



ANTI-DUMPING NOTICE NO. 2019/20

Customs Act 1901 – Part XVB

Power Transformers

Exported to Australia from the Republic of Indonesia,

Taiwan and the Kingdom of Thailand

Initiation of a Continuation Inquiry No. 504 into Anti-Dumping Measures

Notice under subsection 269ZHD(4) of the Customs Act 1901

I, Dale Seymour, the Commissioner of the Anti-Dumping Commission (Commissioner), have initiated an inquiry into whether the continuation of anti-dumping measures, in the form of a dumping duty notice, in respect of power transformers (the goods) exported to Australia from the Republic of Indonesia (Indonesia), Taiwan and the Kingdom of Thailand (Thailand) by all exporters other than PT. Unelec Indonesia from Indonesia and ABB Limited from Thailand, is justified.

The anti-dumping measures are due to expire on 10 December 2019 (specified expiry day).¹

1. The goods

The goods subject to the anti-dumping measures and this inquiry are:

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

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

¹ On and from 11 December 2019, if not continued, the anti-dumping measures would no longer apply.

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

The goods are generally, but not exclusively, classified to the following tariff subheadings of Schedule 3 to the *Customs Tariff Act 1995*:²

Tariff Subheading	Statistical Code
8504.22.00	40
8504.23.00	26 and 41

The goods subject to the anti-dumping measures do not include gas filled and dry type power transformers.

Model matching

In accordance with the Commission's Model Control Code (MCC) policy³, the MCC structure is not considered to be meaningful for the goods subject to measures as each sale of power transformers is a unique model which is not necessarily comparable to any other sale. A MCC structure will therefore not be used for interested party questionnaires and the assessment of relevant information in this continuation inquiry.

2. Background to the anti-dumping measures

The anti-dumping measures were initially imposed by public notice on 10 December 2014 by the then Parliamentary Secretary to the Minister for Industry.⁴ This followed his consideration of the Commissioner's recommendation in *Anti-Dumping Commission Report No. 219* (REP 219) as a result of Investigation No. 219 (original investigation).

The original investigation and the imposition of the anti-dumping measures resulted from an application made under section 269TB of the *Customs Act 1901*⁵ by Wilson Transformer Company Pty Ltd (WTC) representing the Australian industry producing like goods to the goods subject to the anti-dumping measures.

Further details on the goods and existing measures is available on the Dumping Commodity Register on the Anti-Dumping Commission's (Commission) website (www.adcommission.gov.au).

² These tariff classifications and statistical codes may include goods that are both subject and not subject to the anti-dumping measures. The listing of these tariff classifications and statistical codes are for convenience or reference only and do not form part of the goods description. Please refer to the goods description for authoritative detail regarding goods subject to the anti-dumping measures.

³ Refer to Anti-Dumping Notice (ADN) No. 2018/128. All ADNs are available on the Commission's website at www.adcommission.gov.au.

⁴ Refer to ADN No. 2014/132.

⁵ All legislative references in this notice are to the *Customs Act 1901*, unless otherwise stated.

3. Application for continuation of the anti-dumping measures

Division 6A of Part XVB sets out, among other things, the procedures to be followed in dealing with an application for the continuation of anti-dumping measures.

In accordance with subsection 269ZHB(1), I published a notice⁶ on the Commission's website on 23 November 2018. The notice invited the following persons to apply for the continuation of the anti-dumping measures:

- the person whose application under section 269TB resulted in the anti-dumping measures (subsection 269ZHB(1)(b)(i)); or
- persons representing the whole or a portion of the Australian industry producing like goods to the goods covered by the anti-dumping measures (subsection 269ZHB(1)(b)(ii)).

On 22 January 2019, an application for the continuation of the anti-dumping measures was received from WTC. A non-confidential version of the application is available on the Commission's public record.

Having regard to the application and the original investigation, I am satisfied that WTC is the person under subsection 269ZHB(1)(b)(i) because WTC's application under section 269TB resulted in the existing anti-dumping measures.

4. Consideration of application under subsection 269ZHD(1)

Pursuant to subsection 269ZHD(1), I must reject an application for the continuation of anti-dumping measures if I am not satisfied of one or more of the matters referred to in subsection 269ZHD(2). These are:

- the application complies with section 269ZHC (subsection 269ZHD(2)(a)); and
- there appear to be reasonable grounds for asserting that the expiration of the anti-dumping measures to which the application relates might lead, or might be likely to lead, to a continuation of, or a recurrence of, the material injury that the measures are intended to prevent (subsection 269ZHD(2)(b)).

5. Assessment under subsection 269ZHD(2)(a) - compliance with section 269ZHC

I consider that the application complies with the requirements of section 269ZHC because it is in writing, in a form approved by me for the purposes of this section, contains the information that the form requires, is signed in the manner indicated by the form, and was lodged in a manner approved under section 269SMS, being by email to the Commission's email address provided in the instrument under section 269SMS.⁷

⁶ ADN No. 2018/174 refers.

⁷ A copy of the instrument can be found on the Commission's website at www.adcommission.gov.au.

6. Assessment under subsection 269ZHD(2)(b) – reasonable grounds

Applicant's claims

In its application, WTC claims, among other things, that:

- following the imposition of measures in 2014, Indonesia vacated the Australian market, imports from Taiwan declined, and imports from Thailand that are not subject to measures have maintained a steady share of the Australian market;
- stakeholders from Indonesia, Thailand and Vietnam took legal and other actions in response to the original investigation, indicating a desire to continue exporting into the Australian market;
- the power transformer industry is a global one dominated by large multinational organisations with distribution links to the Australian market. The Australian market is seen as an attractive market for multinational companies with Asian production capability due to its geographic proximity;
- there is overcapacity in the global power transformer industry due to production capacity increasing at a time when significant markets are inaccessible due to protective measures, or experiencing reduced demand; and
- based on these considerations there is every reason to believe that the level of competition and imports of dumped goods will increase if measures are discontinued which will adversely impact the Australian industry.

As part of its application, WTC provided export data for the goods to demonstrate a decline in imports from countries subject to measures since the measures have been in place.

A non-confidential version of the application is available on the Commission's website.

7. The Commission's consideration

The Commission has examined information it obtained from the Australian Border Force import database and has found that exporters from Indonesia and Thailand that are subject to measures have not exported to Australia since measures were imposed. While exporters from Taiwan initially vacated the market following imposition of measures, imports from Taiwan have recently recommenced. This confirms that manufacturers in Taiwan have maintained distribution links into the Australian market.

The Commission also notes that PT CG Power Systems Indonesia (CG Power) sought a review of measures subsequent to their imposition. The findings of this review are presented in *Anti-Dumping Commission Report No. 383* (REP 383). While CG Power has not subsequently exported to Australia, the Commission considers that CG Power's application for a review is indicative of a desire to maintain a presence in the Australian market.

Furthermore, as outlined in REP 219, the power transformer industry in Australia is highly competitive. Each power transformer is unique and is normally sold into the Australian market through a tender process where the purchaser issues a request for tender. The tender may be for a single power transformer, for multiple power transformers or for a period contract. The

request for tender may be for the supply of a power transformer only, supply and delivery to site, supply, installation and commissioning, or for the supply of a power solution or turn-key project (projects which include items additional to power transformers, such as switchgear, transmission lines, power generators and power plant construction).

Suppliers develop and submit tenders that meet the specifications in the request for tender. There are many design options available that satisfy each specification and suppliers may submit a number of options. Overseas suppliers may deal directly with purchasers but some have an Australian office that handles contract negotiations.

Purchasers evaluate and rank tenders received and the evaluation process varies from purchaser to purchaser. Considerations relevant to the tender evaluation process include the ability to meet specifications, commercial requirements, price, and other qualitative and quantitative criteria.

In this environment, any pricing advantage achieved as a result of dumping will have a direct impact on the Australian industry's ability to win tenders for the supply of power transformers. The Commission notes that the applicable dumping margins determined in REP 219 range from 8.7 per cent to 39.1 per cent. The Commission considers that it is reasonable to conclude that, in the absence of anti-dumping measures, the Australian industry may face pricing pressure from dumped sources, as well as loss of sales volume and other forms of injury.

It is noted that WTC's application also places emphasis on imports from the People's Republic of China, which are not subject to measures or the direct focus of this continuation inquiry. The Commission will further consider the impact of these imports in its assessment of whether the expiration of measures would lead to a continuation of the material injury that the measures is intended to prevent.

8. Conclusion

Having regard to the application, WTC's claims and other relevant information set out in this notice, I am satisfied that, in accordance with subsection 269ZHD(2)(b), there appear to be reasonable grounds for asserting that the expiration of the anti-dumping measures might lead, or might be likely to lead, to a continuation of, or a recurrence of, the material injury that the measures are intended to prevent.

Based on the above findings, I have therefore decided to not reject the application.

9. This continuation inquiry

For the purposes of this inquiry, I will examine the period from 1 January 2016 to 31 December 2018 (the inquiry period) to determine whether the anti-dumping measures should:

- (iii) remain unaltered; or
- (iv) cease to apply to a particular exporter or to a particular kind of goods; or
- (v) have effect in relation to a particular exporter or to exporters generally, as if different variable factors had been ascertained; or
- (vi) expire on the specified expiry day.

10. Public record

I must maintain a public record for this inquiry. The public record must contain, among other things, a copy of all submissions from interested parties. Documents included in the public record may be examined at www.adcommission.gov.au or at the Commission's office by contacting the case manager on the details provided below.

11. Submissions

Interested parties, as defined in subsection 269T(1), are invited to lodge written submissions concerning the continuation of the measures, no later than the close of business on 20 March 2019, being 37 days after publication of this notice. The Commission's preference is to receive submissions by email to investigations3@adcommission.gov.au.

Submissions may also be addressed to:

The Director, Investigations 3
Anti-Dumping Commission
GPO Box 2013
Canberra ACT 2601

or faxed to +61 3 8539 2499.

Interested parties wishing to participate in the inquiry must ensure that submissions are lodged promptly. Interested parties should note that I am not obliged to have regard to a submission received after the date indicated above if to do so would, in my opinion, prevent the timely placement of the statement of essential facts (SEF) on the public record.

Interested parties claiming that information contained in their submission is confidential, or that the publication of the information would adversely affect their business or commercial interests, must:

- (i) provide a summary containing sufficient detail to allow a reasonable understanding of the substance of the information that does not breach that confidentiality or adversely affect those interests, or
- (ii) satisfy me that there is no way such a summary can be given to allow a reasonable understanding of the substance of the information.

Submissions containing confidential information must be clearly marked "FOR OFFICIAL USE ONLY". Interested parties must lodge a non-confidential version or a summary of their submission in accordance with the requirement above (clearly marked "PUBLIC RECORD").

12. Statement of essential facts

The dates specified in this notice for lodging submissions must be observed to enable me to report to the Minister for Industry, Science and Technology (Minister) within the legislative timeframe. I will place the SEF on the public record on or before 3 June 2019⁸, that is, within 110 days after the publication of this notice, or by such later date as I may allow in accordance with

⁸ The legislated due date is 1 June 2019, however as this is a Saturday, the effective due date is the following business day, being the 3 June 2019.

subsection 269ZHI(3). The SEF will set out the essential facts on which I propose to base a recommendation to the Minister concerning the continuation of the anti-dumping measures.

Interested parties are invited to lodge submissions in response to the SEF within 20 days of the SEF being placed on the public record. Submissions received in response to the SEF within 20 days of the SEF being placed on the public record will be taken into account in completing my report and recommendation to the Minister.

13. Report to the Minister

I will make a recommendation to the Minister in a report on or before 16 July 2019, that is, within 155 days after the date of publication of this notice, or such later date as I may allow in accordance with subsection 269ZHI(3).

The Minister must make a declaration within 30 days after receiving the report, or if the Minister considers there are special circumstances, such longer period, ending before the specified expiry day, as the Minister considers appropriate. If the Minister receives the report less than 30 days before the specified expiry day, the Minister must make the declaration before that day.

14. The Commission Contact

Enquiries about this notice may be directed to the Case Manager on telephone number +61 3 8539 2437 or investigations3@adcommission.gov.au.

Dale Seymour
Commissioner
Anti-Dumping Commission

11 February 2019