



Australian Government
**Department of Industry, Science,
Energy and Resources**

**Anti-Dumping
Commission**

CUSTOMS ACT 1901 - PART XVB

**STATEMENT OF ESSENTIAL FACTS
NO. 507A**

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

**EXCEPT FOR EXPORTS BY
ABB CHONGQING TRANSFORMER CO., LTD,
ABB ZHONGSHAN TRANSFORMER CO., LTD,
SIEMENS TRANSFORMER (JINAN) CO., LTD AND
SIEMENS TRANSFORMER (WUHAN) CO., LTD**

8 October 2021

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ABBREVIATIONS

ABB Chongqing	ABB Chongqing Transformer Co., Ltd
ABB Zhongshan	ABB Zhongshan Transformer Co., Ltd
the Act	<i>Customs Act 1901 (Cth)</i>
Ampcontrol	Ampcontrol Pty Ltd
ADN	Anti-Dumping Notice
ADRP	Anti-Dumping Review Panel
ADRP Report 100	<i>ADRP Decision No. 100</i>
ADRP Report 119	<i>ADRP Decision No. 119</i>
ADRP Report 122 & 123	<i>ADRP Decision No. 122 and 123</i>
China	People's Republic of China
CHINT	CHINT Electric Co., Ltd
the commission	the Anti-Dumping Commission
the Commissioner	the Anti-Dumping Commissioner
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>
DDP	delivered duty paid
EPR	electronic public record
FOB	free on board
the former Commissioner	the former Commissioner of the Anti-Dumping Commission
GE Wuhan	GE High Voltage Equipment (Wuhan) Co., Ltd
the goods	power transformers, as described at section 2.1.4
INV 507	<i>Investigation No. 507</i>
INV 507A	<i>Investigation No. 507A</i>
the investigation period	1 January 2016 to 31 December 2018
Jiangsu Huapeng	Jiangsu Huapeng Transformer Co., Ltd
OCOT	ordinary course of trade
the Regulations	<i>Customs (International Obligations) Regulations</i>
REQ	response to the exporter questionnaire
SEF	statement of essential facts
SEF 507	<i>Statement of Essential Facts No. 507</i>
SEF 507A	<i>Statement of Essential Facts No. 507A</i>
SG&A	selling, general and administration expenses
Siemens (Jinan)	Siemens Transformer (Jinan) Co., Ltd

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Siemens (Wuhan)	Siemens Transformer (Wuhan) Co., Ltd
TER 507	<i>Termination Report No. 507</i>
TIC	Toshiba International Corporation Pty Ltd
Tyree	Tyree Transformers Pty Ltd
WTC	Wilson Transformer Company Pty Ltd

1 SUMMARY

1.1 Introduction and background

1.1.1 Introduction

The Anti-Dumping Commission (the commission) has prepared *Statement of Essential Facts No. 507A* (SEF 507A) regarding the alleged dumping of power transformers (the goods) exported to Australia from the People's Republic of China (China). SEF 507A follows the Anti-Dumping Review Panel's (ADRP) revocation of the former Commissioner of the Anti-Dumping Commission's (the former Commissioner) decision to terminate *Investigation No. 507* (INV 507).

1.1.2 Background

On 31 January 2020, the former Commissioner decided to terminate INV 507 in respect of the goods exported:

- by ABB Chongqing Transformer Co., Ltd (ABB Chongqing) and Siemens Transformer (Jinan) Co., Ltd (Siemens (Jinan)) in accordance with section 269TDA(1)(b)(i) of the *Customs Act 1901* (Cth) (the Act)¹ because those exporters did not export the goods at dumped prices
- by ABB Zhongshan Transformer Co., Ltd (ABB Zhongshan) and Siemens Transformer (Wuhan) Co., Ltd (Siemens (Wuhan)) in accordance with section 269TDA(1)(b)(ii) because the dumping margins calculated for those exporters was negligible (less than 2%)
- by all other exporters in accordance with section 269TDA(13) because the injury caused to the Australian industry by those exports was negligible.

Wilson Transformer Company Pty Ltd (WTC) applied to the ADRP for a review of the former Commissioner's decisions to terminate INV 507.

On 22 May 2020, the ADRP:

- affirmed the former Commissioner's decisions to terminate the investigation as it relates to ABB Chongqing, ABB Zhongshan, Siemens (Jinan) and Siemens (Wuhan), however
- revoked the former Commissioner's decision to terminate the investigation as it relates to all other exporters.²

¹ All legislative references in this report are to the *Customs Act 1901*, unless otherwise stated.

² The ADRP's reasons for affirming the Commissioner's termination decision in respect of ABB Chongqing, ABB Zhongshan, Siemens (Jinan) and Siemens (Wuhan) and the ADRP's reasons for revoking the Commissioner's decision in respect of all other exporters are outlined in ADRP Decision No. 122 and 123 (ADRP Report 122 & 123) on the ADRP's website: <https://www.industry.gov.au/about-us/our-structure/anti->

1.2 Legislative framework for resumed investigations

1.2.1 Statement of essential facts

Section 269ZZT(2) states that, as soon as practicable after a reviewable decision has been revoked, the Commissioner of the Anti-Dumping Commission (the Commissioner) must publish a statement of essential facts (SEF). Following the publication of the SEF, the investigation resumes.

The Commission has assisted the Commissioner to publish this SEF in accordance with section 269ZZT(2).³ Accordingly, the investigation is in respect of all other exporters, being those other than ABB Chongqing, ABB Zhongshan, Siemens (Jinan) and Siemens (Wuhan).

This SEF should be read in conjunction with:

- *Statement of Essential Facts No. 507* (SEF 507)⁴
- *Termination Report No. 507* (TER 507)⁵
- ADRP Report 122 & 123.⁶

1.2.2 Conduct of resumed investigations

Where the Commissioner resumes a terminated investigation after a decision by the ADRP under section 269ZZT(1)(b), the Commissioner must conduct the investigation according to the procedures for conducting an investigation set out in Part XVB.

Division 2 of Part XVB sets out, in part:⁷

- (a) the procedures to be followed and, the matters to be considered, by the Commissioner in conducting investigations in relation to the goods covered by an application under section 269TB(1) for the purposes of making a report to the Minister
- (b) the circumstances in which the Commissioner must terminate such investigations.

1.2.3 Final report

The Commissioner intends to provide a final report and recommendations to the Minister on or before **22 November 2021**,⁸ unless the investigation is terminated earlier or further time is required to consider submissions to this SEF.

[dumping-review-panel](#). All other exporters is a reference to any exporter other than of ABB Chongqing, ABB Zhongshan, Siemens (Jinan) and Siemens (Wuhan) from China.

³ Pursuant to the commission's function specified in section 269SMD.

⁴ Electronic public record (EPR) item 58.

⁵ EPR item 76.

⁶ Available on the ADRP's website:

<https://www.industry.gov.au/about-us/our-structure/anti-dumping-review-panel>

⁷ Section 269TBA.

⁸ An extension of time is granted under section 269ZHI(3).

1.3 Preliminary findings

The Commissioner's preliminary findings are that, in relation to exports by all other exporters relevant to this resumed investigation:

- the dumping margins have changed from those set out in TER 507
- injury caused by to the Australian industry is negligible.

As such, the Commissioner proposes to terminate this resumed investigation.

1.3.1 Dumping assessment (chapter 3)

The Commissioner received submissions from interested parties, and in response the commission has recalculated the normal values for all other exporters relevant to the resumed investigation.

GE High Voltage Equipment (Wuhan) Co., Ltd and CHINT Electric Co., Ltd

The commission considers that GE High Voltage Equipment (Wuhan) Co., Ltd (GE Wuhan) and CHINT Electric Co., Ltd (CHINT) sold like goods on the Chinese domestic market and accepts that such sales are relevant for the purpose of determining a normal value of the exported goods.

Additionally, having regard to the findings in *ADRP Decision No. 119* (ADRP Report 119), the commission reconsidered its approach in TER 507 to determining if such sales are in the ordinary course of trade (OCOT). The commission subsequently calculated the normal value for GE Wuhan and CHINT using the price paid for like goods sold in the OCOT for home consumption in China in sales that are 'arms length', under section 269TAC(1).

To ensure a fair comparison between the export price and normal value for GE Wuhan and CHINT, the commission made adjustments under section 269TAC(8).

Changzhou Toshiba Transformer Co., Ltd

The commission reassessed its approach to calculating the normal value of the goods exported to Australia by Changzhou Toshiba Transformer Co., Ltd (CTC). The Commissioner considers that CTC is an uncooperative exporter for this investigation. Only certain information provided by CTC was reliable in determining whether it dumped the goods. The Commission calculated the normal value for CTC under section 269TAC(6) using costs and an amount of profit.

The commission used CTC's own costs and worked out the amount of profit consistent with section 45(3) of the *Customs (International Obligations) Regulations* (the Regulations), using profits realised by other exporters in China, on the basis that it was not practicable for the commission to work out an amount of profit using CTC's own data.

Jiangsu Huapeng Transformer Co., Ltd and uncooperative exporters (except CTC)

The commission determined the normal value for Jiangsu Huapeng Transformer Co., Ltd (Jiangsu Huapeng) and uncooperative exporters (except CTC) under section 269TAC(6),

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having regard to all relevant information. This included information relevant to GE Wuhan, CHINT and CTC. Accordingly, changes to the normal values for GE Wuhan, CHINT and CTC had flow on effects for Jiangsu Huapeng and other uncooperative exporters.

Dumping margins

The revised dumping margins are set out in table 1 below.

Exporter	Dumping margin (%)
CTC	3.9
CHINT	6.9
GE Wuhan	12.1
Jiangsu Huapeng	11.7
Uncooperative exporters (except CTC)	12.1

Table 1 - Revised dumping margins

1.3.2 Injury caused by dumped goods is negligible (chapter 4)

The Commissioner is satisfied that the injury, if any, to the Australian industry that has been caused by dumped exports is negligible.

The commission has re-evaluated the circumstances relevant to tenders that WTC lost to all other exporters the subject of this resumed investigation following the revised dumping margins. The commission's conclusions in TER 507 have changed.

The commission's re-evaluation essentially relates to certain projects, that the commission described in TER 507 as projects 1 to 8.

In ADPR Report 122 & 123, the ADPR considered WTC's claim that it had a 'real chance' of being successful in tendering for projects 1, 5, 6, 7 and 8. Having reviewed the commission's evaluation of projects 1 to 8, lost by WTC in favour of Chinese exports, the ADPR considered that WTC was more likely than not to have won the tender for project 8. However, the ADPR was not persuaded that WTC would have likely won tenders in respect to projects 1 to 7.

In TER 507, the commission concluded that, in respect of project 8, once it adjusted the bid prices relevant to Chinese exports to remove the effects of dumping, the adjusted bid prices remained lower than WTC's bid. Further, the difference between WTC's bid price and the adjusted winning bid price was within a range where WTC had won in other tenders despite being the higher priced bid.

As a result of the revised dumping margins, the difference between WTC's bid price and the adjusted winning bid price for project 8 is larger than TER 507. The difference is no longer within the range where WTC had won other tenders despite being the higher priced bid. The commission considers it unlikely that WTC would be have won the tender for project 8 in the absence of dumping.

Therefore, in addition to projects 1 to 7, the commission does not consider that the Australian industry suffered injury in relation to project 8 caused by dumped goods.

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1.3.3 Proposal to terminate the investigation (chapter 5)

Section 269TDA outlines circumstances where the Commissioner must terminate an investigation. Based on the above preliminary findings and subject to any submissions received in response to this SEF, the Commissioner proposes to terminate the investigation in accordance with section 269TDA(13).

2 BACKGROUND

2.1 Background to Investigation No. 507

2.1.1 Application

On 24 January 2019, WTC lodged an application alleging that the Australian industry has suffered material injury caused by the goods exported to Australia from China at dumped prices.⁹

Having considered the application, the former Commissioner decided not to reject the application, initiating an investigation on 18 March 2019. Further details relating to the initiation of the investigation is contained in *Consideration Report No. 507* and Anti-Dumping Notice (ADN) No. 2019/035, available on the commission's website at www.adcommission.gov.au¹⁰

2.1.2 Investigation and injury analysis periods

The investigation period relevant in this investigation is 1 January 2016 to 31 December 2018 (the investigation period).¹¹

The injury analysis period for determining whether dumped exports from China have caused material injury to the Australian industry is from 1 January 2014 onwards.¹²

2.1.3 Contact with interested parties

Australian industry

WTC listed itself, Ampcontrol Pty Ltd (Ampcontrol) and Tyree Transformers Pty Ltd (Tyree) as making up the Australian industry producing like goods in its application. Ampcontrol responded to the commission's requests for further information, however the commission did not receive a response from Tyree. Based on information available to the commission, it was satisfied that WTC accounts for the majority of power transformers produced in Australia.

Importers

The commission received completed importer questionnaires from 4 importers and elected to undertake on-site verification visits to Siemens Australia Pty Ltd, GE Grid Australia Pty Ltd and Toshiba International Corporation Pty Ltd (TIC).

⁹ EPR item 1.

¹⁰ EPR items 2 and 3.

¹¹ 'Investigation period' is defined in section 269T(1) as 'in relation to an application for a dumping duty notice or a countervailing duty notice in respect of goods, means a period specified by the Commissioner in a notice under section 269TC(4) to be the investigation period in relation to the application.

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.

Exporters

The commission received a response to the exporter questionnaire (REQ) from the following 8 exporters:

- ABB Chongqing and ABB Zhongshan¹³
- CHINT¹⁴
- GE Wuhan¹⁵
- Jiangsu Huapeng¹⁶
- Siemens (Jinan) and Siemens (Wuhan)¹⁷
- CTC.¹⁸

The commission undertook in-country verification visits to CTC, GE Wuhan and Siemens (Jinan). During the visit to Siemens (Jinan), the commission had access to the financial records of Siemens (Wuhan), undertaking a targeted verification. The commission elected to verify the information provided by the remaining 4 exporters remotely.

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.

Purchasers

The commission sought information from purchasers of power transformers in Australia during the investigation period. The commission received responses to its Australian market questionnaire from:

- Ausgrid Operator Partnership
- BHP Billiton Iron Ore Pty Ltd
- Endeavour Energy
- Energy Queensland
- Essential Energy
- Hydro Tasmania
- NSW Electricity Networks Operations Pty Ltd
- Powerlink Queensland
- RJE Global Pty Ltd
- Zenviron.

¹³ EPR items 17 and 16.

¹⁴ EPR item 6.

¹⁵ EPR item 11.

¹⁶ EPR item 14.

¹⁷ EPR items 8 and 9.

¹⁸ EPR item 19.

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Six purchases of power transformers attended a teleconference with the commission for the purpose of providing further information about the Australian market and tender decisions. Files notes for each teleconference are available on the EPR.¹⁹

Submissions received from interested parties

The commission received 35 submissions from interested parties in relation to the investigation. Non-confidential versions of these submissions are available on the EPR.

Non-Confidential Attachment 1 lists the submissions received.

2.1.4 The goods under consideration and ‘like goods’ to those goods

The goods 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.

The general classification of the goods to tariff subheadings and statistical codes in Schedule 3 to the *Customs Tariff Act 1995* are 8504.22.00: 40 and 8504.23.00: 26 and 41.²⁰

Through examining information as part of INV 507, the commission identified additional classifications to the tariff subheadings of the goods, as outlined below.

Tariff classification (Schedule 3 of the <i>Customs Tariff Act 1995</i>)	
<i>Tariff code</i>	<i>Description</i>
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
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
8504.34.00	other transformers having a power handling capacity exceeding 500 kVA

Table 2 - Tariff classifications

¹⁹ EPR items 27, 28, 29, 36, 38 and EPR item 12 for *Continuation Inquiry No. 504*.

²⁰ The commission provides tariff subheadings for administrative convenience and customs purposes. The written goods description in section 3.3 defines the goods under consideration.

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The commission examined goods manufactured by WTC²¹ and was satisfied that:

- power transformers manufactured by WTC are like goods to the goods under consideration²²
- at least one substantial process of manufacture of power transformers is carried out by WTC in Australia, and therefore, like goods were wholly or partly manufactured in Australia²³ and
- there is an Australian industry in respect of those like goods, consisting primarily of WTC.²⁴

The commission undertook onsite and remote verification of the information provided by the 8 exporters that provided a REQ. The commission found that the goods produced by these exporters for domestic sale have characteristics closely resembling those of the goods exported to Australia and are therefore 'like goods' in accordance with section 269T(1).

2.1.5 Australian market

The commission found that the Australian industry and imports from a number of countries, including China, supply the Australian market for power transformers.

2.1.6 Dumping investigation

The commission found that the goods exported to Australia from China by:

- ABB Chongqing, ABB Zhongshan, Siemens (Jinan) and Siemens (Wuhan) were not at dumped prices²⁵
- CHINT, CTC, GE Wuhan, Jiangsu Huapeng and other uncooperative exporters were at dumped prices, and that the dumping margins were not negligible.²⁶

Based on the available information, the commission was satisfied that, when expressed as a percentage of the total Australian import volume of the goods, the volume of dumped goods from China during the investigation period was greater than 3% of the total import volume and is therefore not negligible.

²¹ EPR item 50.

²² Section 269T(1).

²³ Section 269T(2).

²⁴ Section 269T(4).

²⁵ While some individual power transformers were exported at dumped prices, exports by these exporters were not exported at dumped prices on a weighted average basis.

²⁶ An investigation may be terminated on the grounds that a margin is negligible (less than 2%) in respect to an exporter.

2.1.7 Economic condition of the Australian industry

Based on its examination of the Australian industry, the commission considered that the Australian industry 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
- reduced revenue.

2.1.8 Has dumping caused material injury

The commission was satisfied that injury to the Australian industry as a result of dumped goods from China was negligible. The commission based its conclusion on the findings that:

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

2.1.9 Termination of INV 507

The Commissioner terminated the investigation on 31 January 2020²⁷ for the reasons set out in TER 507.²⁸

²⁷ ADN No. 2020/010.

²⁸ EPR item 76.

2.2 Background to Resumed Investigation No. 507A

2.2.1 ADRP Report 122 & 123

WTC applied to the ADRP for a review of the former Commissioner's decisions to terminate INV 507.²⁹ The ADRP summarised WTC's grounds for appeal as follows:

1. *The [former] Commissioner failed to correctly apply s 269TAA(1)(b) and wrongly applied a test of whether the export sales were arms length transactions in fact, when the commission was required to consider whether the transactions 'appeared' to be influenced by the relationship between the parties.*
2. *The commission failed to properly inquire whether the transactions appeared to be influenced by the relationship between the parties.*
3. *The commission should have had regard to the evidence that transactions between related subsidiaries of multinational power transformer suppliers fell within s 269TAA(1)(b) of the Act and were not, therefore, arms length transactions.*
4. *The commission failed to properly assess injury suffered by the applicant and should not have concluded that the injury sustained by the Australian industry was negligible.*³⁰

The ADRP found that the former Commissioner's conclusions in relation to whether the export sales were 'arms length' transactions (grounds 1 to 3) was correct and preferable.

In respect of ground 4, relating to the former Commissioner's assessment of injury, the ADRP concluded that:

*'The decision to terminate the investigation in respect of the goods exported from China by all other exporters under s 269TDA(13) because the injury caused to the Australian industry was negligible was not the correct or preferable decision and I revoke it.'*³¹

In particular, the ADRP commented on the former Commissioner's inability to conclusively decide whether or not the Australian industry might have won the tender for a particular project (project 8), absent dumping:

If the [former] Commissioner was unable to decide whether a tender... was lost because of dumping, it would be difficult for the Commissioner to be satisfied that injury caused by dumping was negligible...

*It follows that I am not satisfied that the injury caused by the dumping was negligible.*³²

²⁹ Published on the ADRP website: <https://www.industry.gov.au/about-us/anti-dumping-review-panel>

³⁰ Paragraph 23, ADRP Report 122 and 123.

³¹ Paragraph 102, ADRP Report 122 and 123.

³² Paragraphs 92 and 96, ADRP Report 122 and 123.

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While the ADRP was not satisfied that the injury caused by dumping was negligible, the ADRP did not assess whether the loss of the tender due to dumping would amount to ‘material injury’ to the Australian industry.

2.2.2 Submissions received regarding ADRP Report 122 & 123

Interested parties made two submissions to the commissioner in relation to ADRP Report 122 & 123 as summarised in the table below.

EPR #	Date published	Interested party	Description
79	17 July 2020	TIC	TIC refers to statements made by the ADRP about project 8. TIC submits that project 8 relates to an actual exporter and cannot be considered to relate to ‘all other exporters’, and cannot be applied to CTC.
80	17 July 2020	GE Wuhan	<p>GE Wuhan submits that:</p> <ul style="list-style-type: none"> • GE Wuhan provided the commission with non-price reasons why it was selected ahead of WTC with regard to a particular project (Project X). • With regard to material injury, the ADRP overturned the following decisions of the commission: <ul style="list-style-type: none"> ○ based on the dumping margins calculated during the investigation, WTC was more likely than not to have been the successful tenderer for Project X ○ the injury caused by the loss of Project X was not negligible <p>and that the commission should now determine if Project X alone resulted in WTC suffering material injury.</p> <ul style="list-style-type: none"> • WTC has been suffering injury since 2013. While WTC claim this is as a result of dumped goods, TER 507 and the ADRP findings show that to be incorrect. The transformers, subject of Project X, were delivered in 2019 and 2020. GE Wuhan submit that Project X cannot be responsible for the loss of market share set out in figures 10 and 11 of TER 507. GE Wuhan submit that ‘WTC cannot now claim that the injury it has suffered since 2013 has been caused by the loss of a single tender in mid-2018’.

Table 3 - Submissions received with regard to ADRP Report 122 & 123

The Commissioner’s response to submissions in response to ADRP Report 122 & 123

Section 269TDA(13) directs the Commissioner to terminate an investigation if exports of the goods cause negligible injury to an Australian industry producing like goods. Accordingly, the Commissioner must terminate the investigation if satisfied that the dumped goods exported to Australia from a particular country of export do not cause material injury. Conversely, where dumped goods have caused injury that is not negligible, the Commissioner, under this provision, is not able to terminate an investigation, either in respect of a particular country or with respect to specific exporters.

The commission acknowledges the information provided by GE Wuhan in relation to non-price reasons why it was the successful bidder over WTC in relation to a specified project. However, in assessing whether exports cause material injury to the Australian industry, the commission considers the effect of all dumped exports of the goods from the country of export (or countries in certain circumstances). The commission has considered all relevant information in reassessing whether dumping of the goods has caused material

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injury to the Australian industry. As outlined in chapter 5, the Commissioner is proposing to terminate the investigation in respect of all exporters relevant to this resumed investigation.

Non-Confidential Attachment 2 lists submissions received in relation to ADRP Report 122 & 123.

2.2.3 Resumed Investigation No. 507A

On 17 July 2020, following the ADRP's revocation decision, the former Commissioner published a notice³³ to advise interested parties that INV 507 would resume following the publication of this SEF. The resumed investigation is numbered Investigation No. 507A (INV 507A).

As the ADRP affirmed the decisions to terminate INV 507 insofar as it relates to ABB Chongqing, ABB Zhongshan, Siemens (Jinan) and Siemens (Wuhan), INV 507A does not re-assess the alleged dumping of the goods by these exporters.

This report documents the Commissioner's preliminary findings and conclusions for INV 507A.

2.2.4 Submissions regarding normal value determination

Interested parties made 4 submissions in anticipation of the resumed investigation as summarised in the table below.

EPR #	Date published	Interested party	Description
80	17 July 2020	GE Wuhan	GE Wuhan submits that: <ul style="list-style-type: none">the commission incorrectly calculated its dumping margin, submitting that the approach taken is contrary to recent ADRP decisionsthe OCOT test is not applicable. The recovery test is not applicable due to the bespoke nature of the transformers. <i>'The ADC has in the Wind Tower Report attempted to argue that a weighted average cost test can be applied at a single model level. Under this approach, there is no comparison with other projects or models for the purpose of the recovery test'</i>that one particular transformer sale was not a transaction in the OCOT and that:<ul style="list-style-type: none">the transaction could have been subject to competition, but was not and that this makes it not in the OCOTthe profit was significant with respect to GE Wuhan's next most profitable domestic transaction and exceeds other Chinese supplierssales of transformers in the OCOT in China, as in Australia, are subject to competition.
81	17 July 2020	GE Wuhan	GE Wuhan refers to ADRP Decision No. 100 (ADRP Report 100), stating that this report is relevant to matters it raised in EPR item No. 80. GE Wuhan submit that the ADRP's finding that if there are no

³³ EPR item 78.

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EPR #	Date published	Interested party	Description
			<p>sales of 'like goods' that OCOT test in section 45(2) of the Regulations is not available to be used.</p> <p>GE Wuhan refer to TER 507 where the commission found that there was an absence of sales of like goods, however sought to calculate a profit for GE Wuhan in accordance with section 45(2) of the Regulations. GE Wuhan submit that the commission is required to calculate profit in accordance with section 45(3) of the Regulations.</p>
82	24 July 2020	CHINT	<p>CHINT refers to ADRP Report 100 and TER 507 where the commission found that there was an absence of sales of like goods, however sought to calculate a profit for CHINT in accordance with section 45(2) of the Regulations. CHINT submit that the commission is required to calculate profit in accordance with section 45(3) of the Regulations.</p> <p>CHINT outlines the different options to calculate profit in accordance with section 45(3) and suggests the commission use the first alternative: <i>'Identify the actual amounts realised by the exporter or producer from the sale of the same general category of goods in the domestic market of the country of export (section 45(3)(a)).'</i></p>
83	24 June 2021	TIC	<p>TIC refer to ADN No. 2020/66 which states that as soon as practical after the revocation of a reviewable decision the Commissioner must publish a SEF. TIC is concerned with the length of time it is taking to publish the SEF.</p> <p>TIC asks if the Commissioner has considered the ADRP decision, if the commission has provided advice to address the issues raised by the ADRP and if any further work has been undertaken.</p> <p>TIC acknowledges the impact the recent Federal Court Case has had on the timeliness, however that case is now resolved.</p> <p>TIC submit that the market will likely view a lack of resolution as a 'negative-finding' due to uncertainties.</p>

Table 4 - Submissions in anticipation of the resumed investigation

The Commissioner's response to submissions regarding normal value determination

The ADRP's revocation decision refers only to certain matters. However, being a resumed investigation, the commission is required to address all relevant matters as it would do in an investigation.³⁴ Where warranted, including after consideration of any submissions, the commission has amended the analysis on which it based its findings in TER 507. Outlined in chapter 3 of this report is the commission's amended approach to determining normal values and the resulting changes to dumping margins.

The Commissioner acknowledges TIC's submission with respect to the timely publication of SEF 507A. The commission has reassessed aspects of its analysis that requires critical consideration and a degree of effort to ensure the issues raised by the ADRP are

³⁴ This resumed investigation is limited to those exporters for which the ADRP revoked the termination decision in TER 507. Therefore, matters relating to ABB Chongqing, ABB Zhongshan, Siemens (Jinan) and Siemens (Wuhan) are not relevant.

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appropriately considered. The commission notes the timing impact of the Federal Court case³⁵ and further work necessary to address issues identified by the ADRP.

Non-Confidential Attachment 2 lists submissions received in relation to SEF 507A.

2.3 Responding to this SEF

This SEF sets out the facts on which the Commissioner proposes to make recommendations in relation to this 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 when considering whether to terminate the investigation.

Submissions in response to this SEF should be provided to the Commissioner no later than **28 October 2021**.

The commission's preference is to receive submissions by email:
investigations3@adcommission.gov.au.

Alternatively, interested parties can post submissions to:

The Director – Investigations 3
Anti-Dumping commission
GPO Box 2013
Canberra ACT 2601

Confidential submissions must be clearly marked accordingly and a non-confidential version of any submission is required for inclusion on the public record.³⁶ A guide for making submissions is available at the commission's website.

Interested parties should read this SEF in conjunction with documents on the public record for this investigation.

³⁵ WTC appealed to the Federal Court for a review of the ADRP's decision to affirm the termination of Investigation 507 with respect to ABB Chongqing, ABB Zhongshan, Siemens (Jinan) and Siemens (Wuhan). The Federal Court upheld the ADPR's decision to affirm.

³⁶ INV 507A is a resumed investigation. The public record contains non-confidential submissions by interested parties, the non-confidential versions of the commission's visit reports and other publicly available documents relevant to INV 507 and INV 507A.

3 DUMPING ASSESSMENT

3.1 Preliminary finding

The Commissioner’s dumping findings in relation the goods exported to Australia from China³⁷ during the investigation period are summarised in Table 5 below.

Exporter	Dumping margin
CHINT	6.9%
CTC	3.9%
GE Wuhan	12.1%
Jiangsu Huapeng	11.7%
Uncooperative exporters (except CTC)	12.1%

Table 5 - Dumping margins

3.2 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.

In order to publish a dumping duty notice, the Minister, among other things, must be satisfied that goods exported to Australia, during the investigation period, are at dumped prices.

Dumping occurs when an entity exports a product from one country 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.

Dumping margins are determined under section 269TACB. For each export transaction price, the commission compared the corresponding normal value, in accordance with section 269TACB(2)(b). This method produces as many dumping margins as there are export transactions. Then the dumping margins are amalgamated using a weighted average in order to calculate a single dumping margin for each exporter over the investigation period. As outlined in the *Dumping and Subsidy Manual* (the Manual), this method is suited to capital goods where there are not a large number of transactions.³⁸

3.3 Submissions regarding normal values for CHINT and GE Wuhan

3.3.1 Normal values under section 269TAC(1)

In TER 507 the commission considered that it was not practicable to calculate normal values for CHINT and GE Wuhan based on domestic selling prices, due to difficulties

³⁷ Except for exports by ABB Chongqing, ABB Zhongshan, Siemens (Jinan) and Siemens (Wuhan).

³⁸ *Dumping and Subsidy Manual* – November 2018, page 123.

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associated in adjusting the domestic prices to make them comparable with export prices.³⁹ This was because there are many variables and differences in technical specifications of each power transformer sold on the relative markets.

The commission considered that there was an absence of sales of like goods in China that would be relevant in determining a normal value in accordance with section 269TAC(1). The commission determined normal values for both CHINT and GE Wuhan in TER 507 in accordance with section 269TAC(2)(c).

On 9 July 2020, the ADRP published ADRP Report 100 which relates to wind towers exported from China and the Republic of Korea. The report states, at paragraph 26, that:

There is no reference in the legislation to sales not being suitable for the ascertainment of normal value under s.269TAC(1) because technical differences mean the models of the goods sold domestically cannot be matched with the models exported to Australia. Those technical differences may mean that the goods are not like goods. If, however the goods sold domestically in the country of export are like goods and those goods are sold by the exporter in the OCOT and in sales that are arms length, then they are relevant sales for the purpose of s.269TAC(1).

Other reports and decisions by the ADRP endorse this statement.⁴⁰

The commission verified the information provided by GE Wuhan and CHINT and found that:

- both exporters produced power transformers for domestic consumption
- those power transformers have characteristics closely resembling those of the goods exported to Australia and are like goods.⁴¹

Both GE Wuhan and CHINT, in response to ADRP Report 122 & 123, submitted that the commission made a finding in TER 507 that neither exporter had sales of like goods on the domestic market.⁴² As stated in the preceding paragraph, the commission found that both exporters had domestic sales of like goods. However, in TER 507 the commission considered that there is an absence of relevant sales of like goods suitable for determining a normal value.⁴³

The commission considers, for the purpose of this resumed investigation, that both GE Wuhan and CHINT sold like goods in accordance with section 269T(1). The commission accepts that such sales are relevant for determining a normal value of the exported goods. Therefore, in response to submissions received, the commission reassessed

³⁹ The commission found similarly with regard to ABB Chongqing, ABB Zhongshan, Siemens (Jinan) and Siemens (Wuhan). As these four exporters are not subject to this resumed investigation, the impact of recent ADRP decisions on the relevant normal value determination is not considered in INV 507A.

⁴⁰ ADRP Reports 108, 110 and 120/121.

⁴¹ EPR item 49 and 56.

⁴² EPR items 81 and 82.

⁴³ Section 6.2 of TER 507.

whether GE Wuhan's and CHINT's normal values can be determined in accordance with section 269TAC(1).

3.3.2 Ordinary course of trade

If determining an exporter's normal value in accordance with section 269TAC(1), the commission is required to consider if domestic sales of like goods are in the OCOT.

Section 269TAAD sets which sales are not to be considered as being in the OCOT. Broadly speaking, this includes sales at a loss occurring in substantial quantities and which do not provide for the recovery of costs within a reasonable period.

The commission considers such sales at a loss to be recoverable if the sale price is above the weighted average cost over the investigation period.⁴⁴ Due to the unique nature of each power transformer, in TER 507 the commission treated each power transformer as a separate unit (or individual model) when applying section 269TAAD. The commission, therefore, assessed the recoverability of each unprofitable sale by comparing the unit revenue to the unit cost to make and sell (CTMS).⁴⁵

However, the ADRP found that this was not the correct or preferable approach in relation to power transformers exported from the Republic of Indonesia and Taiwan.⁴⁶ The commission has had regard to this finding when determining whether exporters of power transformers from China made domestic sales in the OCOT. In SEF 507A, for CHINT and GE Wuhan, the commission assessed the recoverability of each unprofitable sale by comparing the unit sale price to the weighted average CTMS of all like goods sold by that exporter domestically during the investigation period.

3.3.3 Adjustment for physical differences under section 269TAC(8)

For CHINT and GE Wuhan, it was determined that there were sufficient volumes of like goods sold in the OCOT on the domestic market and in 'arms length' transactions to ascertain a normal value of exported goods under section 269TAC(1).

When determining dumping, the commission makes a fair comparison between export price and normal value. The commission makes adjustments to the normal value for differences that affect price comparability.⁴⁷

The commission has, therefore, considered whether an adjustment to normal values is required to account for the physical differences between goods exported and those sold domestically.

⁴⁴ Section 269TAAD(3).

⁴⁵ For one exporter, for the rare occurrence where there were identical transformers, the unit revenue of each unprofitable transformer was compared to the weighted average CTMS of those identical transformers.

⁴⁶ ADRP Report 119.

⁴⁷ Sections 269TAC(8) and (9).

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The Manual outlines the Commissions approach to making adjustments to account for differences in physical characteristics.⁴⁸ On page 67 of the Manual it states:

Evidence should be provided of different selling prices for products with different physical characteristics or quality. In such cases, the size of the price difference may be used as the basis for any adjustment.

Comparing the price of a domestic model to an exported model does not allow the commission to isolate what part of the price difference is due to differences in physical characteristics and what may be due to dumping. The Manual predicts this scenario and continues by stating:

However, there may be situations where direct evidence of price differences cannot be provided (e.g. models sold domestically and exported to Australia are different). In these situations, adjustments for differences in physical characteristics or quality, where it reasonably affects price comparability, may be based on production cost differences plus the addition of the gross margin (i.e. the administrative, selling and general costs and profit) to the production cost difference. This is a means for calculating an adjustment that reflects the market value of the production cost difference.

The commission analysed verified cost and sales data for power transformers sold on the domestic market in China to understand relationships between cost and price.⁴⁹ In particular, the commission examined whether cost differences associated with individual power transformers affected price comparability. With highly technical goods such as power transformers, cost differences may arise due to a range of factors, which mostly come down to the physical characteristics of the power transformers. Unique factors, such as environmental factors, technical requirements and customer specifications feed into the cost and ultimately the price of each power transformer.

As a starting point, the commission considered the relationship between a key physical characteristic of a power transformer, being power rating and its CTMS.

Figure 1 below, shows that as the power rating of a power transformer increases, as too does the CTMS. The commission's analysis indicates that there is a linear relationship between power rating and the CTMS.

⁴⁸ Chapter 15 of the Manual.

⁴⁹ This includes data from cooperating exporters subject to the original investigation.

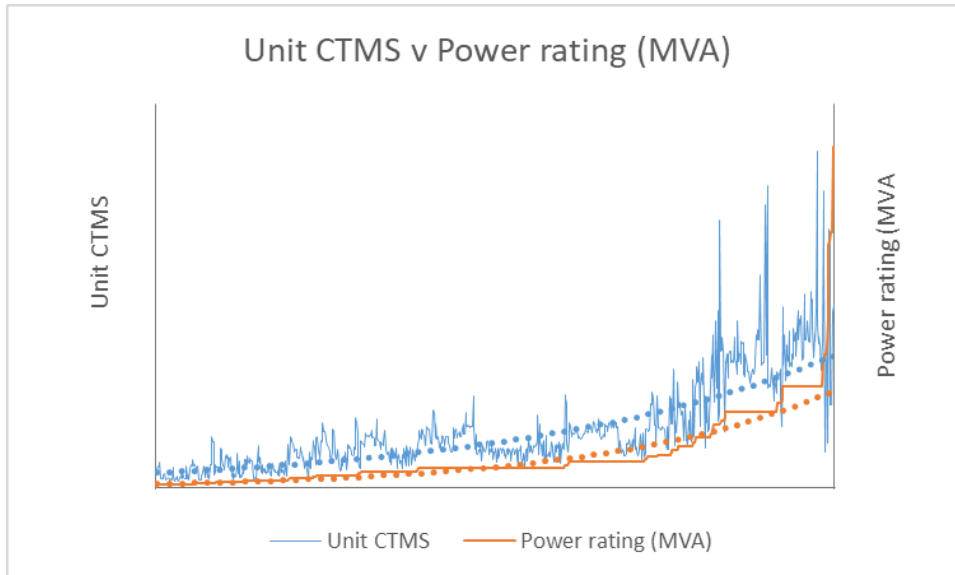


Figure 1 - Relationship between unit CTMS and power rating (MVA), all verified data

The commission further analysed the verified domestic sales and cost data available. The commission found positive strong linear relationship between CTMS and price. The CTMS of a power transformer explains approximately 94% of its price.

Figure 2 below shows that, although there is a strong correlation between CTMS and price, there is some degree of variation from the general trend, with relatively few outliers.

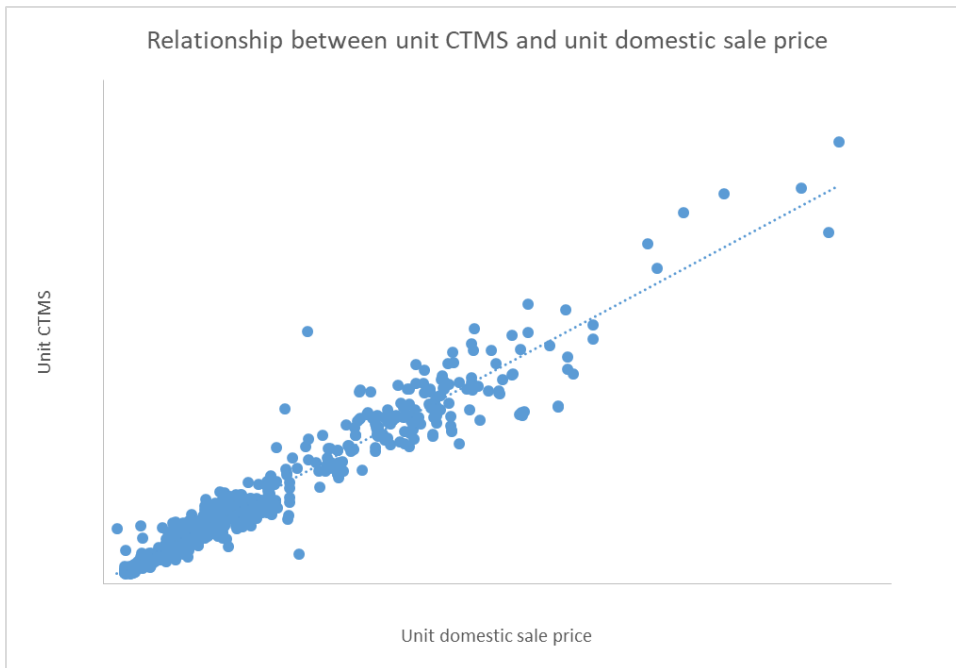


Figure 2 - Scatterplot - all verified exporter data – price v CTMS

The commission also examined the profit margins of each domestic sale and found no evidence of a uniform trend.

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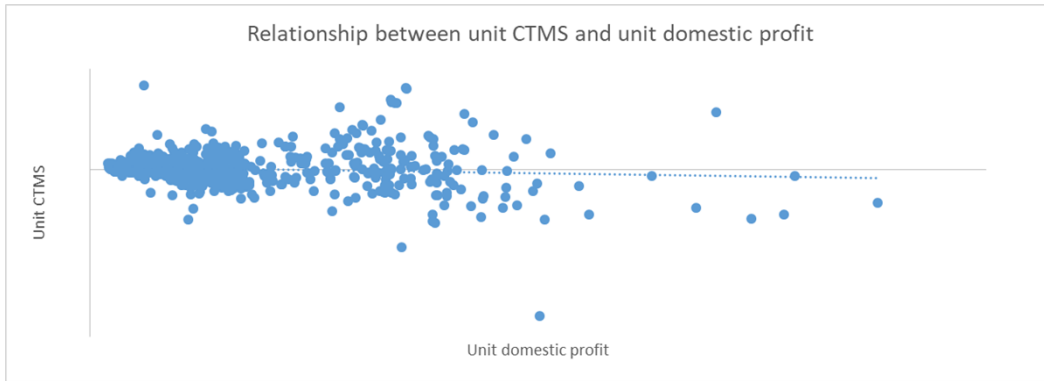


Figure 3 - Scatterplot - all verified exporter data - profit v CTMS

The commission's interpretation of its analysis is that, while power rating alone is a factor that influences prices to a substantial degree, other factors likely influence prices. Figure 2 reflects the variability between cost and price while figure 3 shows the resulting non-uniform profit.

The commission considers that using cost differences between exported goods and domestically sold like goods, based on the exporter records, best reflects the differences in physical characteristics of exported goods and domestically sold like goods. The differences between these costs is a reasonably accurate basis to adjust for a range of physical characteristics affecting price.

Therefore, the commission considers that domestic prices determined under section 269TAC(1) can be adjusted using section 269TAC(8).

While there may be factors other than cost that drive price comparability, in the absence of information as to how this can be reliably quantified, the commission considers it would be preferable not to use factors other than cost when determining an adjustment under section 269TAC(8).

The commission's analysis of the relationships between power rating, costs, prices and profits is at **Confidential Attachment 1**.

Calculation of adjustment for physical differences

As outlined in the Manual, an adjustment for physical differences may be required to ensure a fair comparison between exported goods and domestically sold goods that are not identical.

The legislation does not specify the methodology by which such an adjustment must occur. It simply directs the adjustment to normal value occur '*in accordance with directions by the Minister so that those differences would not affect its comparison with that export price*'.⁵⁰ The Manual contemplates such situations where cost differences are used as the basis for adjustments to account for physical characteristics. In such

⁵⁰ Refer to section 269TAC(8).

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circumstances it is relevant to add a profit margin and selling, general and administration (SG&A) expenses to the cost difference to translate this into a price difference.

To adjust for physical characteristic differences that affect price, the commission established a domestic 'market price' for power transformers identical to the exported models. A comparison between this market price and the weighted average sales price of like goods, sold at 'arms length' in the OCOT, determined the size of the adjustment. The commission then applied this adjustment to the sales of all like goods sold in OCOT.

The commission considers the approaches outlined above create a reasonable estimate of the price of those models of power transformers exported to Australia, if those models were sold on the domestic market in China. This is on the basis that:

- using the cost to make power transformers sold to the export market accounts for the cost based differences between domestic and export models
- it is reasonable to assume that there is a cost to sell the goods on the domestic market that is different to that of export sales
- using a domestic profit allows a fair comparison between prices achievable on the domestic market and exported goods.

It may be argued that this approach under section 269TAC(1) results in the same outcome that would be achieved if determining the normal value in accordance with section 269TAC(2(c)). However, the commission considers that it is open to the Minister to take such an approach if it achieves the objective of a fair comparison, particularly for goods that are bespoke like power transformers where other methods for making adjustments are not practical.

The commission recommended the same approach in the reinvestigation of *Continuation Inquiry 487* regarding wind towers exported from China and the Republic of Korea.⁵¹ Wind towers and power transformers are both customised goods, produced to individual customer specifications. This customisation results in significant differences in the physical characteristics of each sale.

Alternate methods which the commission considered for calculating an adjustment for physical differences include:

- a comparison of the weighted average of domestic cost to make like goods and export cost to make goods
- a comparison of the closest domestic power transformer and adjust according to differences between the weighted average of all of all export costs.

However, the commission considers that each power transformer, even of the same power rating, is bespoke. As such, prices vary greatly between distinct projects. Unique

⁵¹ The ADRP, in ADRP Report 100, recommended the same approach to the Minister, with a change to the original calculations to remove the uplift of certain costs, refer to paragraph 139 of ADRP Report 100. This is not relevant in INV 507A as the commission did not apply an uplift to any costs.

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factors, such as environmental factors, technical requirements and customer specifications feed into the cost and ultimate price of each power transformer.

Therefore, although the CTMS of each power transformer has a strong correlation to its power rating, the CTMS has a much stronger correlation with the selling price, thus demonstrating the premise that many other cost factors affect the selling price of a power transformer.

The commission, therefore, considers that using a domestic 'market price' to inform the adjustment, allows for a comparison between like goods as if they are identical to the goods exported, while still using sales of like goods as the basis for the comparison. Due to the bespoke nature of power transformers, the commission considers that this is the most reasonable approach to calculating the price differences that affect comparison of like goods that are not identical in all respects.

To determine the domestic market price for exported models, the commission calculated an amount, using data from the cooperating exporters' records.

In relation to CHINT, the commission calculated the domestic market price as:

- the cost to make the goods exported to Australia
- a proportion of SG&A expenses for like goods sold on the domestic market
- the profit achieved in the sales of all like goods sold in the OCOT.

The commission notes that its amended approach to determining OCOT sales in this case has changed the OCOT profit calculated for CHINT in TER 507.⁵²

The amended approach to determining OCOT sales has also resulted in the commission not being able to use GE Wuhan's own data to calculate an OCOT profit. Therefore, in relation to GE Wuhan, the commission calculated a domestic market price for export models as:

- the cost to make the goods exported to Australia
- a proportion of SG&A expenses for like goods sold on the domestic market
- the weighted average of the verified actual amounts realised for the sale of all like goods sold on the domestic market by all cooperating exporters.⁵³

The normal values, and therefore dumping margins, have changed between TER 507 and this SEF. This change, however, is driven by the adoption of the OCOT test approach set out in ADRP Report 119 (as discussed in chapter 3.3.2), rather than a shift from determining normal value in accordance with 269TAC(2)(c) to section 269TAC(1).

⁵² Section 3.3.2.

⁵³ This includes the actual profit amounts realised by the all cooperating exporters in Investigation No. 507 and the resumed investigation, Investigation No. 507A.

3.4 Dumping assessment – CHINT

3.4.1 Verification

The commission elected to conduct a desktop verification of CHINT's REQ, based on its share of volume of exports during the investigation period.

The desktop verification satisfied the Commissioner that the information contained in CHINT's REQ is accurate, relevant and complete. Therefore, CHINT's data is suitable to use in calculating a dumping margin.

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

3.4.2 Export price

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

- CHINT is the exporter of the goods to Australia
- sales are at 'arms length' terms.

CHINT exports the goods to Australia either direct to the Australian purchaser, on delivered duty paid (DDP) terms, or through a related trading company on free on board (FOB) terms. For the DDP sales, CHINT is both the exporter and importer and for the FOB sales there is a trading company involved. Therefore, in both scenarios the importer does not purchase the goods from the exporter. Accordingly, the commission considers export price cannot be determined under sections 269TAB(1)(a) or 269TAB(1)(b).

Therefore, export price is determined under section 269TAB(1)(c) as:

- the DDP invoice price less all post exportation costs for export sales on DDP terms
- the price paid to CHINT by the trading company for export sales sold through that trading company.

3.4.3 Normal value

In TER 507 the commission was satisfied that there was an absence of relevant sales of like goods sold in the Chinese market. As a consequence the normal value of the goods exported to Australia could not be determined under section 269TAC(1).

As outlined in section 3.3 above, the commission no longer considers that CHINT's domestic sales of like goods are not relevant for determining normal value in accordance with section 269TAC(1) due to their unique characteristics. On re-examination, the commission subsequently considers there are sufficient volumes of relevant domestic sales, sold by CHINT in OCOT, of like goods. The Commissioner is, therefore, satisfied

⁵⁴ EPR item 56.

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that the prices paid in respect of those domestic sales of like goods are suitable for determining the normal value under section 269TAC(1).

3.4.4 Adjustments to normal value

To ensure the comparability of normal values to export prices, the commission made adjustments, in line with section 269TAC(8) as follows:

Adjustment type	Rationale for adjustment	Deduction/addition
Domestic credit	Different payment terms for domestic sales	Deduct the cost of domestic credit
Market price adjustment	Due to the bespoke nature of power transformers an adjustment is required to remove physical characteristic differences that affect price in relation to like goods that are not identical to the exported goods	Add the difference between the weighted average domestic sales price sold in OCOT and the market value of export goods on the domestic market
Export inland transport and handling	Power transformers sold for export had different inland transport and handling expenses	Add the cost of export inland transport and handling
Export credit	Different payment terms for export sales	Add the cost of export credit

Table 6 - Adjustments to CHINT's normal value

3.4.5 Dumping margin – CHINT

The commission has calculated the dumping margin for CHINT as **6.9%**.

The commission's calculations are included at **Confidential Attachment 2**.

3.5 Dumping assessment – CTC

3.5.1 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.

A report covering the visit findings is available on the EPR.⁵⁵

As outlined in section 2.1.3 above and for reasons outlined in the visit report, 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.

Certain data that CTC provided was verified by the commission and has been relied upon as relevant information by the Commissioner. Other data was considered by the

⁵⁵ EPR item 45.

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Commissioner to be unreliable and has been substituted with relevant information as set out below.

3.5.2 Export price

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

The commission verified the export data CTC provided, and the Commissioner considers it relevant for determining an export price.

The commission is satisfied that the goods exported by CTC:

- have been exported to Australia otherwise than by the importer (i.e. by CTC the exporter)
- have been purchased by the importer from the exporter
- were purchased by the importer 'arms length' transactions.

The export price determined for CTC, therefore, is the price paid by the importer at the FOB level, less any costs arising after exportation.

3.5.3 Normal value

The Commissioner has determined the normal value for CTC, an uncooperative exporter, having regard to all relevant information in accordance with section 269TAC(6). The commission assessed the assessed the appropriate method by which to determine normal value.

Certain cost information provided by CTC is considered to be complete, relevant and accurate, and therefore, suitable for determining the normal value. However, the commission found CTC's domestic sales data was unreliable. As a consequence, the commission cannot use the domestic price information provided by CTC to determine a normal value. The domestic price information was disregarded in accordance with section 269TAC(7).

The commission has determined CTC's normal value by taking the sum of the below amounts:

- CTC's cost to make the goods exported to Australia
- CTC's SG&A on the assumption that the goods, instead of being exported, were sold domestically (at ex-works terms)
- an amount for profit based on the weighted average of the verified actual amounts realised from all sales of like goods by other exporters⁵⁶ on the Chinese domestic market.

⁵⁶ The commission utilised verified and accurate data for all cooperative exporters in INV 507.

3.5.4 Adjustments to normal value

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

Adjustment type	Rationale for adjustment	Deduction/addition
Export packing	Power transformers sold for export had different packaging expenses	Add the cost of export packing
Export inland transport and handling	Power transformers sold for export had different inland transport and handling expenses	Add the cost of export inland transport and handling
Export credit expenses	Different payment terms for export sales	Add the cost of export credit expenses

Table 7 - Adjustments to CTC's normal value

3.5.5 Dumping margin – CTC

The commission has calculated the dumping margin for CTC as **3.9%**.

The commission’s calculations are included at **Confidential Attachment 3**.

3.6 Dumping assessment – GE Wuhan

3.6.1 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.⁵⁷

3.6.2 Export price

Having regard to the findings contained in GE Wuhan’s verification report, the commission is satisfied that the goods exported by GE Wuhan:

- have been exported to Australia otherwise than by the importer (i.e. by GE Wuhan, the exporter)
- have been purchased by the importer from the exporter
- were purchased by the importer in ‘arms length’ transactions.

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

⁵⁷ EPR item 49.

3.6.3 Normal value

In TER 507 the commission was satisfied that there was an absence of relevant sales of like goods sold in the Chinese market. As a consequence the normal value of the goods exported to Australia was not be determined under section 269TAC(1).

As outlined in section 3.3, the commission no longer considers that GE Wuhan’s domestic sales of like goods are not relevant for determining normal value in accordance with section 269TAC(1) due to their unique characteristics. On re-examination, the commission subsequently considers there are sufficient volumes of relevant domestic sales, sold by GE Wuhan in the OCOT, of like goods. The Commissioner is, therefore, satisfied that the prices paid in respect of those domestic sales of like goods are suitable for determining the normal value under section 269TAC(1).

3.6.4 Adjustments to normal value

To ensure the comparability of normal values to export prices, the commission made adjustments, in line with section 269TAC(8) as follows:

Adjustment type	Rationale for adjustment	Deduction/addition
Market price adjustment	Due to the bespoke nature of power transformers an adjustment is required to remove physical characteristic differences that affect price in relation to like goods that are not identical to the exported goods	Add the difference between the weighted average domestic sales price sold in OCOT and the market value of export goods on the domestic market
Export inland transport and handling	Power transformers sold for export had different inland transport and handling expenses	Add the cost of export inland transport and handling
Export packing	Power transformers sold for export had different packing costs	Add the actual packaging costs
Export Warranty expenses	Different warranty costs were accrued in relation to export sales	Add the actual warranty costs accrued or incurred
Export credit	Different payment terms for export sales	Add the cost of export credit

Table 8 - Adjustments to GE Wuhan's normal value

3.6.5 Dumping margin – GE Wuhan

The commission has calculated the dumping margin for GE Wuhan as **12.1%**.

The commission’s calculations are included at **Confidential Attachment 4**.

3.7 Dumping assessment – Jiangsu Huapeng

3.7.1 Verification

The commission elected to conduct a desktop verification of Jiangsu Huapeng’s REQ, based on its share of volume of exports during the investigation period. As part of this process, the commission sought additional information from Jiangsu Huapeng in support of its REQ.

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Having assessed Jiangsu Huapeng's REQ and subsequent responses, the commission considered the information provided contained deficiencies. The nature and scope of the deficiencies were extensive. Therefore, the commission informed Jiangsu Huapeng that key information, considered inaccurate and unreliable, is not suitable for determining variable factors.

The commission notified Jiangsu Huapeng that it may use any relevant information with regard to findings it makes in respect to the exporter.

3.7.2 Export price

The Minister may disregard any information considered unreliable for the purpose of determining an export price.⁵⁸ 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, in accordance with section 269TAB(3), that sufficient information has not been provided, or is not available, to determine the export price 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, export price has been determined as the weighted average export price of the 2 cooperating exporters found to be dumping during the investigation period.

3.7.3 Normal value

The Minister may disregard any information considered unreliable for the purpose of determining normal value.⁵⁹ The Commissioner proposes to disregard the normal value information provided by Jiangsu Huapeng, on the basis that it is unreliable.

The Commissioner is also satisfied, in accordance with section 269TAC(6), that sufficient information has not been provided, or is not available, to determine the normal values 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, normal value has been determined as the weighted average normal value of the 2 cooperating exporters found to be dumping during the investigation period.

3.7.4 Dumping margin – Jiangsu Huapeng

The commission has calculated the dumping margin for Jiangsu Huapeng as **11.7%**.

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

⁵⁸ Section 269TAB(4).

⁵⁹ Section 269TAC(7).

3.8 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 and normal values are to be determined by the Minister in accordance with sections 269TAB(3) and 269TAC(6), respectively.

The commission has determined the export price after having regard to all relevant information. The weighted average export price of the cooperating exporter with the highest dumping margin is relevant information in this circumstance. Accordingly, the commission determined the export price for uncooperative and all other exporters as the same as that exporter.

The commission has determined the normal value after having regard to all relevant information. The normal value of the cooperating exporter with the highest dumping margin is relevant information in this circumstance. Accordingly, the commission determined a normal value for uncooperative and all other exporters as the same as that exporter, less any favourable adjustments.

The dumping margin for uncooperative and all other exporters is **12.1%**.

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

4 HAS DUMPING CAUSED MATERIAL INJURY?

4.1 Finding

The commission is satisfied that injury to the Australian industry as a result of dumped goods from China is negligible.

4.2 ADRP's revocation - material injury

The ADRP revoked one of 3 decisions made by the former Commissioner with respect to TER 507, being the decision to:

Terminate the Investigation in respect of the goods exported from China by all other exporters⁶⁰ under section 269TDA(13) because the injury caused to the Australian Industry was negligible.

WTC argued that the former Commissioner:

wrongly concluded that the injury caused to the Australian industry was negligible. He ought to have concluded that the injury, specifically the loss of the chance to be a successful tenderer in respect of a number of identified projects, was material injury.

The ADRP considered the commission's evaluation of 8 tenders lost by WTC in favour of a successful Chinese manufacturer. At paragraph 94,⁶¹ the ADRP states that it appears the applicant, WTC, 'was more likely than not to have been the successful tenderer for project 8 in the absence of dumping', although 'I am not persuaded that the applicant was likely to have been the successful tenderer in respect of the seven other identified projects but for dumping'.

The commission did not come to a conclusion concerning the outcome of projects 7 and 8 in the absence of dumping in TER 507.⁶² The ADRP surmises that it would, therefore, be difficult for the former Commissioner to be satisfied that injury caused by dumping was negligible.⁶³

The ADRP concludes that it is not satisfied that the injury caused by dumping was negligible,⁶⁴ although it is not able to assess whether the loss of project 8 due to dumping would amount to material injury.

⁶⁰ The ADRP affirmed the former Commissioner's decision to terminate the investigation with respect to ABB Chongqing, ABB Zhongshan, Siemens (Jinan) and Siemens (Wuhan).

⁶¹ ADRP Report 122 & 123.

⁶² ERP item 76, page 87.

⁶³ ADRP Report 122 & 123, paragraph 93.

⁶⁴ ADRP Report 122 & 123, paragraph 96.

4.3 Assessment of projects lost by WTC

4.3.1 Approach to assessing tenders taken in TER 507

The commission isolated 68 tenders awarded during the investigation period that related to the supply of 102 power transformers. These tenders were categorised into the following 4 categories:

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

For categories 1 and 2, the commission established that WTC was in direct competition for the supply of power transformers with Chinese manufacturers.

Projects won by Chinese exporters in direct competition with WTC

Chinese manufacturers, either directly or through their Australian affiliates, successfully tendered for 27 projects, involving the supply of 39 power transformers, where WTC submitted a formal bid. Of these 27 projects, exporters found not to be dumping won 18.⁶⁵ Accordingly, the commission did not attribute injury to the Australian industry from the loss of these tenders to dumping.

For the supply of one project, CTC did not export the power transformer at a dumped price. Therefore, the commission did not attribute injury to the Australian industry from the loss of this tender to dumping.

For the 8 remaining projects, the commission adjusted the bid prices to reflect the impact of dumping. The commission identified projects where, once adjusting the Chinese competitor's price for dumping:

- WTC would have been the lowest bidder
- WTC would have remained the more expensive bidder.

Project where WTC would have been the lowest bidder

Project 1: WTC would have been the lowest bidder, but was unsuccessful in the tender due to non-price factors. The commission considered it unlikely that WTC would have won this tender in the absence of dumping.

⁶⁵ Siemens (Jinan) and Siemens (Wuhan) won 17 projects and ABB Chongqing won one project.

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Projects where WTC would have remained the more expensive bidder

For 7 projects, WTC's final bid would have remained higher than the winning bid, adjusted for dumping. The commission assessed these projects against a threshold determined by evaluating tenders which WTC had won despite being the higher priced bidder. This provided the commission with a threshold within which it is possible to assume that WTC might still win a tender, despite being the higher priced bidder (refer to **Confidential Attachment 8** for analysis of WTC's winning bids).

WTC's higher priced bid was compared to the competing bid, once adjusted for dumping. The commission separated these remaining projects into those that, once the competitor bid is adjusted for dumping:

- WTC was the higher priced bidder and the difference was above the threshold
- WTC was the higher priced bidder and the difference was within the threshold.

Projects 2, 3 and 4: The difference between the adjusted prices of the successful bid and WTC's bid was above the threshold. The commission considered, for a tender evaluation based on price alone, WTC was unlikely to have won these tenders. As a result, the commission does not consider WTC suffered injury in relation to these projects due to dumped exports from China.

Project 5: The winning entity was the second most competitive bidder on price. However, evaluation of the contract included a 'value for money' principle, incorporating both technical and commercial considerations. WTC ranked lower on the 'value for money' principle than manufacturers from countries other than China. The commission considered it likely, had the Chinese manufacturer not won the tender, a manufacturer from a country other than China would likely have won rather than WTC. Therefore, the commission did not consider WTC suffered injury in relation to project 5 due to dumped imports from China.

Project 6: The commission concluded that, if based on price alone and the successful bidder's price adjusted for dumping, the second placed bidder would have won the project. The second placed bidder was not a Chinese manufacturer of power transformers. Therefore the commission did not consider WTC suffered injury in relation to project 6 due to dumped imports from China.

Project 7: The commission observed no evidence that would suggest that, had WTC's price been closer (while still higher), WTC would have won the project. However, the commission stated that it cannot come to a conclusion concerning the outcome of this tender in the absence of dumping.

Project 8: The commission considered that the significant price difference appears to have influenced the purchaser's decision to select the Chinese manufacturer. However, the commission cannot assume that, in the absence of dumping, the purchaser would accept WTC's higher bid, where the difference in price would have been closer. The commission, in this instance, did not come to a conclusion concerning the outcome of this tender in the absence of dumping.

Conclusion

Having evaluated information relating to 68 tenders in total, the then Commissioner was satisfied that injury to the Australian industry, caused by dumped exports from China, if any, is negligible.

4.3.2 Re-assessment of projects 1 to 8

The commission has examined projects 1 to 8 using the same approach taken in TER 507. Chapter 3 of this report shows that the dumping margins calculated for exporters, found to be dumping the goods during the investigation period, are different from those reported in TER 507.⁶⁶

As a result, when adjusted for the effects of dumping, the commission found that WTC’s price remained higher than the successful Chinese bid for 7 of the 8 projects.

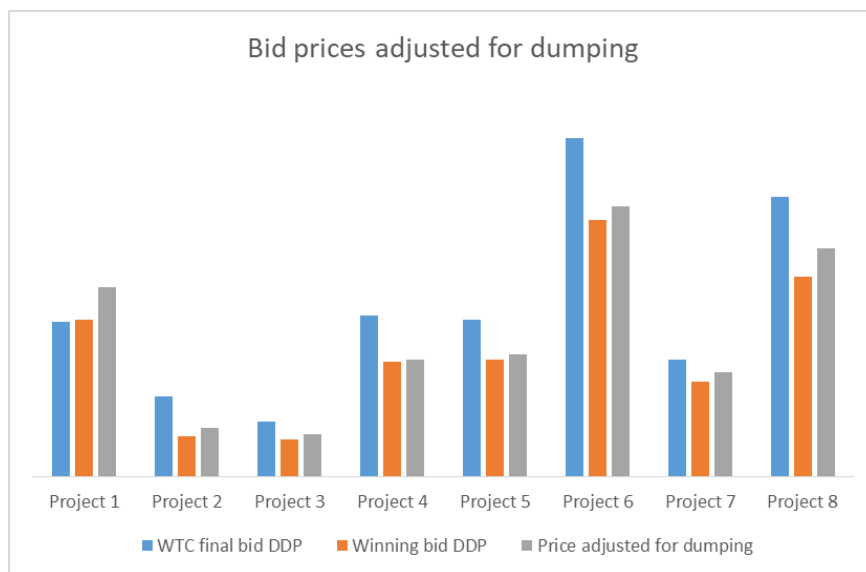


Figure 4 - WTC tenders lost against dumped imports

Project 1

WTC’s bid was lower than the successful Chinese manufacturer’s bid, before adjusting the bid for dumping. Despite this, WTC was unsuccessful in this tender. The information received by the commission indicates that non-price factors contributed to the decision not to award the project to WTC. In the absence of dumping, WTC remains unlikely to have won this tender.

The commission does not consider WTC suffered injury in relation to project 1 due to dumped exports from China.

⁶⁶ Section 3.3 of this report outlines the amended approach taken in INV 507A.

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Projects 2 to 6 and project 8

As in TER 507, the commission evaluated lost projects, adjusted to remove the effects of dumping, against a threshold.⁶⁷ This threshold was established where the commission considered it possible for WTC to be the successful bidder, despite being more expensive than competitors. The commission found the price difference between WTC's bid and the adjusted winning bid for projects 2, 3, 4, 5, 6, and project 8 is above the established threshold.

In the case where a purchaser awards a tender solely on price, the commission considers it unlikely that WTC would be successful in any of the tenders above the threshold.

For projects 2, 3, and project 4, this result is consistent with that stated in TER 507.

However, in TER 507, the commission found that the price differential for projects 5, 6 and project 8 were within the established threshold. As a result of amending the approach to calculating normal values,⁶⁸ the difference between WTC's bid and the successful Chinese bids for projects 5, 6, and project 8, adjusted to remove the effects of dumping, is not within a range that the commission considers it possible for WTC to have won a tender despite being a higher bid.

Further, the ADRP considered WTC '*was more likely than not to have been the successful tenderer for project 8 in the absence of dumping*'. Again, taking into account the amended approach to calculating the relevant normal value and the effect that had on the dumping margins, the commission does not consider WTC would have won the tender for project 8.

The commission does not consider WTC suffered injury in relation to projects 2, 3, 4, 5, 6 and project 8 due to dumped exports from China.

Project 7

The commission evaluated project 7 against the established threshold. The price difference between the adjusted winning bid and WTC's bid was within a range where the commission considers it possible that WTC would have won the tender, despite being more expensive.

The commission discussed tender evaluations with this purchaser and received internal documentation for this project. The evaluation process included an analysis of technical and commercial considerations. A number of parties satisfied the technical considerations, however the purchaser awarded the tender to the lowest priced bidder. The commission has received no evidence that would support a conclusion that, had the price differential been closer while WTC's bid remained higher, the purchaser would have awarded the project to WTC.

⁶⁷ Based on verified information and evaluation of projects won by WTC where its bid is more expensive than its competitors. The commission's assessment of projects won by WTC are at **Confidential Attachment 8**.

⁶⁸ Section 3.3.

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In TER 507, the commission did not come to a conclusion on this matter. Notwithstanding this, the ADRP was not persuaded that WTC would likely have won project 7 based on the available evidence. Amending the approach taken to determine normal value has resulted in a larger difference between WTC's bid and the winning Chinese bid, adjusted for the effects of dumping.

The commission considers, given available evidence and a larger price difference between bids, it unlikely that WTC would have won the tender for project 7 in the absence of dumping. Therefore, the commission does not consider WTC suffered injury in relation to project 7 due to dumped exports from China.

Due to the confidential nature of information, more details regarding the commission's tender evaluation of these 8 projects is contained in **Confidential Appendix 1**.

4.3.3 Conclusion

On re-evaluation, the commission found that WTC's bid remained higher for 7 of the 8 projects after adjusting the winning bid for the effects of dumping.

Regarding project 1, the purchaser considered non-price factors when awarding the tender. Despite WTC submitting a lower bid, the purchaser did not award the tender to WTC.

The price differential between WTC's bid and the winning bid for 6 of the remaining 7 projects is above a threshold whereby the commission considers it possible that a purchaser would award a project despite WTC submitting a higher bid.

For one project, project 7, the price differential was within a range that the commission considers a purchaser may consider a higher priced offer. However, in this instance, the commission considers the purchaser's decision to award the tender was based on the lowest bid. Given that the Chinese manufacturer's bid, when adjusted to remove the effects of dumping, remains lower than WTC's bid, it is unlikely that WTC would have been the successful bidder.

Therefore, based on the commission's assessment, the Commissioner is satisfied that the injury suffered by WTC, if any, as a result of dumped exports of the goods from China is negligible.

For the reasons detailed above the commission finds that dumping did not cause injury. Detailed observations concerning the various injury factors considered were contained in section 7.5 of TER 507. The ADRP did not express any concerns with the approach taken to analyse these factors in TER 507. The commission's view has not changed on this matter.

5 PROPOSAL TO TERMINATE THE INVESTIGATION

Where the Commissioner is satisfied that the injury caused to an Australian industry by dumping of goods from a subject country, is negligible, the investigation must be terminated.

Based on the findings in this SEF, and subject to submissions received in response its publication, the Commissioner proposes to terminate the investigation in its entirety in accordance with section 269TDA(13).

6 APPENDICES AND ATTACHMENTS

Confidential Appendix 1	Tender evaluation approach
Confidential Attachment 1	Analysis of relationships – Physical characteristics
Confidential Attachment 2	CHINT dumping calculations
Confidential Attachment 3	CTC dumping calculations
Confidential Attachment 4	GE Wuhan dumping calculations
Confidential Attachment 5	Jiangsu Huapeng dumping calculations
Confidential Attachment 6	Uncooperative dumping calculations
Confidential Attachment 7	WTC lost tender analysis
Confidential Attachment 8	WTC won tender analysis
Non-Confidential Attachment 1	List of submissions to TER 507
Non-Confidential Attachment 2	List of submissions to SEF 507A

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**7 NON-CONFIDENTIAL ATTACHMENT 1:
LIST OF SUBMISSIONS TO TER 507**

#	EPR No.	Date published	Submission by
1	4	14 April 2019	Toshiba International Corporation Pty Ltd
2	5	26 April 2019	Siemens ⁶⁹
3	13	26 April 2019	Toshiba International Corporation Pty Ltd
4	20	16 May 2019	Wilson Transformer Company Pty Ltd
5	21	16 May 2019	Wilson Transformer Company Pty Ltd
6	22	17 May 2019	Toshiba International Corporation Pty Ltd
7	24	17 May 2019	GE Grid Australia Pty Ltd
8	30	13 June 2019	GE Grid Australia Pty Ltd
9	31	18 June 2019	Wilson Transformer Company Pty Ltd
10	34	25 June 2019	Toshiba International Corporation Pty Ltd
11	35	25 June 2019	Wilson Transformer Company Pty Ltd
12	37	28 June 2019	Toshiba International Corporation Pty Ltd
13	40	23 July 2019	GE Grid Australia Pty Ltd
14	43	29 July 2019	Toshiba International Corporation Pty Ltd
15	47	31 July 2019	Toshiba International Corporation Pty Ltd
16	48	31 July 2019	Changzhou Toshiba Transformer Co., Ltd
17	51	2 August 2019	Wilson Transformer Company Pty Ltd
18	52	6 August 2019	GE High Voltage Equipment (Wuhan) Co., Ltd
19	53	6 August 2019	Changzhou Toshiba Transformer Co., Ltd
20	54	8 August 2019	Wilson Transformer Company Pty Ltd
21	60	6 November 2019	Toshiba International Corporation Pty Ltd
22	61	11 November 2019	GE Grid Australia Pty Ltd
23	62	12 November 2019	Wilson Transformer Company Pty Ltd
24	63	21 November 2019	GE Grid Australia Pty Ltd
25	64	22 November 2019	Voith Hydro GmbH & Co. KG
26	65	26 November 2019	Wilson Transformer Company Pty Ltd
27	66	29 November 2019	GE Grid Australia Pty Ltd
28	67	2 December 2019	Siemens Ltd
29	69	13 December 2019	Wilson Transformer Company Pty Ltd

⁶⁹ Siemens Transformer (Jinan) Co., Ltd and Siemens Transformer (Wuhan) Co., Ltd, collectively 'Siemens'.

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#	EPR No.	Date published	Submission by
30	70	20 December 2019	Wilson Transformer Company Pty Ltd
31	71	14 January 2020	Siemens Ltd
32	72	16 January 2020	GE Grid Australia Pty Ltd
33	73	20 January 2020	Wilson Transformer Company Pty Ltd
34	74	21 January 2020	Toshiba International Corporation Pty Ltd
35	75	23 January 2020	Siemens Ltd

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**8 NON-CONFIDENTIAL ATTACHMENT 2:
LIST OF SUBMISSIONS TO SEF 507A**

#	EPR No.	Date published	Submission by
1	79	17 July 2020	Toshiba International Corporation Pty Ltd
2	80	17 July 2020	GE High Voltage Equipment (Wuhan) Co., Ltd
3	81	17 July 2020	GE High Voltage Equipment (Wuhan) Co., Ltd
4	82	24 July 2020	CHINT Electric Co., Ltd
5	83	24 June 2021	Toshiba International Corporation Pty Ltd