Canada Border Services Agency | Agence des services frontaliers du Canada

4214-35
AD/1395

OTTAWA, May 8, 2012

STATEMENT OF REASONS

Concerning the initiation of an investigation into the dumping of

CERTAIN LIQUID DIELECTRIC TRANSFORMERS ORIGINATING IN OR EXPORTED FROM THE REPUBLIC OF KOREA

DECISION

Pursuant to subsection 31(1) of the *Special Import Measures Act*, the President of the Canada Border Services Agency initiated an investigation on April 23, 2012, respecting the alleged injurious dumping of liquid dielectric transformers having a top power handling capacity equal to or exceeding 60,000 kilovolt amperes (60 megavolt amperes), whether assembled or unassembled, complete or incomplete, originating in or exported from the Republic of Korea.

Cet énoncé des motifs est également disponible en français.
This Statement of Reasons is also available in French.

Canada

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SUMMARY

[1] On March 2, 2012, the Canada Border Services Agency (CBSA) received a written complaint from ABB Inc. (ABB) of Varennes, Québec, and CG Power Systems Canada Inc. (CG) of Winnipeg, Manitoba (the complainants), alleging the injurious dumping into Canada of certain liquid dielectric transformers originating in or exported from the Republic of Korea (Korea).

[2] On March 23, 2012, pursuant to paragraph 32(1)(*a*) of the *Special Import Measures Act* (SIMA), the CBSA informed the complainants that the complaint was properly documented. The CBSA also notified the government of Korea that a properly documented complaint had been received.

[3] The complainants provided evidence to support the allegations that certain liquid dielectric transformers from Korea have been dumped. The evidence also discloses a reasonable indication that the dumping has caused injury and is threatening to cause injury to the Canadian industry producing these goods.

[4] On April 23, 2012, pursuant to subsection 31(1) of SIMA, the President of the CBSA (President) initiated an investigation respecting the dumping of certain liquid dielectric transformers from Korea.

INTERESTED PARTIES

Complainants

[5] The complainants account for a major proportion of the production of like goods in Canada.

[6] The name and address of the complainants are:

ABB Inc.
1600 Lionel Boulet Boulevard
Varennes, Québec J3X 1S4

CG Power Systems Canada Inc.
101 Rockman Street
Winnipeg, Manitoba R3T 0L7

[7] The only other manufacturer of the subject goods in Canada is:

Alstom Grid Canada Inc.
860 Lucien Beaudin
St. Jean-sur-Richelieu, Québec J2X 5V5

Exporters

[8] The CBSA identified three potential exporters and/or producers of the subject goods from information provided by the complainants and CBSA import documentation. Two are producers and exporters located in Korea and the third is an exporter located in the United States of America (United States).

Importers

[9] The CBSA identified two potential importers of the subject goods from information provided by the complainants and CBSA import documentation.

PRODUCT INFORMATION

Product Definition

[10] For the purpose of this investigation, the subject goods are defined as:

> Liquid dielectric transformers having a top power handling capacity equal to or exceeding 60,000 kilovolt amperes (60 megavolt amperes), whether assembled or unassembled, complete or incomplete, originating in or exported from the Republic of Korea.

Liquid dielectric transformers having a top power handling capacity equal to or exceeding 60,000 kilovolt amperes (KVA) (60 megavolt amperes (MVA)), whether assembled or unassembled, complete or incomplete, will hereafter be referred to as Power Transformers.

Additional Product Information

[11] Power Transformers are used to increase, maintain or decrease electric voltage in high voltage transmission and distribution systems. 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 the Power Transformer. The active part of the Power Transformer consists of one or more of the following when attached to or otherwise assembled with one another: the steel core or shell, the windings, electrical insulation between the windings and/or the mechanical frame for a Power Transformer.

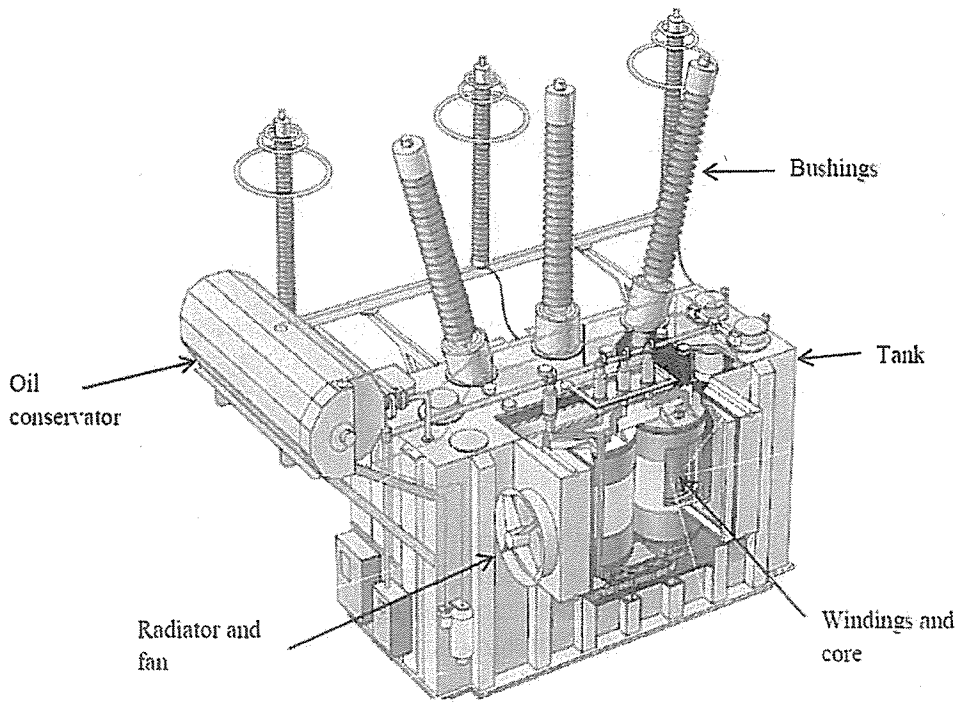
[12] The product definition encompasses all Power Transformers regardless of name designation, including but not limited to: step-up transformers, step-down transformers, auto-transformers, interconnection transformers, voltage regulator transformers, high voltage direct current transformers and rectifier transformers.

Description of the Subject Goods

[13] Power Transformers are capital goods that are made to order from a customer's specifications based on the customer's particular needs. Power Transformers use electromagnetic induction between circuits to increase, decrease or transfer the output voltage levels being transmitted. Induction occurs when the electromagnetic field caused by electricity moving through a conductor crosses a second electrical conductor and generates a voltage in the second conductor even though the two conductors are not directly connected. This requires a fluctuating magnetic field generated by alternating current entering into an input conductor.

[14] Power Transformers all share certain basic, key physical characteristics. All Power Transformers have at least one active part where the electromagnetic induction occurs. This consists of a core, winding, electrical insulation between the windings and a clamping system to hold the internal assembly together. The internal assembly is placed into a metal tank that is filled with a cooling media and has a cooling system attached. A diagram showing the major components of a Power Transformer follows:

Figure 1: Power Transformer Showing Major Components



[15] The core is made of silicone steel and is laminated with an inorganic coating. The silicone steel is layered in pieces and shaped into the legs and yokes of the core. Cores typically consist of two, three, four or five legs depending on the number of phases, capacity and transport restrictions.

[16] Upon the core are windings made of copper conductor covered in insulation paper and/or enamel coating to insulate the turns from one another. They provide both electrical power input

and output. There are typically windings for each voltage level and there can also be one or more windings for voltage regulation. Winding can be done through layer winding, helical winding, disc winding or interleaved disc winding. The winding method employed depends on the capacity, voltage and tap range of each Power Transformer as specified by the customer.

[17] The core and winding are placed in a tank, which protects the active parts of the Power Transformer. The tank must be strong enough to withstand an internal pressure of a full vacuum and external factors such as weather. The tank is usually filled with fluid (typically, oil) for cooling and insulation. The size of the tank varies depending on the size of the core, number of windings and type of regulation, which itself is a function of the energy being transformed and customer specification.

[18] All Power Transformers possess a cooling system which ensures that heat is dissipated and prevents exceeding the specified temperature rise in the Power Transformer. The cooling method is determined by the customer's requirements and use. Power Transformers can employ several different cooling systems including: natural oil cooling/natural air cooling, natural oil cooling/forced air cooling, forced oil cooling/forced air cooling, directed oil cooling/forced air cooling, and forced oil cooling/forced water cooling.

Production Process of the Subject Goods

[19] Regardless of the customized configuration, all Power Transformers follow the same basic production process. Assuming there is no order backlog, the process can take anywhere from several to 12 months from order to delivery, depending on the size of the Power Transformer. Larger Power Transformers typically take a much longer time to produce than smaller Power Transformers. Power Transformer production involves a number of key steps: design, core fabrication, coil fabrication, coil-and-core assembly, tanking, testing and delivery.

[20] The first step in the production process is the design of the Power Transformer. As a customized product, engineers must set out the electrical and mechanical design of the Power Transformer, subject to customer approval. The engineer prepares mechanical drawings, detailed and transport drawings, schematics control designs, cabling diagrams and control cabinet diagrams.

[21] After the design phase, the manufacturing phase begins. The first step in the manufacturing phase is creating the core of the Power Transformer. The core is made by cutting laminated electrical steel sheets and stacking them one upon the other in a well-defined way. The stacked sheets are then pressed together and positioning equipment is used to set the core in an upright position.

[22] The next step is to prepare the windings (coil fabrication). The windings are fabricated from copper wire and covered with insulation paper. They are dried to eliminate all moisture content. The particular winding method employed can vary depending on the particular Power Transformer design.

[23] The windings are then placed over the core and the necessary connections are made. The optimum design of the core-coil assembly is achieved by considering the required technical particulars, including cooling, size, compactness and tapping arrangement. After assembly, the core-winding assembly is dried a second time to eliminate any moisture.

[24] The core-coil assembly is then lowered into a steel tank and bolted in place. The tank is usually painted inside and out to prevent corrosion and is equipped with a cooling system. The cooling system is specified by the customer to meets its requirements.

[25] After the manufacturing steps are complete, the Power Transformer is subjected to rigorous testing in accordance to the applicable standards defined by the customer before it is sent for delivery to the customer.

Classification of Imports

[26] The subject goods are usually classified under the following Harmonized System (HS) classification code:

8504.23.00.00

Unassembled or incomplete subject goods may also be imported under the following HS codes:

8504.90.90.10
8504.90.90.82
8504.90.90.90

[27] These HS codes are for convenience of reference only. The HS codes listed may include non-subject goods. Also, subject goods may fall under HS codes that are not listed. Refer to the product definition for authoritative details regarding the subject goods.

LIKE GOODS

[28] Subsection 2(1) of SIMA defines "like goods", in relation to any other goods, as goods that are identical in all respects to the other goods, or in the absence of identical goods, goods for which the uses and other characteristics closely resemble those of the other goods.

[29] As noted earlier, Power Transformers are capital goods that are made to order from customer specifications. The goods produced in Canada compete directly with the subject goods produced in Korea and they are used for the same end uses, all for the general purpose of transforming voltage from one level to another. Both goods are produced using substantially the same production process and follow the same key steps of design, core fabrication, coil fabrication, core-coil assembly, tanking, testing and delivery. Given the same specifications, the goods are completely substitutable.

[30] Although the goods produced by the Canadian industry may not be identical in all respects to the subject goods imported from Korea, the CBSA has concluded that the Canadian goods constitute like goods to the subject goods.

[31] Further, after considering the raw materials used to produce the goods, the production process, the physical characteristics of the goods, the end uses and all other relevant factors, the CBSA is of the opinion that the subject goods constitute only one class of goods.

[32] The subject goods have been separated from the class of goods that includes transformers with a top power handling capacity lower than 60 MVA. In general terms, these non-subject goods have different end uses as they are used to distribute lower voltages of electricity to homes, or clusters of homes, or to businesses below the secondary substation level. Conversely, the subject goods are used to either step-up or step-down higher voltages of electricity at the substation level or to transmit these higher voltages across long distances.

CANADIAN INDUSTRY

[33] There are three producers of Power Transformers in Canada: ABB, CG and Alstom Grid Canada Inc. (Alstom).

[34] There are no producer-only associations that represent manufacturers of Power Transformers in Canada. There is, however, an industry association, known as the Electrical Equipment Manufacturers Association of Canada (EEMAC),[1] which includes not only Canadian manufacturers of Power Transformers but also a number of Korean importers of Power Transformers. EEMAC also includes producers of electronics, appliances and telecommunications products, such as wire and cable, motors, generators and electric heating.

ABB

[35] ABB is a global manufacturer of power technologies with its global head office in Zurich, Switzerland. ABB's Canadian head office is located in Ville St-Laurent, Québec, and its plant is located in Varennes, Québec.

[36] The Varennes plant opened in 1971. The facility was expanded in 1981 by 3,000 square metres and in 1998, the plant was selected to be ABB's focus factory in North America for Power Transformers.

[37] In addition to the production of Power Transformers, which represents the most significant product manufactured at the Varennes plant, other electrical products like shunt reactors, rectifier transformers and converter transformers are produced at the plant. Power Transformers are also repaired at the plant.

[38] The Varennes plant is an important electrical engineering plant in Canada. It has played a central role in the production and development of Hydro-Québec's power grid. The plant is

[1] www.eemac.ca

linked by rail and is the predominant external user of Hydro-Québec's electrical research institute which conducts the testing on the Power Transformers.

CG

[39] CG is a global manufacturer of power transformers and other equipment related to the transmission and distribution of electrical power. CG's global head office is located in Mumbai, India, and the Canadian division of the company is located in Winnipeg, Manitoba.

[40] CG's Canadian production facilities were originally owned by Pioneer Electric. Pioneer Electric was established in 1946 to service the electrification of rural Manitoba. The current Winnipeg plant was opened in 1950 by Pioneer Electric to build pole type transformers. Pioneer Electric grew the facility over the years, expanding into larger and larger power transformers. The company merged and became part of Federal Pioneer. After that, the facility was purchased by Schneider Electric, Square D and Pauwels Transformers. In 2005, the current owner, CG, purchased the plant and has operated it ever since.

[41] In addition to being the single North American Power Transformer plant for CG, the Winnipeg plant also produces mobile sub-stations for utilities across North America. These trailer mounted transformers are equipped with all of the switching and accessories required to replace a permanent sub-station on an emergency basis. The units are typically at the lower end of the size category due to weight restrictions but represent a high-technology part of the business model.

[42] The Winnipeg plant is a large contributor to the electrical industry in Manitoba and Canada with significant collaboration with Manitoba Hydro and the University of Manitoba High Voltage Laboratory. This relationship extends back to its early days of operation when it was involved in the development of the Manitoba power distribution system.

Other Canadian Producer

[43] The complainants identified the only other domestic producer of Power Transformers in Canada as Alstom, located in St. Jean-sur-Richelieu, Québec. In addition to producing the subject goods, it is believed that Alstom's production facility also produces transformers not subject to this investigation, i.e., transformers under 60 MVA.

STANDING

[44] Subsection 31(2) of SIMA requires that the following conditions be met in order to initiate an investigation:

a) the complaint is supported by domestic producers whose production represents more than 50% of the total production of like goods by those domestic producers who express either support for or opposition to the complaint; and

b) the production of the domestic producers who support the complaint represents 25% or more of the total production of like goods by the domestic industry.

[45] Based on an analysis of information provided in the complaint, as well as other information gathered by the CBSA, the CBSA is satisfied that the standing requirements of subsection 31(2) of SIMA have been met by the complainants.

CANADIAN MARKET

[46] The market for capital goods, like Power Transformers, has several unique features that distinguish it from consumer markets. Typically, Power Transformers are acquired on a procurement basis by electrical utilities[2] or large industrial customers involved in the petroleum,[3] mining,[4] steel,[5] or forestry industries.[6] They can vary greatly in size and value. The customers plan their needs several years in advance of delivery and then solicit bids according to their specifications. Orders are placed about one to two years in advance of delivery, except in cases of emergencies that arise from the failure in a system.

[47] The bid process begins when a customer provides prospective bidders with technical and commercial specifications for the Power Transformer. At this point, an electrical engineer prepares the technical design, the estimated sizing of the tank and the costing. A mechanical engineer then reviews the technical design and advises if there are any special requirements that need to be considered. Upon completion, the technical and commercial documents are reviewed and the bid proposal is prepared and submitted to the customer for evaluation.

[48] As a result of the procurement process and the long lead time from bid to delivery, prices are generally set at the time the bid is placed. This means that price competition occurs at the time the bid is placed rather than at the time of delivery and the level of pricing quoted on the bid will only affect earnings one or two years later.

[49] The market for Power Transformers is also characterized by blanket requests for bids. A blanket request occurs when a customer puts out a request for a proposal covering its Power Transformer needs for a defined period of time, usually three to five years. A blanket may specify the precise quantities each year, it may specify the precise quantities for particular years with non-binding forecasts for additional years or it may simply provide non-binding forecasts for every year under the blanket. As such, it is possible for a customer to award some unit categories under the blanket to one Power Transformer producer while awarding other unit categories to other Power Transformer producers.

[50] Power Transformers are generally specified according to their MVA ratings. These ratings relate to the amount of electrical energy that is being transformed in the electrical circuit. Customers will detail the MVA rating for the Power Transformers at 55 degrees Celsius, then at

[2]Represented largely by the Canadian Electrical Association, www.electricity.ca
[3]Represented largely by the Canadian Association of Petroleum Producers, www.capp.ca
[4]Represented largely by the Mining Association of Canada, www.mining.ca
[5]Represented largely by the Canadian Steel Producers Association, www.canadiansteel.ca
[6]Represented largely by the Forest Products Association of Canada, www.fpac.ca

one or two other stages of forced cooling. These three ratings are expressed as three numbers, for example, 115/153/192 MVA. The lowest number is known as the base rating while the highest number is known as the top rating. Practices differ as to whether the top rating (i.e., 192 MVA, for example) or the base rating (i.e., 115 MVA, for example) is used to identify the products.

[51] Used to transform voltage from one level to another, Power Transformers are also identified according to their voltage. Voltage is specified by the primary voltage or the voltage at input and the secondary voltage or the voltage at output, and may also include a tertiary voltage. If the primary voltage is lower than the secondary voltage, the Power Transformer is referred to as a step-up transformer and conversely, if the primary voltage is higher than the secondary voltage, it is referred to as a step-down transformer.

[52] Power Transformers are typically measured in terms of their production volume and capacity using MVA as the unit of measure rather than actual units produced. This is because the size of the Power Transformers greatly affects the amount of time and the resources that are required to produce the goods. Measuring production in terms of units produced would lead to skewed and misleading volume and value data comparisons.

[53] The Canadian Power Transformer market is supplied by domestic production as well as by imports. As noted earlier, domestic production is supplied by ABB, CG and Alstom.

[54] Data on domestic production of Power Transformers in Canada is not available from published sources. The complainants, however, provided their own production figures in addition to estimating the production capacity for Alstom, based on market intelligence. The CBSA used the information provided by the complainants to estimate the total domestic production of Power Transformers in Canada for the last three years.

[55] A portion of the domestic production of Power Transformers is exported. In this regard, the complainants provided their own export figures. The CBSA used the information provided by the complainants to estimate the total domestic production of Power Transformers that were exported for the last three years.

[56] The CBSA estimated imports of Power Transformers for the last three years based on Customs Commercial Systems (CCS) import documentation using HS code 8504.23.00.00. HS codes 8504.90.90.10, 8504.90.90.82 and 8504.90.90.90 were also reviewed for this purpose but imports included in these three codes were not found to be subject goods. Adjustments were made to those goods imported using HS code 8504.23.00.00 to remove goods not subject to this investigation. On a line-by-line basis, if the transformers fell below a unit value threshold of $350 thousand, the goods were excluded, as it was assumed that they were smaller than 60 MVA. Furthermore, where information was available from commercial or customs invoices, it was used to determine whether the goods imported fell within the scope of the product definition.

[57] Detailed information regarding the volume of domestic production, excluding exports and the volume of subject imports cannot be divulged for reasons of confidentiality. The CBSA has, however, prepared the following table to illustrate the estimated import share of Power Transformers in Canada:

Table 1: CBSA Estimates of Import Share by Percentage of Volume

Country	2009	2010	2011
Korea	33.3%	38.8%	28.9%
Other Countries	66.7%	61.2%	71.1%
Total	100%	100%	100%

[58] These estimates reveal that the Korean share of imports into Canada remained significant throughout the 3-year period.

EVIDENCE OF DUMPING

[59] The complainants allege that the subject goods have been injuriously dumped into Canada. Dumping occurs when the normal value exceeds the corresponding export price of the goods sold to an importer in Canada.

[60] Where competitive market conditions exist, normal value is generally based on the domestic selling price of the goods in the country of export, pursuant to section 15 of SIMA, or on the full cost of producing and selling the goods plus an amount for profit, pursuant to paragraph 19(b) of SIMA.

[61] Export price is generally based on the lesser of the adjusted exporter's selling price of the goods or the adjusted importer's purchase price, pursuant to section 24 of SIMA. These prices are adjusted where necessary to deduct the costs, charges, expenses, duties and taxes resulting from the exportation of the goods. However, where there is reason to believe that the exporter and the importer are associated or there is a compensatory arrangement between the two parties, export price may also be determined, pursuant to section 25 of SIMA, based on the importer's resale price of the imported goods in Canada to unrelated purchasers, less deductions for all costs incurred in preparing, shipping and exporting the goods to Canada, all costs incurred in reselling the goods (including duties and taxes) and an amount representative of the average industry profit in Canada.

[62] Estimates of normal values, export prices and the resulting margin of dumping are discussed below.

Estimated Normal Value

[63] The complainants were unable to obtain useable domestic market pricing information in Korea to estimate normal values. Although both ABB and CG are interested in selling into the Korean market, the position of Korea Electric Power Corporation (KEPCO), the government-owned power authority and largest purchaser of transformers in Korea, is that it will only procure transformers from domestic producers. Further, while KEPCO does post bid information related to its procurement of goods and services on its Web site, it was concluded that the sizes of transformers reported were materially different than the sizes sold to Canada and thus these goods would neither qualify as identical or similar under the provisions of SIMA. As such, the complainants estimated normal values based on a cost plus approach to reflect the methodology defined in paragraph 19(*b*) of SIMA.

[64] The complainants provided costing data for a representative sample of Power Transformer models that they themselves had placed bids on, where it was believed that the Korean producers had won the bids and where the goods have been or eventually will be shipped to Canada.

[65] Normal values were estimated based on the aggregate of the costs of producing the goods (materials, direct labour and overhead), a reasonable amount for selling, general and administrative (SG&A) costs and all other costs, and a reasonable amount for profit. The complainants used their own costing data for this purpose, with adjustments where necessary to reflect cost differences between Canada and Korea.[7]

[66] The CBSA has reviewed the complainants' estimated normal values and finds them to be reasonable. As such, the CBSA has accepted the complainants' estimated normal values.

Estimated Export Price

[67] The complainants were unable to estimate export prices using conventional methods, such as price lists and Statistics Canada data. Because of the customized nature of Power Transformers, producers do not maintain price lists and bid documents are closely guarded for reasons of confidentiality. Further, given the wide range of sizes and other key characteristics of the goods reported under the applicable tariff items, pricing information provided by Statistics Canada was not usable.

[68] The complainants were, however, able to estimate export prices for a representative sample of Power Transformer models that they themselves had placed bids on, where it was believed that the Korean producers had won the bids and where the goods have been or eventually will be shipped to Canada based on the best information that was available to them.[8]

[69] The CBSA reviewed actual import data from its internal information system and import documentation to confirm the complainants' estimated export prices. Based on this data, the CBSA considers the complainants' estimates to be reasonable.

[7]NC Complaint Exhibits 16(a)-16(k) and 17(a)-17(k)
[8]NC Complaint Exhibits 16(a)-16(g) and 17(a)-17(g)

[70] For purposes of its own analysis, the CBSA reviewed all subject importations from January 1, 2009 to December 31, 2011, using CBSA import documentation. Export prices were estimated based on the selling prices shown on the import documents.

Estimated Margin of Dumping

[71] The CBSA estimated the margin of dumping by comparing the complainants' estimated normal values to the estimated export prices using CBSA import documentation. Based on this analysis, it is estimated that the subject goods from Korea were dumped. The overall weighted average margin of dumping is estimated to be 34.6%, expressed as a percentage of export prices.

MARGIN OF DUMPING AND VOLUME OF DUMPED GOODS

[72] Under section 35 of SIMA, if, at any time before the President makes a preliminary determination, the President is satisfied that the margin of dumping of the goods of a country is insignificant or the actual and potential volume of dumped goods of a country is negligible, the President must terminate the investigation with respect to the subject goods of that country.

[73] Pursuant to subsection 2(1) of SIMA, a margin of dumping of less than 2% of the export price is defined as insignificant and a volume of dumped goods is considered negligible if it accounts for less than 3% of the total volume of goods that are released into Canada from all countries that are of the same description as the dumped goods.

[74] For the period from January 1, 2009 to December 31, 2011, on the basis of the estimated margin of dumping and import data, as summarized in the table below, the estimated margin of dumping is not insignificant and the volume of dumped goods is not negligible.

Table 2: CBSA Estimated Imports and Estimated Margin of Dumping

Country	Estimated Share of Total Imports by Volume	Estimated Dumped Goods as % of Total Imports by Volume	Estimated Margin of Dumping as % of Export Price
Korea	33.9%	33.9%	34.6%
Other Countries	66.1%	-	-
Total	100%	-	-

EVIDENCE OF INJURY

[75] SIMA refers to material injury caused to the domestic producers of like goods in Canada. The CBSA has accepted that the Power Transformers produced by the complainants are like goods to those imported from Korea. The CBSA's analysis primarily included information on the complainants' domestic sales, with a focus on the impact of the allegedly dumped goods on their production and sale of like goods in Canada.

[76] The complainants allege that the goods have been dumped and that such dumping has caused injury and is threatening to cause injury to the Power Transformer industry in Canada. In support of their allegations, the complainants provided evidence of price depression and price suppression, lost sales, lost revenues and decreased employment levels.

[77] Given the long lead times from the point of preparing the bids to delivering the products, the effect of lost orders must be considered in a forward-looking manner as the impact to the companies may not be felt for some time even though the effects are well known from the point the bids are lost. In this regard, the complainants submit that the effects of the alleged dumping are already being felt and will continue in the future.

Price Depression and Price Suppression

[78] The complainants contend that they have experienced price underbidding by Korean imports by margins as large as 40% on major Canadian procurements, particularly since 2009. In response to this, the complainants have had to either lose the bids or lower the price of its bids in order to sustain volumes and throughput. [9]

[79] The complainants provided specific instances of price depression and price suppression in the confidential complaint. They believe this scenario is continuing as a result of low-priced imports from Korea.

Lost Sales

[80] The complainants provided specific instances where they had lost sales to low-priced Korean imports. Full details concerning these lost sales are contained in the confidential complaint.

Lost Revenues

[81] The complainants allege that in 2012, their combined gross margin on domestic sales of domestically produced Power Transformers is expected to fall. Once SG&A costs and research and development expenses are also considered, the picture looks even more troublesome.[10] Full details concerning the complainants' declining financial positions are contained in the confidential complaint.

[82] The complainants noted that in the past, while factors such as strong export demand allowed them to experience a temporary reprieve from the effects of unfairly traded imports into Canada from Korea, these factors do not exist today. In fact, they explained that both ABB and CG are now also facing the effects of unfairly traded Korean imports in their export markets, such as in the United States.[11]

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[9] NC Complaint page 46
[10] NC Complaint page 49
[11] NC Complaint page 48

Decreased Employment Levels

[83] Combined employment levels at ABB and CG dropped considerably from 2010 to 2011. The complainants contend that these decreases, caused by the dumping of the subject goods from Korea, are the direct result of ABB and CG not being able to maintain a sufficient level of profitable throughput in their Power Transformer production facilities.[12] Specific details concerning decreased levels are contained in the confidential complaint.

THREAT OF INJURY

[84] The complainants contend that the alleged dumping of Power Transformers from Korea poses a real, substantial and imminent threat of injury to ABB's and CG's Canadian production of like goods. This threat is based on the evidence presented.

[85] The complainants demonstrated that there was a significant increase in imports of Power Transformers into Canada from Korea from 2006 to 2011. Subject imports went from nil in 2006 to a high of $64.5 million in 2010. While overall imports decreased somewhat in 2011, Korea still remained the predominant source of all imports.

[86] The complainants contend that the two Korean exporters have the capacity and the stated intention to take further market share from ABB and CG, and other Canadian producers. With the world's largest production capacity of 120,000 MVA, Hyundai Heavy Industries Co., Ltd. (Hyundai) has seen very rapid growth in its production capacity in the last few years, growing 500% from 2005 to 2009 and then an additional 40% from 2009 to 2010.[13] Further, Hyosung Corporation (HICO) just recently increased its production capacity from 45,000 MVA to between 75,000 to 79,000 MVA with the construction of a new facility. The complainants believe that these additional capacities indicate the likelihood of a substantial increase of dumped goods into Canada.[14]

[87] The complainants also noted that anti-dumping proceedings in the United States against imports of Power Transformers from Korea are on-going and that significant margins of dumping for both Hyundai and HICO were found as a result of this investigation. The complainants contend that the existence of a dumping order in the United States is evidence of a propensity, on behalf of the Korean producers, to engage in injurious dumping.[15] The complainants are of the opinion that this creates a significant risk of increased exports to Canada, given the close proximity of our markets and the potential for Korean exports to the United States to be negatively impacted.

[88] Should the alleged dumping of Power Transformers from Korea into Canada be allowed to continue, the complainants believe that the threat of material injury to the production in Canada of like goods is inevitable.

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[12]NC Complaint page 50
[13]NC Complaint Exhibit 31
[14]NC Complaint page 64
[15]NC Complaint pages 66 and 67

TARGETED DUMPING

[89] The complainants submit that the nature of both the goods at issue in this case and the activities of the Korean exporters in the Canadian market suggest that targeted dumping has occurred. Accordingly, the complainants have asked that the CBSA gather data so as to allow a full examination as to whether or not targeted dumping has actually occurred.[16]

[90] Pursuant to section 30.2 of SIMA, if targeted dumping is found to be occurring, i.e., there are significant variations in the prices of goods of the exporter among purchasers, regions in Canada or time periods, the margin of dumping may be determined using the weighted average of the margins of dumping in relation to the individual sales of goods that are considered relevant.

CAUSAL LINK - DUMPING AND INJURY

[91] The CBSA has concluded that the complainants have sufficiently linked the injury suffered by both ABB and CG to the alleged dumping of Power Transformers imported into Canada from Korea. The injury suffered, in terms of price depression and price suppression, lost sales, lost revenues and decreased employment levels is directly related to the alleged dumping of the subject goods.

[92] In summary, the information provided in the complaint has established a reasonable indication that the alleged dumping has caused injury and is threatening to cause injury to the Canadian production of like goods.

CONCLUSION

[93] Based on information provided in the complaint, other available information and the CBSA's internal data on imports, there is evidence that Power Transformers originating in or exported from Korea have been dumped and there is a reasonable indication that such dumping has caused and is threatening to cause injury to the Canadian industry. As a result, based on the CBSA's examination of the evidence and its own analysis, a dumping investigation was initiated on April 23, 2012.

SCOPE OF THE INVESTIGATION

[94] The CBSA will conduct an investigation to determine whether the subject goods have been dumped.

[95] The CBSA has requested information relating to the subject goods imported into Canada from Korea during the period of October 1, 2010 to March 31, 2012, the selected period of investigation. The information requested from identified exporters and importers will be used to estimate normal values and export prices and ultimately to determine whether the subject goods have been dumped.

[16] NC Complaint pages 39 and 40

[96] All parties have been clearly advised of the CBSA's information requirements and the time frames for providing their responses.

FUTURE ACTION

[97] The Canadian International Trade Tribunal (Tribunal) will conduct a preliminary inquiry to determine whether the evidence discloses a reasonable indication that the alleged dumping of the goods has caused injury or retardation or is threatening to cause injury to the Canadian industry. The Tribunal must make its decision on or before the 60th day after the date of the initiation of the investigation. If the Tribunal concludes that the evidence does not disclose a reasonable indication of injury or retardation or threat of injury to the Canadian industry, the investigation will be terminated.

[98] If the Tribunal finds that the evidence discloses a reasonable indication of injury or retardation or threat of injury to the Canadian industry and the ongoing CBSA investigation reveals that the goods have been dumped, the CBSA will make a preliminary determination of dumping within 90 days after the date of the initiation of the investigation, by July 23, 2012. Where circumstances warrant, this period may be extended to 135 days from the date of the initiation of the investigation.

[99] If the CBSA's investigation reveals that imports of the subject goods have not been dumped, that the margin of dumping is insignificant or that the actual and potential volume of dumped goods is negligible, the investigation will be terminated.

[100] Imports of subject goods released by the CBSA on or after the date of a preliminary determination of dumping may be subject to provisional duty in an amount not greater than the estimated margin of dumping on the imported goods.

[101] Should the CBSA make a preliminary determination of dumping, the investigation will be continued for the purpose of making a final determination within 90 days after the date of the preliminary determination. If a preliminary determination of dumping is made, the Tribunal will initiate an inquiry to determine whether the dumping of the goods has caused injury or retardation or is threatening to cause injury.

[102] If a final determination of dumping is made, the Tribunal will continue its inquiry and hold public hearings into the question of material injury to the Canadian industry. The Tribunal is required to make a finding with respect to the goods to which the final determination of dumping applies, not later than 120 days after the CBSA's preliminary determination.

[103] In the event of an injury finding by the Tribunal, imports of subject goods released by the CBSA after that date will be subject to anti-dumping duty equal to the applicable margin of dumping on the imported goods.

RETROACTIVE DUTY ON MASSIVE IMPORTATIONS

[104] When the Tribunal conducts an inquiry concerning injury to the Canadian industry, it may consider if dumped goods that were imported close to or after the initiation of an investigation constitute massive importations over a relatively short period of time and have caused injury to the Canadian industry.

[105] Should the Tribunal issue such a finding, anti-dumping duties may be imposed retroactively on subject goods imported into Canada and released by the CBSA during the period of 90 days preceding the day of the CBSA making a preliminary determination of dumping.

UNDERTAKINGS

[106] After a preliminary determination of dumping by the CBSA, an exporter may submit a written undertaking to revise selling prices to Canada so that the margin of dumping or the injury or retardation or threat of injury caused by the dumping is eliminated. Acceptable undertakings must account for all or substantially all of the exports to Canada of the dumped goods.

[107] Interested parties may provide comments regarding the acceptability of undertakings within nine days of the receipt of an undertaking by the CBSA. The CBSA will maintain a list of parties who wish to be notified should an undertaking proposal be received. Those who are interested in being notified should provide their name, telephone and fax numbers, mailing address and e-mail address, if available, to one of the officers identified in the "Information" section of this document.

[108] If undertakings were to be accepted, the investigation and the collection of provisional duty would be suspended. Notwithstanding the acceptance of an undertaking, an exporter may request that the CBSA's investigation be completed and that the Tribunal complete its injury inquiry.

PUBLICATION

[109] Notice of the initiation of this investigation is being published in the Canada Gazette, pursuant to subparagraph 34(1)(*a*)(ii) of SIMA.

INFORMATION

[110] Interested parties are invited to file written submissions presenting facts, arguments and evidence that they feel are relevant to the alleged dumping of the goods. Written submissions should be forwarded to the attention of one of the officers identified below.

[111] To be given consideration in this phase of the investigation, all information should be received by the CBSA by **May 30, 2012.**

[112] Any information submitted to the CBSA by interested parties concerning this investigation is deemed to be public information unless clearly marked "confidential." Where

the submission by an interested party is confidential, a non-confidential version of the submission must be provided at the same time. This non-confidential version will be made available to other interested parties upon request.

[113] Confidential information submitted to the President will be disclosed on written request to independent counsel for parties to these proceedings, subject to conditions to protect the confidentiality of the information. Confidential information may also be released to the Tribunal, any court in Canada, or a WTO/NAFTA dispute settlement panel. Additional information respecting the Directorate's policy on the disclosure of information under SIMA may be obtained by contacting one of the officers identified below or by visiting the CBSA's Web site.

[114] The investigation schedule and a complete listing of all exhibits and information are available at www.cbsa-asfc.gc.ca/sima-lmsi/i-e/menu-eng.html. The exhibits listing will be updated as new exhibits and information are made available.

[115] This *Statement of Reasons* has been provided to persons directly interested in these proceedings. It is also posted in English and French on the CBSA's Web site at the address below. For further information, please contact the officers identified as follows:

Mail: SIMA Registry and Disclosure Unit
Anti-dumping and Countervailing Directorate
Canada Border Services Agency
100 Metcalfe Street, 11th floor
Ottawa, ON K1A 0L8
Canada

Telephone: Ron McTiernan 613-954-7271
Mary Donais 613-952-9025

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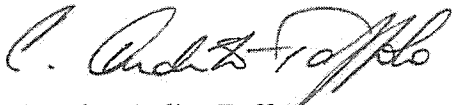
Web site: www.cbsa-asfc.gc.ca/sima-lmsi/i-e/menu-eng.html



Caterina Ardito-Toffolo
A/Director General
Anti-dumping and Countervailing Directorate