



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

**Anti-Dumping  
Commission**

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*CUSTOMS ACT 1901 - PART XVB*

**STATEMENT OF ESSENTIAL FACTS**

**NO. 383**

**REVIEW OF ANTI-DUMPING MEASURES APPLYING TO  
POWER TRANSFORMERS  
EXPORTED TO AUSTRALIA FROM  
THE REPUBLIC OF INDONESIA BY  
PT CG POWER SYSTEMS INDONESIA**

17 March 2017

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## ABBREVIATIONS

|   |  |
|---|--|
| the Act                                       | <i>Customs Act 1901</i>  |
| ADN   | Anti-Dumping Notice  |
| ADRP  | Anti-Dumping Review Panel  |
| CG Power                                      | PT CG Power Systems Indonesia  |
| China   | the People's Republic of China   |
| the Commission                                | the Anti-Dumping Commission  |
| the Commissioner                              | the Commissioner of the Anti-Dumping Commission  |
| CTMS  | cost to make and sell  |
| DDP   | delivered duty paid  |
| Dumping Duty Act                              | <i>Customs Tariff (Anti-Dumping) Act 1975</i>  |
| EQR   | exporter questionnaire response  |
| FOB   | free on board  |
| Investigation 219 or 'original investigation' | <i>Anti-Dumping Investigation No. 219</i>  |
| GOES  | Copper, Grain Orientated Core Steel  |
| the goods                                     | the goods the subject of the application (also referred to as the goods under consideration or GUC)  |
| Indonesia                                     | the Republic of Indonesia  |
| Korea   | the Republic of Korea  |
| NIP   | non-injurious price  |
| OCOT  | ordinary course of trade   |
| the Parliamentary Secretary                   | the Assistant Minister for Industry, Innovation and Science and the Parliamentary Secretary to the Minister for Industry, Innovation and Science |
| the then Parliamentary Secretary              | the then Assistant Minister for Science and the Parliamentary Secretary to the Minister for Industry, Innovation and Science                     |
| the Regulation                                | <i>Customs (International Obligations) Regulation 2015</i>   |
| REP 219                                       | <i>Report No. 219</i>  |
| review period                                 | 1 July 2013 to 30 June 2016  |
| SEF   | statement of essential facts   |
| SG&A  | selling, general and administrative  |
| Thailand                                      | the Kingdom of Thailand  |
| USP   | unsuppressed selling price   |
| Vietnam                                       | the Socialist Republic of Vietnam  |
| WTC   | Wilson Transformer Company Pty Ltd   |

# 1 SUMMARY

## 1.1 Introduction

This statement of essential facts (SEF) sets out the facts on which the Commissioner of the Anti-Dumping Commission (the Commissioner) proposes to base his recommendations to the Assistant Minister for Industry, Innovation and Science and the Parliamentary Secretary to the Minister for Industry, Innovation and Science (the Parliamentary Secretary)<sup>1</sup> in relation to a review of the anti-dumping measures (in the form of a dumping duty notice) applying to certain power transformers (also referred to in this report as the goods) exported to Australia from the Republic of Indonesia (Indonesia) by PT CG Power Systems, Indonesia (CG Power).

This review was initiated on 2 November 2016 after an application was lodged by CG Power under subsection 269ZA(1) of the *Customs Act 1901* (the Act)<sup>2</sup> for a review of the anti-dumping measures on 13 October 2016.

The application for review was based on changes in the variable factors<sup>3</sup> relevant to the taking of anti-dumping measures in relation to CG Power.

## 1.2 Legislative background

Division 5 of Part XVB sets out, among other things, the procedures to be followed by the Commissioner when undertaking a review of anti-dumping measures.

Division 5 empowers the Commissioner to reject or not reject an application for review of anti-dumping measures. If the Commissioner does not reject the application, he is required to publish a notice indicating that it is proposed to review the anti-dumping measures covered by the application.<sup>4</sup>

The Commissioner must, within 110 days after the publication of the notice or such longer period as the Parliamentary Secretary allows, place on the public record a statement of the essential facts (this SEF) on which the Commissioner proposes to base his recommendation to the Parliamentary Secretary in relation to the review of anti-dumping measures.<sup>5</sup>

## 1.1 Findings

The Commissioner finds that, in relation to the goods exported to Australia from Indonesia by CG Power during the review period (1 July 2013 to 30 June 2016):

- the ascertained export price has changed;

<sup>1</sup> On 19 July 2016, the Prime Minister appointed the Parliamentary Secretary to the Minister for Industry, Innovation and Science as the Assistant Minister for Industry, Innovation and Science. For the purposes of this review, the Minister is the Parliamentary Secretary to the Minister for Industry, Innovation and Science.

<sup>2</sup> All legislative references in this report are to the *Customs Act 1901*, unless otherwise specified.

<sup>3</sup> The variable factors are those mentioned in subsection 269T(4E).

<sup>4</sup> Subsection 269ZC(4).

<sup>5</sup> Subsection 269ZD(1).

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- the ascertained normal value has changed; and
- the non-injurious price (NIP) has changed.

### **1.3 Proposed recommendation**

The Commissioner proposes to recommend to the Parliamentary Secretary that the dumping duty notice have effect in relation to CG Power as if different variable factors had been ascertained.

## 2 BACKGROUND

### 2.1 Initiation

Following consideration of the application from CG Power, the Commissioner decided not to reject the application and on 7 November 2016, initiated a review of the anti-dumping measures applying to the goods exported to Australia from Indonesia in so far as the anti-dumping measures affect CG Power.

Notification of the initiation of the review was made in Anti-Dumping Notice (ADN) No. 2016/119, which was published on the Anti-Dumping Commission's (the Commission) website on 7 November 2016.

Consideration Report No. 383 was published on the Commission's website detailing the Commissioner's reasons for not rejecting the application.

### 2.2 History of the anti-dumping measures

#### Anti-Dumping Commission Investigation No. 219

On 29 July 2013, an investigation (the original investigation) into the alleged dumping of power transformers exported to Australia from the People's Republic of China (China), Indonesia, the Republic of Korea (Korea), Taiwan, the Kingdom of Thailand (Thailand) and the Socialist Republic of Vietnam (Vietnam) was initiated following an application lodged by Wilson Transformer Company Pty Ltd (WTC).

The Commissioner terminated the investigation as it related to the goods exported by certain exporters from China, Indonesia and Korea because of negligible dumping, and as it related to China and Korea because of negligible volumes of dumped goods.

The Commissioner reported his findings and recommendations to the then Parliamentary Secretary to the Minister for Industry in *Final Report No. 219* (REP 219), which found that:

- power transformers exported to Australia from Indonesia (except PT Unelec Indonesia), Taiwan, Thailand and Vietnam were dumped with margins ranging from 3.6 to 39.1 per cent;
- the dumped exports caused material injury to the Australian industry producing like goods; and
- continued dumping may cause further material injury to the Australian industry.

The then Parliamentary Secretary to the Minister for Industry accepted the recommendations and decided, on 10 December 2014, to publish a dumping duty notice in respect of the goods exported to Australia from Indonesia, Taiwan, Thailand and Vietnam.

Following review of that decision by the Anti-Dumping Review Panel, the then Parliamentary Secretary to the Minister for Industry, Innovation and Science revoked the decision to the extent it applied to the goods exported to Australia by ABB Thailand, ABB Vietnam and all other Vietnamese exporters.

### 2.2.1 Findings in relation to CG Power

In the original investigation, the Commissioner considered CG Power to be an uncooperative exporter as defined in subsection 269T(1) because CG Power did not provide the Commissioner with information he considered relevant to the investigation within a period he considered reasonable.

CG Power's dumping margin was determined under subsection 269TACB(2)(b) using the transaction to transaction method during the investigation which was based on:

- in accordance with subsection 269TACAB(1)(d), an export price determined under 269TAB(3) having regard to all relevant information, being information provided by the applicant, WTC; and
- in accordance with subsection 269TACAB(1)(e), a normal value determined under subsection 269TAC(6) having regard to all relevant information, being information provided by the applicant, WTC, with adjustments to reflect cost differences between Indonesia and Australia.

The Commissioner determined that, in the absence of an appropriate method for establishing the unsuppressed selling price (USP), the NIP be set by reference to the exporter's corresponding normal value.

### 2.3 Review process

If anti-dumping measures have been taken in respect of certain goods, an affected party may consider it appropriate to review those anti-dumping measures as they affect a particular exporter or exporters generally. Accordingly, the affected party may apply for,<sup>6</sup> or the Parliamentary Secretary may request that the Commissioner conduct,<sup>7</sup> a review of those anti-dumping measures if one or more of the variable factors has changed.

The Parliamentary Secretary may initiate a review at any time. However, a review application must not be lodged earlier than 12 months after publication of the notice imposing the original anti-dumping measures or the notice(s) declaring the outcome of the last review.<sup>8</sup>

If an application for a review of anti-dumping measures is received and not rejected, the Commissioner has up to 155 days, or such longer time as the Parliamentary Secretary may allow, to conduct a review and report to the Parliamentary Secretary on the review of the anti-dumping measures.<sup>9</sup>

During the course of a review, the Commissioner will examine whether the variable factors have changed.

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<sup>6</sup> Subsection 269ZA(1).

<sup>7</sup> Subsection 269ZA(3).

<sup>8</sup> Subsection 269ZA(2)(a).

<sup>9</sup> Subsection 269ZDA(1).

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Variable factors in this particular review are a reference to:

- the ascertained export price;
- the ascertained normal value; and
- the ascertained NIP.

Within 110 days of the initiation of a review, or such longer time as the Parliamentary Secretary may allow,<sup>10</sup> the Commissioner must place on the public record a SEF on which he proposes to base recommendations to the Parliamentary Secretary concerning the review of the anti-dumping measures.<sup>11</sup>

For this review, in making recommendations in his final report to the Parliamentary Secretary, the Commissioner must have regard to:<sup>12</sup>

- the application for review of the anti-dumping measures;
- any submission relating generally to the review of the anti-dumping measures to which the Commissioner has had regard for the purpose of formulating the SEF;
- this SEF; and
- any submission made in response to this SEF that is received by the Commissioner within 20 days of it being placed on the public record.

The Commissioner may also have regard to any other matter considered to be relevant to the review.<sup>13</sup>

At the conclusion of the review, in respect of the dumping duty notice, the Commissioner must provide a final report. In his final report he must make a recommendation to the Parliamentary Secretary that the dumping duty notice:<sup>14</sup>

- remains unaltered; or
- have effect as if different variable factors had been ascertained.

Following the Parliamentary Secretary's decision, the Parliamentary Secretary must give notice of the decision.<sup>15</sup>

On 21 February 2017, the Commissioner, under subsection 269ZHI(3), extended the deadline for publication of the SEF to 17 March 2017 and for the Commissioner to provide his final report and recommendation to the Parliamentary Secretary.

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<sup>10</sup> On 14 January 2017, the Parliamentary Secretary delegated the powers and functions of the Minister under section 269ZHI to the Commissioner. Refer to ADN No. 2017/10 for further information.

<sup>11</sup> Subsection 269ZD(1).

<sup>12</sup> Subsection 269ZDA(3)(a).

<sup>13</sup> Subsection 269ZDA(3)(b).

<sup>14</sup> Subsection 269ZDA(1)(a).

<sup>15</sup> Subsection 269ZDB(1).



## **2.4 Approach to assessment of CG Power's variable factors**

The Commission will assess CG Power's variable factors using the cost to make and sell (CTMS) and sales data it provided to the Commission in its exporter questionnaire response (EQR). Since the Commission conducted a verification of the data provided in the EQR, whenever the findings of the verification process contradicted with the data provided in the EQR, the Commission referred to the verification findings published in the exporter verification visit report.

## **2.5 Submissions received regarding initiation of the review**

### **2.5.1 WTC**

In its submission dated 14 December 2016,<sup>16</sup> WTC claims that as the major CG Power contract in Australia was based on a tender period of 5 years, it is most probable that CG Power, in its original tender submission to Western Power, would have included some form of Cost Price Adjustment (CPA) formula. WTC further claims that, if a CPA formula was included in the CG Power tender, then changes in the cost of copper and Grain Orientated Core Steel (GOES) would be taken into account with each order placed. WTC argues that any dumping margin at the commencement of the CG Power contract would therefore be unaffected by the movement in the cost of copper and GOES and should be ignored.

### **2.5.2 Commission's response to submissions**

The Commission acknowledges that, it is reasonable to expect that fluctuations in the prices of copper and GOES would shift the normal value and the export price in the same direction. Noting this, the Commission considers that irrespective of the effect of these fluctuations on the dumping margin, the variable factors, being the export price and normal value, may have changed as a result of these fluctuations. The Commissioner will assess the new information verified in this review in order to determine whether to recommend to the Parliamentary Secretary whether CG Power's variable factors be altered.

## **2.6 Responding to this SEF**

This SEF sets out the essential facts on which the Commissioner proposes to base his final recommendations to the Parliamentary Secretary.

The SEF represents an important stage in the review as 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. The final report will recommend whether or not the dumping duty notice should be varied, and the extent of any interim duties that are, or should be, payable.

Interested parties are invited to make submissions to the Commissioner in response to the SEF within 20 days of the SEF being placed on the public record. The due date to

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<sup>16</sup> No. 4 of public record 383

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lodge written submissions in response to this SEF therefore is **6 April 2017**. The Commissioner is not obliged to have regard to any submission made in response to the SEF received after this date if to do so would, in the opinion of the Commissioner, prevent the timely preparation of the report to the Parliamentary Secretary.<sup>17</sup>

The Commissioner must report to the Parliamentary Secretary by 1 May 2017.

Submissions should preferably be emailed to [operations3@adcommission.gov.au](mailto:operations3@adcommission.gov.au). Alternatively, they may be sent to fax number +61 3 8539 2499, or posted to:

Director Operations 3  
Anti-Dumping Commission  
Level 35, 55 Collins Street  
MELBOURNE VIC 3000  
AUSTRALIA

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

A guide for making submissions is available at the Commission's website at [www.adcommission.gov.au](http://www.adcommission.gov.au).

The public record contains non-confidential submissions by interested parties and other publicly available documents. It is available by request in hard copy in Melbourne (phone (03) 8539 2409 to make an appointment), or online at [www.adcommission.gov.au](http://www.adcommission.gov.au)

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

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<sup>17</sup> Subsection 269ZDA(4).

## **3 THE GOODS**

### **3.1 The goods subject to the anti-dumping measures**

The goods subject to anti-dumping measures, in the form of a dumping duty notice are:

*liquid dielectric power transformers with power ratings of equal to or greater than 10 MVA (mega volt amperes) and a voltage rating of less than 500kV (kilo volts) whether assembled or unassembled, complete or incomplete.*

Incomplete power transformers are sub-assemblies consisting of the active part and any other parts attached to, imported with or invoiced with the active parts of power transformers. The active part of a power transformer consists of one or more of the following when attached to, or otherwise assembled with, one another:

- the steel core;
- the windings;
- electrical insulation between the windings; and
- the mechanical frame.

Gas filled, dry type and distribution transformers are not included in the goods subject to the anti-dumping measures.

### **3.2 Tariff classification**

The goods are generally, but not exclusively, classified to the following tariff classifications in Schedule 3 to the *Customs Tariff Act 1995*:

- 8504.22.00 (statistical code 40)
- 8504.23.00 (statistical codes 26 and 41)

## 4 EXPORTER INFORMATION

### 4.1 Finding

The Commissioner is satisfied that the information provided by CG Power and verified by the Commission for the purposes of this review is accurate, relevant and complete.

### 4.2 Exporter questionnaire

The Commission provided CG Power with an exporter questionnaire to complete.

CG Power provided detailed information and data in its EQR, including data relating to its export and domestic sales and CTMS. CG Power provided additional information when requested.

#### 4.2.1 Accuracy, relevance and completeness of information supplied by CG Power

The Commission conducted an on-site verification of the information provided in CG Power's EQR. At the verification visit, the Commission identified certain issues in CG Power's EQR. These issues were subsequently rectified by CG Power. The verification visit report, which details the verification process and the Commission's findings, is available on the electronic public record.<sup>18</sup>

The Commission is satisfied as to the accuracy, relevance and completeness of the data provided by CG Power during this verification and upon which the findings of this review are based.

The CTMS spreadsheets relied upon by the verification team are at **Confidential Appendix 2**.

### 4.3 Australian Border Force Database

The Commission compared CG Power's export sales information to the Australian Border Force's (ABF's) import database. The data supplied by CG Power was consistent with the ABF database.

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<sup>18</sup> <http://www.adcommission.gov.au/cases/Pages/CurrentCases/EPR-383.aspx>

## **5 VARIABLE FACTORS – DUMPING DUTY NOTICE**

### **5.1 Finding**

The Commissioner finds that the variable factors relevant to the taking of anti-dumping measures in relation to power transporters exported to Australia by CG Power have changed.

The Commissioner proposes to recommend to the Parliamentary Secretary that the dumping duty notice have effect in relation to CG Power as if different variable factors (the export price, normal value and NIP) had been ascertained.

### **5.2 Determination of the exporter**

The Act does not provide a definition of ‘exporter’. The Commission will generally identify the exporter as:

- a principal in the transaction located in the country of export from where the goods were shipped who gave up responsibility by knowingly placing the goods in the hands of a carrier, courier, forwarding company, or their own vehicle for delivery to Australia; or
- a principal will be a person in the country of export who owns, or who has previously owned, the goods but need not be the owner at the time the goods were shipped.<sup>19</sup>

The Commission examined CG Power’s exportation process and is satisfied that CG Power was the exporter of the goods subject to this review.

### **5.3 Determination of importer**

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

The Commission notes that the power transformer sales by CG Power to Australia during the review period were delivered duty paid (DDP) terms. Sales of power transformers to Australia are facilitated by CG Power’s Australian branch which is registered to operate in Australia. At the verification visit to CG Power, the verification team noted that for exports to Australia, for the purposes of subsection 269T(1), the beneficial owner of the goods at their time of arrival within the limits of the port in Australia is CG Power’s Australian branch. Therefore the Commission considers that, CG Power, through its Australian branch is the importer of the goods.

### **5.4 Export price**

The Commission verified that the delivery terms of the export sales to Australia by CG Power were DDP. At the verification visit, the verification team noted that in its EQR, CG Power calculated a free on board (FOB) export price based on the value of the power

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<sup>19</sup> Dumping and Subsidy Manual, Chapter 6.2, p.27.

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transformer as detailed in the commercial documents provided to the customer, plus inland transport within Indonesia and Indonesian handling costs. Purchase orders and commercial invoices for these Australian export sales detailed amounts for delivery, unloading and crantage, together with erection and site testing charges. The verification team noted the amounts charged by CG power to its customers in Australia for delivery, unloading, crantage, and erection and site testing services differed significantly from the verified amounts actually incurred by CG Power for the provision of these services.

The Commission notes that the invoice prices for Australian delivery and installation charges do not cover the actual costs incurred by CG Power in delivering these services. The Commission is of the view that the DDP price of the contract for supply, delivery and installation (including testing, transformer oil etc.) of the contracts should be the basis for calculating the effective FOB level price of power transformers exported to Australia as per the Commission's verification findings. Therefore, the Commission considers that the FOB export prices as reported in CG Power's EQR does not reflect the effective FOB export price paid by CG Power's Australian customers.

As noted at section 5.2 and 5.3, the goods have not been exported to Australia otherwise than by the importer and have not been purchased by the importer from the exporter. Therefore, the Commission cannot determine export price under subsections 269TAB(1)(a) or (b) and has determined the export price under subsection 269TAB(1)(c), having regard to all the circumstances of the exportation. The Commission calculated the FOB level export price detailed for the transactions in CG Power's Australian sales listing by deducting the verified post exportation costs (costs of delivery, unloading and crantage, and erection and site testing) from the total gross DDP level price to reflect the actual FOB invoice price paid by the final customers.

The Commission's export price calculations are at **Confidential Appendix 1**

### 5.4.1 Exchange rate applicable to export sales

At the verification visit, CG Power explained that it hedged the foreign currency fluctuation risks by entering into foreign exchange forward contracts in relation to each export transaction.

CG Power explained that, by hedging the foreign exchange rate when the purchase order was received, it was fixing the exchange rate that would be effective for that sales transaction to the exchange rate on the forward contract. The Commission obtained copies of each foreign exchange forward contract and matched these to CG power's amended Australian sales listing and verified that the foreign exchange rate on these forward contracts are reflecting the actual foreign exchange rate being in effect for these export sales transactions. Therefore, the Commission considers that, in accordance with subsections 269TAF(1) and (2), the exchange rates of these forward contracts best establishes the material terms of the sale of the exported goods in comparing the export prices of goods exported to Australia and corresponding normal values in US Dollars.

## 5.5 Normal value

Subsection 269TAC(1) states that the normal value of any goods exported to Australia is the price paid or payable for like goods sold in the ordinary course of trade (OCOT) for

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home consumption in the country of export in sales that are arms length transactions by the exporter or, if like goods are not so sold by the exporter, by other sellers of like goods.

The approach for calculating normal values in Investigation 219 is explained in REP 219 as:

*There are domestic sales of power transformers in the domestic markets of the countries subject to the investigation. However, while electrical steel and copper conductor are the most significant cost components of power transformers, many other variables affect price. For example, depending on whether the power transformer is single or three phase, the design costs, lead times and ancillary options (such as tap changers) can significantly affect price. The Commission considers that because of these many variables it is unable to meaningfully adjust relevant domestic prices of power transformers to make them comparable with export prices. Subsection 269TAC(2)(c) allows for the constructed method when there is an absence of relevant sales or because of the situation in the market the sales are not suitable. The Commission has constructed normal values because of the lack of relevant domestic sales.*

In this review, the Commission confirmed that the findings in REP 219 remain relevant to CG Power. The Commission is therefore satisfied that normal values should be calculated under subsection 269TAC(2)(c) using production costs of exported transformers in Indonesia<sup>20</sup> and on the assumption that the goods, instead of being exported, had been sold for home consumption in the OCOT in Indonesia, the domestic administrative, selling, general and administrative (SG&A) costs associated with the sale and the profit on those sales.<sup>21</sup>

As required by subsections 269TAC(5A) and 269TAC(5B), the costs of production or manufacture, the SG&A costs and profit are established in accordance with the regulations. The relevant regulations are sections 43, 44 and 45 of the *Customs (International Obligations) Regulation 2015* (the Regulation), respectively.

For the purpose of constructing the normal value of the goods under subsection 269TAC(2)(c), the Commission considers that the production costs of transformers exported to Australia be worked out under subsection 43(2) of the Regulation, using the costs of production as set out in CG Power's records, specifically as detailed in CG Power's amended Australian CTMS spreadsheet.<sup>22</sup>

The Commission also considers that an amount for SG&A costs should be worked out under subsection 44(2) of the Regulation, using the SG&A costs associated with the sale of like goods as set out in CG Power's records. The Commission has calculated the SG&A cost as a percentage of the CTM per power transformer incurred by CG Power

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<sup>20</sup> Under subsection 269TAC(2)(c)(i).

<sup>21</sup> In accordance with subsection 269TAC(2)(c)(ii).

<sup>22</sup> The Commission considers that subsection 43(2) of the Regulation applies because the exporter keeps records relating to the like goods, the records are in accordance with generally accepted accounting principles in Indonesia, and the records reasonably reflect competitive market costs associated with the production of like goods.

using CG Power's records, on domestic sales of power transformers during the review period.

In Investigation 219, the Commission found that, in the case of power transformers, each unit is uniquely constructed and the costs and prices can differ significantly from one unit to another. Based on that, the Commission decided that a "weighted average cost" of goods contemplated in subsection 269TAA(3) was not meaningful for power transformers. Consequently, the recovery test could not be conducted and the OCOT test could not be fulfilled.

The Commission maintains this view and consequently it is not reasonably possible to calculate the profit on the sale of the goods made in the OCOT in accordance with subsection 45(2) of the Regulation. Therefore, the Commission considers that an amount for profit should be worked out under subsection 45(3)(a) of the Regulation, using 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. CG Power's revised domestic sales listing and profitability calculation is at **Confidential Appendix 3**

The Commission's preliminary normal value calculations for CG Power are at **Confidential Appendix 4**.

### **5.5.1 Adjustments**

The Commission considers that, as normal value is to be ascertained under subsection 269TAC(2)(c), in accordance with subsection 269TAC(9), the adjustments below are necessary to ensure proper comparison of normal values with export prices.

#### **5.5.1.1 Export packing**

The Commission considers that an upward adjustment to the normal value for export packing expenses is required, to ensure a fair comparison to the export price. The Commission has applied this adjustment based on the actual packing costs incurred on each export sale.

#### **5.5.1.2 Export warranty**

The Commission considers that an upward adjustment to the normal value for export warranty expenses is required, to ensure a fair comparison to the export price. The Commission has applied this adjustment based on the actual warranty costs incurred on each export sale.

#### **5.5.1.3 Australian sales office costs**

At the verification visit, CG Power explained that it had an Australian office which is registered as an entity in Australia. The Commission identified that CG Power incurred costs in relation to its Australian sales office during the review period. The Commission considers that an upward adjustment to the normal value is required for the CG Power's Australian sales office costs to ensure a fair comparison to the export price. To determine the amount of this adjustment, the Commission calculated the Australian office costs relating to sales during the relevant financial year. These costs were apportioned equally to each power transformer delivered to Australia. In doing so, the Commission removed



the costs associated with CG Power's Australian sales office from CG Power's total of SG&A expenses and recalculated the weighted average amount for domestic SG&A expenses for the purposes of constructing normal values.

The Commission's apportionment of CG Power's Australian sales office costs and the recalculation of domestic SG&A is at **Confidential Attachment 1**.

#### 5.5.1.4 Credit terms

The Commission considers that a downward adjustment for domestic credit and an upward adjustment for export credit to the normal value is necessary to ensure a fair comparison to the export price. The Commission has applied this adjustment based on the average number of debtor days calculated for both domestic and export customers for the financial year in which the sales to Australia took place. In calculating the adjustment, the Commission has used CG Power's verified short term borrowing rate for the review period.

## 5.6 Dumping margin

Dumping margins are determined under subsection 269TACB of the Act. The Commission considers that the *transaction to transaction* method provided for in subsection 269TACB(2)(b) best suits those circumstances where there are not a large number of transactions, such as capital equipment made to specific requirements where the normal value may vary from *transaction to transaction* with significant technical variation between each sale. The *transaction to transaction* method is provided for at subsection 269TACB(2)(b) and requires that each export transaction price be compared to each corresponding normal value. This method produces as many dumping margins as there are export transactions and these are amalgamated using a weighted average in order to calculate a single dumping margin for each exporter over the review period.<sup>23</sup> This approach is consistent with the methodology followed at Investigation 219.

The Commission has calculated a dumping margin in respect of power transformers exported to Australia by CG Power for the review period of **43.3 per cent**.<sup>24</sup>

The Commission's preliminary dumping margin calculations are at **Confidential Appendix 5**.

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<sup>23</sup> Anti-Dumping Commission *Dumping and Subsidy Manual* (December 2013), p115.

<sup>24</sup> The difference between the dumping margins in the exporter verification visit report and this SEF is due to a change in the approach how SG&A is calculated. SG&A was calculated as the average total SG&A per power transformer and allocated as a fixed amount per transformer in the verification visit report. However, by having regard to the significant cost differences between power transformers, the Commission revised this approach following the visit. For the purposes of this SEF, the Commission considers that calculation of SG&A as the weighted average percentage of total cost to make is more adequate for power transformers.

## 6 NON-INJURIOUS PRICE

### 6.1 Assessment of NIP

Consistent with the approach discussed in REP 219, the Commission recommends that the NIP for power transformers exported to Australia from Indonesia by CG Power should be set by reference to the corresponding normal values.

### 6.2 Introduction

Dumping duties may be applied where it is established that dumped imports have caused or threaten to cause injury to the Australian industry producing like goods. The level of dumping duty cannot exceed the margin of dumping, but a lesser duty may be applied if it is sufficient to remove the injury (lesser duty rule). In relation to goods the subject of a dumping duty notice, the lesser duty rule is contained in subsection 8(5B) of the *Customs Tariff (Anti-Dumping) Act 1975* (the Dumping Duty Act).

The calculation of the NIP provides the mechanism whereby the lesser duty rule is given effect. The NIP is defined in subsection 269TACA and in relation to goods the subject of a dumping duty notice, is the minimum price necessary to prevent the injury, or a recurrence of the injury, caused to the Australian industry by the dumping. Anti-dumping measures are based on FOB prices and therefore NIPs are also calculated in FOB terms.

### 6.3 Unsuppressed selling price

The Commission generally derives the NIP by first establishing a price at which the Australian industry might reasonably sell its product in a market unaffected by dumping. This price is referred to as the USP.

The Commission's preferred approach to establishing the USP observes the following hierarchy:

- industry selling prices at a time unaffected by dumping;
- constructed industry prices – industry cost to make and sell plus profit; or
- selling prices of undumped imports.

Having calculated the USP, the Commission then calculates a NIP by deducting the costs incurred in getting the goods from the export FOB point (or another point if appropriate) to the relevant level of trade in Australia. The deductions normally include overseas freight, insurance, into store costs and amounts for importer expenses and profit.

### 6.4 Original investigation

In REP 219, the Commission found that power transformers are complex items of capital equipment built to the specifications of the purchaser, where it is unlikely that any two power transformers are identical. Accordingly, neither sales nor constructed USPs are considered an appropriate method for calculating NIPs for power transformers. In the absence of reliable information to establish a USP using one of the primary methods outlined above, the Commission considered that it was appropriate to recommend that

NIPs for power transformers exported to Australia be set by reference to the corresponding normal values.

## **6.5 Assessment of the NIP**

In conducting the review, the Commission has received no submissions on the NIP. Consistent with the approach adopted in the original investigation, the NIP has been assessed to be a price equal to the normal value determined for CG Power.

## **6.6 Lesser duty rule**

The level of dumping duty imposed cannot exceed the margin of dumping, but a lesser duty may be applied if it is sufficient to remove the injury. Under subsection 8(5B) of the Dumping Duty Act, the Parliamentary Secretary must have regard to the desirability of ensuring that the amount of dumping duty is not greater than is necessary to prevent injury or a recurrence of the injury.

As the NIP in this review is set at the same price as the normal value the Commission considers that the Parliamentary Secretary is not required to have regard to the lesser duty rule.

## 7 FINDINGS AND PROPOSED RECOMMENDATIONS

### 7.1 Findings

The Commissioner finds that, in relation to exports to Australia of power transformers from Indonesia by CG Power during the review period:

- the ascertained export price has changed;
- the ascertained normal value has changed; and
- the ascertained NIP has changed.

### 7.2 Proposed recommendations

The Commissioner proposes to recommend to the Parliamentary Secretary that the dumping duty notice have effect in relation to CG Power as if different variable factors had been ascertained.<sup>25</sup>

The Commissioner proposes to recommend that the ascertained normal value for power transformers exported to Australia by CG Power be set in accordance with the respective constructed normal value calculated in the review.

The Commissioner also proposes to recommend that the ascertained export price for power transformers exported by CG Power be set in accordance with the weighted average export price calculated for the purposes of this review.

The Commissioner also proposes to recommend that the ascertained NIP be determined such that it is equal to the ascertained normal value.

A summary of the variable factors as they apply to CG Power is at **Confidential Appendix 5**.

### 7.3 Form of measures

The current form of measures applicable to power transformers from Indonesia is an amount which will be worked out in accordance with the *ad valorem* method pursuant to subsection 5(7) of the *Customs Tariff (Anti-Dumping) Regulation 2013*. The *ad valorem* method expresses the dumping margin as a proportion of the export price of the goods to obtain the interim dumping duty payable on the goods. There is no change to the form of measures as a result of this review.

### 7.4 Effect of the review

The result of this recommendation is that CG Power's exports of power transformers will attract an amount of interim duty which is equal to the dumping margin (i.e. the difference between the export price and the normal value of the goods), expressed as a proportion of the export price.

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<sup>25</sup> Subsection 269ZDA(1)(a)(iii).

## PUBLIC RECORD

Following Investigation 219, the interim dumping duty on CG Power's power transformer exports to Australia is currently 8.7 per cent. In comparison, the Commission calculated CG Power's preliminary dumping margin as 43.3 per cent in this review.

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| <b>8 APPENDICES AND ATTACHMENTS</b> |
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| <b>Confidential Appendix 1</b>   | Australian export sales   |
| <b>Confidential Appendix 2</b>   | CTMS spreadsheets   |
| <b>Confidential Appendix 3</b>   | Domestic sales and profitability  |
| <b>Confidential Appendix 4</b>   | Normal value  |
| <b>Confidential Appendix 5</b>   | Dumping margin  |
| <b>Confidential Attachment 1</b> | CG Power Australian sales office cost and domestic SG&A cost calculations |