

FOR PUBLIC RECORD

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Mr Reuben McGovern
Assistant Director
Anti-Dumping Commission

Our ref: RXW/RXW
Matter no: 9627025

By email: reuben.mcgovern@adcommission.gov.au

Dear Mr McGovern

**Investigation 507 – Power transformers exported from the People's Republic of China
Wilson Transformers Company's Response to Statement of Essential Facts**

We act for GE Grid Australia Pty Ltd (**GE AU**) and GE High Voltage Equipment (Wuhan) Co., Ltd (**GE Wuhan**) in relation to Anti-Dumping Commission (**ADC**) investigation 507 concerning certain power transformers exported from the People's Republic of China (**Investigation**). The purpose of this letter is to provide GE AU's and GE Wuhan's response to the submission lodged by Wilson Transformer Company Pty Ltd (**WTC**) dated 10 November 2019 (**WTC Submission**). The WTC Submission addressed the Statement of Essential Facts published on 17 October 2019 (**SEF**).

1. General comments regarding causation analysis

WTC has claimed that the ADC assessment of injury is very narrow and applicable more to commodity type products. GE strongly disagrees with this assessment. A commodity product type causation analysis would focus heavily on price as this would be the predominate, if not sole, factor considered by purchasers.

By contrast, the ADC has appreciated that a deeper investigation needs to be undertaken to determine what factors resulted in the buyer's decision to select a particular supplier. We will not repeat the ADC's causation analysis, suffice to say that factors such as total ownership cost, transformer design, panel arrangements and reputation were all relevant non-price factors.

If the ADC were to repeat its analysis, taking into further account (as requested by WTC) the unique nature of power transformers and their elaborate manufacture, this would create even greater distance between price and any injury suffered by WTC.

2. Price versus non-price factors

As the ADC would be aware, dumping is found when the export price of goods is less than the normal value of those goods. The existence of dumping can only cause injury to the extent that the price of the exported good causes injury.

The WTC submission adopts a contradictory approach of suggesting dumping (price) caused injury, while at other times suggesting that the ADC erred by not taking into account non-price factors.

For instance, in the first paragraph on page 12 of the WTC Submission, WTC asserts:

"Project 1 is an appropriate example which demonstrates that price alone is not the right metric for evaluating tender outcomes. The cost of losses needs to be added to the price

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to get a true "Total Costs of Ownership" which is the Cost of Product plus the Cost of Losses (No-Load [core] and Load [copper])."

GE agrees that price alone is not the right metric for evaluating tender outcome in respect of power transformers. However, in WTC suggesting that the ADC should depart from focusing on price, WTC is arguing that factors other than dumping should be taken into account when considering whether dumping has caused injury.

Factors unrelated to price are extremely important to purchasers of transformers. However, acknowledging this fact does not allow the ADC to categorise injury caused by non-price factors as injury caused by dumping.

3. Injury caused by factors other than dumping

The ADC has found that WTC suffered injury and ultimately found that any dumping of transformers exported from China did not cause that injury. While the ADC does not have to identify the cause of the WTC injury, the WTC Submission provides evidence of what did cause WTC's injury.

On page 10 of the WTC Submission, WTC claims that Siemens Jinan and Siemens Wuhan are its largest competitors. Siemens was not found to have exported transformers at dumped prices to Australia. Rather than injury being caused by dumping, injury was the result of WTC not being able to compete against its largest competitor.

On other occasions WTC refers to the existence of Korean, Indian and Thai manufacturers as cause for concern. There is no doubt that there is competitive pressure from a large number of countries. Figure 6 in the SEF shows that in 4 of the 5 years reviewed, countries other than China held over 40% of the market share of imported goods.

4. Reference to specific projects

The ADC found that in the absence of dumping, WTC is unlikely to have won the relevant tenders based on the submitted prices. On page 10 of the WTC Submission, it is claimed by WTC that "...WTC is of the view that it would have won a reasonable proportion of these tenders". Further detail of this claim is made on page 11 of the WTC Submission.

The WTC claims are self-serving and without any evidentiary basis. They amount to a mere speculation and cannot be considered by the ADC. If the ADC was to accept such allegations, it need also consider the similar proposition that any other supplier involved in the tender would also have had an equally improved positioned to negotiate and win.

WTC's comments regarding Project [REDACTED] highlight the unreliable nature of the WTC claims. Project [REDACTED] was originally won by Alstom Grid Australia Pty Ltd (AGA). After the closure of the AGA Australian manufacturing facility the transformer was manufactured by GE Wuhan and supplied by GE AU. It was made clear to AGA by the customer that the transformer [REDACTED] [Specific design feature of the transformer] When this contract was awarded in 2012, WTC had not manufactured a power transformer with [REDACTED] [Specific design feature of the transformer]. This remains the case in 2019.

GE does not believe that there is any credible basis for WTC's claim that a lesser pricing differential would have resulted in it winning Project [REDACTED]

Further, from a causation perspective, it is important to appreciate that at the time Project [REDACTED] was awarded, it was expected by all parties that the transformer would be manufactured in [REDACTED]

Australian by AGA. While ultimately the ADC has found that the relevant transformer was a Chinese export [REDACTED], [Reference to dumping margin for the project] this fact (which happened many years later) was not known or anticipated at the time the negotiations were undertaken. The future export of the transformer did not cause WTC any injury as manufacturer by GE Wuhan, and its export price to GE AU, was not a basis on which Project [REDACTED] was awarded.

5. Price suppression / depression

GE disagrees with WTC's comments that dumping of certain Chinese exports has caused it to suffer injury in the form of price suppression or price depression.

GE notes the following based on its own experience:

[REDACTED]

[Reference to GE knowledge of competitor pricing in the tender process]

WTC has claimed that the ADC is naïve in the extreme to conclude that the opaque nature of the tender process reduces the potential for a link between alleged dumping and injury in the form of price depression (page 15). In this respect we note that:

- a) WTC has stated on page 12 that "*in most cases it is unaware of the competitors*";
- b) WTC's knowledge as to which companies win tenders is poor. WTC had identified 22 tenders that it believed were lost by it to Chinese tenders and the ADC identified that this information was incorrect on 8 occasions;
- c) WTC's knowledge of which companies are allegedly selling goods at dumped prices is poor. In its application and subsequent correspondence it continues to allege Siemens and ABB are exporting goods at dumped prices;
- d) figure 19 in the SEF demonstrates that WTC either has no knowledge of the value of competitor's bids or is not lowering its prices in an attempt to be successful. While figure 19 in the SEF focuses on tenders lost by WTC, the difference between the winning bid and the WTC bid is on 7 of the 8 projects so significant as to preclude claims that WTC is influenced by competitor pricing (or its assumptions as to competitor pricing).

The ADC has unique and unparalleled access to information regarding the 62 suppliers reviewed in the Investigation. The ADC can review the bids by WTC, Chinese companies found to be dumping, Chinese suppliers found not to be dumping and non-Chinese suppliers and see if there is a trend of a particular category of suppliers depressing prices in the market.

GE's expectation is that it will not be possible to confidently attribute any price lowering bids predominately to Chinese exporters that have been found to have been dumping. Rather, it is the expectation of GE that even if dumping of Chinese goods was removed from the market, the pricing and competition of all other competitors would have an identical impact on pricing in the market.

6. Purpose of the investigation

The ADC has a very limited scope in its investigation. It has been asked to investigate whether there is dumping, and if there is, has that dumping caused material injury to the Australian

industry. It cannot go beyond this scope as to do so could result in the imposition of taxes on imported goods outside of Australia's commitments as a member of the World Trade Organisation.

The WTC Submission indicates that it the ADC should take into account:

- a) the desirability of Australia having a power transformer manufacturing capability (page 10);
- b) export, or the potential export, of goods from countries not involved in the Investigation, being Korea, India and Thailand (page 12); and
- c) that every opportunity for capable Australian supply should be provided (page 13).

WTC also suggests that the Investigation should be conducted in a manner that only calculates dumping margins by reference to exports that directly impacted WTC. Specifically, WTC argues that exports should be excluded from the calculation of dumping margins where WTC was not invited to tender or where WTC was not given the opportunity to bid due to factors other than price (page 13). Clearly the ADC does not have the legislative ability to exclude exports from the dumping margin calculation on the basis that the exports did not directly impact WTC.

The above factors show that WTC is not seeking protection from dumping, but rather wants protection from normal competition and/or is seeking Government intervention to ensure it has supply opportunities that are not afforded to its competitors. The ADC needs to assess all of the claims and submissions made by WTC in this context.

Please contact us if you would like to discuss these issues further.

Yours faithfully
Hunt & Hunt



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