by undumped imports or remained the higher priced bidder once its competitor's bid was adjusted for dumping. In the context of all the tenders evaluated in section 8.4 the Commission cannot be satisfied that material injury has been caused by dumping.⁷⁷

⁷⁷ The Ministerial Direction states:

"Subject to the law, I direct you to consider material injury to be injury that is not immaterial, insubstantial or insignificant. I direct that there is no threshold amount that is capable of general application. Rather, identifying material injury will depend upon the circumstances of each case and will differ from industry to industry and from time to time. A material injury assessment involves a range of factors that are considered together; no one or several of these factors can necessarily give decisive guidance."

8.7 Conclusion

The Commission has analysed information relating to 62 tenders awarded in the investigation period, relating to the supply of 102 power transformers for installation either during or after the investigation period. Based on the Commission's analysis, the Commissioner cannot be satisfied that material injury has been caused by dumped goods from China.

9 PROPOSAL TO TERMINATE INVESTIGATION

Section 269TDA provides for when the Commissioner must terminate an investigation.

Based on the findings in this SEF, and subject to any submissions received in response, the Commissioner proposes to terminate the investigation in relation to:

- ABB Chongqing and Siemens Jinan, on the basis that there has been no dumping by those exporters of any of those goods the subject of the application, in accordance with section 269TDA(1)(b)(i);
- ABB Zhongshan and Siemens Wuhan, on the basis that the dumping margin for each exporter, worked out under section 269TACB, when expressed as a percentage of the export price or weighted average of export prices used to establish that dumping margin, is less than two per cent, in accordance with section 269TDA(1)(b)(ii); and
- China on the basis that the injury to the Australian industry that has been caused by exports from China is negligible, in accordance with section 269TDA(13).

10 APPENDICES AND ATTACHMENTS

Confidential Appendix 1	Procurement evaluation approach
Confidential Attachment 1	Market segmentation analysis
Confidential Attachment 2	Market size analysis
Confidential Attachment 3	ABB Chongqing dumping calculations
Confidential Attachment 4	ABB Zhongshan dumping calculations
Confidential Attachment 5	CHINT dumping calculations
Confidential Attachment 6	CTC dumping calculations
Confidential Attachment 7	GE Wuhan dumping calculations
Confidential Attachment 8	Jiangsu Huapeng dumping calculations
Confidential Attachment 9	Siemens Jinan dumping calculations
Confidential Attachment 10	Siemens Wuhan dumping calculations
Confidential Attachment 11	Volume of dumped imports analysis
Confidential Attachment 12	WTC's tender analysis
Confidential Attachment 13	Price and profit effects analysis
Confidential Attachment 14	Other injury factor analysis
Confidential Attachment 15	WTC lost tender analysis
Confidential Attachment 16	WTC won tender analysis
Confidential Attachment 17	Supplier market knowledge analysis
Confidential Attachment 18	Projects for which WTC did not bid