



TR 2017 ER

OTTAWA, January 5, 2018

## STATEMENT OF REASONS

Concerning an expiry review determination under  
paragraph 76.03(7)(a) of the *Special Import Measures Act*  
regarding

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

## DECISION

On December 22, 2017, pursuant to paragraph 76.03(7)(a) of the *Special Import Measures Act*, the Canada Border Services Agency determined that the expiry of the Canadian International Trade Tribunal's order made on May 31, 2016, in Interim Review No. RD-2013-003 continuing, without amendment, its finding made on November 20, 2012, in Inquiry No. NQ-2012-001, is likely to result in the continuation or resumption of dumping of certain liquid dielectric transformers originating in or exported from the Republic of Korea.

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

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## **EXECUTIVE SUMMARY**

[1] On July 25, 2017, the Canadian International Trade Tribunal (CITT), pursuant to subsection 76.03(3) of the *Special Import Measures Act* (SIMA), initiated an expiry review of its order made on May 31, 2016, in Interim Review No. RD-2013-003 continuing, without amendment, its finding made on November 20, 2012, in Inquiry No. NQ-2012-001, concerning the dumping of certain liquid dielectric transformers (large power transformers) originating in or exported from the Republic of Korea (Korea).

[2] As a result of the CITT's notice of expiry review, the Canada Border Services Agency (CBSA), on July 26, 2017, initiated an investigation to determine, pursuant to paragraph 76.03(7)(a) of SIMA, whether the expiry of the order is likely to result in the continuation or resumption of dumping of the goods to Canada.

[3] The CBSA received responses to its Expiry Review Questionnaire (ERQ) from ABB Inc. (ABB)<sup>1</sup>, Delta Star Transformers, Inc. (Delta Star)<sup>2</sup>, Northern Transformers Corp. (Northern Transformers)<sup>3</sup> and PTI Manitoba Inc. (PTI)<sup>4</sup>, all producers of large power transformers in Canada. The submissions made by ABB, Delta Star, Northern Transformer and PTI included information supporting their position that there is a likelihood of continued or resumed dumping of large power transformers from Korea if the CITT's order is rescinded.

[4] The CBSA received responses to its ERQ from the following Canadian importers of large power transformers: Hyundai Canada Inc. (Hyundai Canada)<sup>5</sup>, Hyundai Corporation USA<sup>6</sup> and Remington Sales Co. (Remington).<sup>7</sup> All of these importers purchase their product from Hyundai Electric & Energy Systems Co. Ltd. (HEES). None of these importers directly expressed an opinion on the likelihood of continued or resumed dumping of subject goods in their ERQ responses.

[5] The CBSA received responses to its ERQ from two exporters of subject goods: Hyosung Co. (Hyosung)<sup>8</sup> and HEES.<sup>9</sup> HEES is a new company created from Hyundai Heavy Industries, Co., Ltd. in April 2017. The submissions made by Hyosung and HEES included information supporting their position that the continued or resumed dumping of large power transformers from Korea is unlikely if the CITT's order is rescinded.

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<sup>1</sup> Exhibits 26 PRO & 27 NC – Response to ERQ – ABB.

<sup>2</sup> Exhibits 40 PRO & 41 NC – Response to ERQ – Delta Star.

<sup>3</sup> Exhibits 38 PRO & 39 NC – Response to ERQ – Northern Transformers.

<sup>4</sup> Exhibits 28 PRO & 29 NC – Response to ERQ – PTI.

<sup>5</sup> Exhibits 30 PRO & 31 NC – Response to importer ERQ – Hyundai Canada.

<sup>6</sup> Exhibits 34 PRO & 35 NC – Response to importer ERQ – Hyundai Corporation USA.

<sup>7</sup> Exhibits 32 PRO & 33 NC – Response to importer ERQ – Remington.

<sup>8</sup> Exhibits 24 PRO & 25 NC – Response to exporter ERQ – Hyosung.

<sup>9</sup> Exhibits 36 PRO & 37 NC – Response to exporter ERQ – HEES.

[6] The CBSA received case briefs on behalf of ABB and PTI<sup>10</sup>, Hyosung<sup>11</sup> and HEES<sup>12</sup>, and reply submissions on behalf of ABB and PTI<sup>13</sup>, Hyosung<sup>14</sup> and HEES.<sup>15</sup> The case brief and reply submission filed on behalf of HEES indicated that it was also on behalf of its related importers.

[7] The analysis of the information on the record indicates that Korean producers are export-oriented, which is likely to continue in the future; Korean exporters are facing declining sales for power transformers and weak future demand for power transformers in their home market; Korean producers/exporters have excess production capacity; there is increased competitive price pressure on sales of large power transformers in Canada; anti-dumping measures in other countries demonstrate that Korean exporters have a propensity to dump large power transformers; measures taken by the United States are likely to cause a diversion of dumped goods into Canada; and Anti-dumping duties have been assessed on subject goods imported into Canada during the period of review (POR).

[8] As a result, the CBSA made a determination under paragraph 76.03(7)(a) of SIMA that the expiry of the order in respect of the dumping of large power transformers originating in or exported from Korea is likely to result in the continuation or resumption of dumping of the goods into Canada.

## **BACKGROUND**

[9] On April 23, 2012, following a complaint filed by ABB and CG Power Systems Canada Inc. (now known as PTI), the CBSA initiated an investigation pursuant to subsection 31(1) of SIMA into the dumping of large power transformers originating in or exported from Korea.

[10] On October 22, 2012, the CBSA made a final determination of dumping, pursuant to subsection 41(1) of SIMA, in respect of large power transformers originating in or exported from Korea.

[11] On November 20, 2012, the CITT found pursuant to subsection 43(1) of SIMA that injury had been caused by the dumping of the goods originating in or exported from Korea. The CITT's *Statement of Reasons* for the finding was issued on December 5, 2012.<sup>16</sup>

[12] On November 21, 2012, an application for judicial review of the CBSA's final determination of dumping was made to the Federal Court of Appeal (FCA) by Hyundai Heavy Industries Co. Ltd., one of the parties to the investigation. On December 6, 2013, the FCA issued a decision that set aside the CBSA's final determination of dumping and referred the matter back to the CBSA for reconsideration in accordance with the Court's reasons.

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<sup>10</sup> Exhibits 56 PRO & 57 NC – Case Briefs on behalf of ABB and PTI.

<sup>11</sup> Exhibits 58 PRO & 60 NC – Case Briefs on behalf of Hyosung.

<sup>12</sup> Exhibits 54 PRO & 55 NC – Case Briefs on behalf of HEES.

<sup>13</sup> Exhibits 61 PRO & 62 NC – Reply Submissions on behalf of ABB and PTI.

<sup>14</sup> Exhibits 65 PRO & 66 NC – Reply Submissions on behalf of Hyosung.

<sup>15</sup> Exhibits 63 PRO & 64 NC – Reply Submissions on behalf of HEES.

<sup>16</sup> [http://www.citt-tcce.gc.ca/en/dumping/inquiry/findings/nq2m001\\_e](http://www.citt-tcce.gc.ca/en/dumping/inquiry/findings/nq2m001_e)

[13] On March 6, 2014, the CBSA made a new final determination of dumping, pursuant to subsection 41.1(1) of SIMA, in respect of large power transformers originating in or exported from Korea, which stemmed from the decision of the FCA made on December 6, 2013.

[14] On March 14, 2014, the CITT decided to conduct an interim review on its own initiative in order to determine if its finding of injury should be continued, with or without amendment, or rescinded in light of the new facts, i.e. the reduced margins of dumping in the CBSA's new final determination of dumping.

[15] On April 4, 2014, an application for judicial review of the President's new final determination was filed to the FCA by the Canadian manufacturers of large power transformers. On April 7, 2014, an application for judicial review was also filed to the FCA by Hyundai Heavy Industries Co. Ltd. and Hyundai Canada. The applications were heard consecutively at the FCA and on July 2, 2015, the FCA dismissed the applications.

[16] On May 31, 2016, the CITT issued an order, pursuant to paragraph 76.01(5)(a) of SIMA, continuing without amendment its finding of injury.

[17] On July 5, 2017, the CBSA concluded a re-investigation to update the normal values and export prices of large power transformers originating in or exported from Korea. Both Hyosung and HEES participated in the re-investigation and specific normal values for shipments on or after July 5, 2017 of large power transformers to Canada will be determined based on updated information provided by these two cooperative exporters.

[18] On July 25, 2017, the CITT initiated an expiry review of its order pursuant to subsection 76.03(3) of SIMA.<sup>17</sup>

[19] On July 26, 2017, the CBSA commenced an expiry review investigation to determine whether the expiry of the order is likely to result in continued or resumed dumping of the goods from Korea. The CBSA was required to make a determination no later than December 22, 2017.

## **PRODUCT DEFINITION**

[20] The goods subject to the order under review 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.

Additional product information can be found in **Appendix A**.

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<sup>17</sup> Exhibit 20 NC – CITT Notice of Initiation of Expiry Review.

## **CLASSIFICATION OF IMPORTS**

[21] Large power transformers are usually classified under the following 10-digit Harmonized System classification number:

8504.23.00.00

[22] Unassembled or incomplete large power transformers may also be imported under the following 10-digit Harmonized System classification numbers:

8504.90.90.10

8504.90.90.82

8504.90.90.90

[23] Note that these HS codes are for convenience of reference only. Refer to the product definition for authoritative details regarding the subject goods

## **PERIOD OF REVIEW**

[24] The period of review (POR) for the CBSA's expiry review investigation is January 1, 2014, to June 30, 2017.

## **CANADIAN INDUSTRY**

[25] The Canadian industry for large power transformers is currently comprised of ABB, Delta Star, Northern Transformers and PTI.

### **ABB**

[26] ABB is a global manufacturer of power transformer technologies and began producing power transformers in 1972. ABB's global head office is located in Zurich, Switzerland. Its Canadian head office is located in Ville St-Laurent, Quebec, and its plant is located in Varennes, Quebec. ABB was incorporated in Canada in 1988 as a result of the merger between ASEA AB and BBC Canada. In addition to power transformers and their components, the Varennes plant also produces other electrical products such as shunt reactors and converter transformers, although power transformers represent the most significant product manufactured in Varennes.

### **Delta Star**

[27] Delta Star Inc. is a producer of medium-large power transformers located in Saint-Jean-sur-Richelieu, Quebec. It purchased the facility from Alstom Grid Inc. in 2015. Delta Star's parent company, which owns 100% of the Canadian company, is based in Lynchburg, Virginia, United States. The Canadian facility has been producing large power transformers with a top power handling capacity of 300 megavolt amperes (MVA) since 2008.

## **Northern Transformers**

[28] Northern Transformers Inc. was founded in 1981 and mostly manufactured transformers up to 40 MVA. In 2012, a new entity, Northern Transformers, was formed as a result of the sale of the assets of Northern Transformers Inc. to new owners including its employees. In 2016, as a result of additional investment, the capability of the plant was increased to be able to produce larger power transformers (over 60 MVA).

## **PTI**

[29] PTI is a fully Canadian-owned subsidiary of PTI Holdings Corporation which manages the PTI Manitoba transformer manufacturing facility producing large power transformers. PTI Manitoba is a relatively new company. PTI Holdings Corporation acquired all the assets previously owned by CG Canada Inc. in November 2015, resulting in the creation of PTI Manitoba. Partner Technologies Incorporated, the sister company, located in Regina, Saskatchewan, produces and sells power transformers with a top power handling capacity of less than 60 MVA.

## **Associations**

[30] There are no producer-only associations that represent manufacturers of power transformers in Canada. However, the Electro-Federation of Canada, which represents more than 250 members across Canada, includes companies that manufacture, distribute, market and sell a wide range of electrical products including large power transformers.<sup>18</sup>

## **CANADIAN MARKET**

[31] The apparent Canadian market for large power transformers during the POR is presented in **Table 1** below. The CBSA cannot release specific quantitative data for sales from Korea as it relates to only two Korean companies and would lead to the disclosure of confidential information. As such information is presented in percentages only.

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<sup>18</sup> [www.electrofed.com](http://www.electrofed.com).



**Table 1**  
**Apparent Canadian Market for the Period of Review<sup>19</sup>**  
(Volume in Units and Value in \$)

Value (\$)				
Source	2014	2015	2016	2017 (Jan - Jun)
	%	%	%	%
Canadian Production	35.7%	37.9%	36.1%	30.3%
Republic of Korea	19.3%	15.0%	9.9%	8.5%
All Other Countries	45.0%	47.1%	53.9%	61.1%
Total- Imports	64.3%	62.1%	63.9%	69.7%
Total CDN Market	100%	100%	100%	100%

Quantity (units)				
Source	2014	2015	2016	2017 (Jan - Jun)
	%	%	%	%
Canadian Production	33.3%	27.4%	31.9%	33.3%
Republic of Korea	27.0%	20.0%	14.9%	19.2%
All Other Countries	39.6%	52.6%	53.2%	47.4%
Total- Imports	66.7%	72.6%	68.1%	66.7%
Total CDN Market	100%	100%	100%	100%

### Canadian Production

[32] Based on the figures presented in Table 1, the Canadian producers' share of the apparent Canadian market, in terms of the total dollar value, was 35.7% in 2014, 37.9% in 2015, 36.1% in 2016, and 30.3% in the first half of 2017. The Canadian producers' share of the apparent Canadian market, as a percentage of the total volume, was 33.3% in 2014, 27.4% in 2015, 31.9% in 2016, and 33.3% in the first half of 2017. The data reveals that the Canadian producers' share of the apparent Canadian market fluctuated slightly from 2014 to 2017. It is noteworthy that the Canadian producers' quantity and value sold in the first half of 2017 had already reached the entire sales from Canadian production obtained in 2015.

<sup>19</sup> Exhibit 52 PRO – CBSA Import and Enforcement Statistics.



## **Imports – Korea**

[33] As seen in Table 1, during the POR, the total dollar value of the imports of subject goods from Korea as a percentage of the apparent Canadian market was 19.3% in 2014, 15.0% in 2015, 9.9% in 2016, and 8.5% in the first half of 2017. The volume of imports from Korea as a percentage of the apparent Canadian market was 27.0% in 2014, 20.0% in 2015, 14.9% in 2016, and 19.2% in the first half of 2017. The data indicates that the imports of subject goods from Korea decreased from 2014 to 2016, but increased based on the first half of 2017 in comparison to 2016. In terms of quantity, large power transformers imported from Korea in the first half of 2017 have already exceeded the quantity for the entire year of 2016.

## **Imports – Other Countries**

[34] Also in Table 1, during the POR, the total dollar value of the imports of large power transformers from other countries (i.e., the non-named countries) as a percentage of the apparent Canadian market was 45.0% in 2014, 47.1% in 2015, 53.9% in 2016, and 61.1% in the first half of 2017. The volume of imports from other countries as a percentage of the apparent Canadian market was 39.6% in 2014, 52.6% in 2015, 53.2% in 2016, and 47.4% in the first half of 2017. In terms of value, the data shows that the imports of large power transformers from other countries increased from 2014 to the first half of 2017. In terms of volume, the data shows that the imports of large power transformers from other countries increased from 2014 to 2016, with a slight decrease in the first half of 2017. These imports originate in a number of countries, with Germany and the United States being significant sources during the POR.

## **ENFORCEMENT DATA**

[35] As a result of the limited number of parties involved, detailed information regarding the value, volume and SIMA duties assessed on subject imports cannot be divulged for confidentiality reasons. Anti-dumping duties were imposed on approximately 50 percent of the large power transformers imported into Canada during the POR.

## **PARTIES TO THE PROCEEDINGS**

[36] On July 26, 2017, the CBSA sent a notice concerning the initiation of the expiry review investigation and ERQs to known Canadian producers, importers and exporters.

[37] The ERQs requested information needed to consider the expiry review factors, as found in subsection 37.2(1) of the *Special Import Measures Regulations* (SIMR), relevant to this expiry review investigation.

[38] Four Canadian producers ABB<sup>20</sup>, PTI<sup>21</sup>, Northern Transformers<sup>22</sup> and Delta Star<sup>23</sup> participated in the expiry review investigation and responded to the ERQs. Three Canadian importers: Hyundai Canada<sup>24</sup>, Hyundai Corporation USA<sup>25</sup> and Remington<sup>26</sup> and two exporters of subject goods: HEES<sup>27</sup> and Hyosung<sup>28</sup> also participated in the expiry review investigation and provided ERQ responses.

[39] Case briefs and reply submissions were received on behalf of the complainants ABB and PTI<sup>29</sup>, Hyosung<sup>30</sup> and jointly from HEES, Hyundai Canada, Remington and Hyundai Corporation USA.<sup>31</sup>

## **INFORMATION CONSIDERED BY THE CBSA**

### **Administrative Record**

[40] The information considered by the CBSA for purposes of this expiry review investigation is contained on the administrative record. The administrative record includes the exhibits listed on the CBSA's Exhibit Listing, which is comprised of the CITT's administrative record relating to the initiation of the expiry review, CBSA exhibits and information submitted by interested persons, including information which they feel is relevant to the decision as to whether dumping is likely to continue or resume, if the order is rescinded. This information may consist of expert analyst reports, excerpts from trade magazines and newspapers, orders and findings issued by authorities of Canada or of a country other than Canada, documents from international trade organizations such as the World Trade Organization and responses to the ERQs submitted by domestic producers, importers, exporters and foreign governments.

[41] For purposes of an expiry review investigation, the CBSA sets a date after which no new information submitted by interested parties may be placed on the administrative record or considered as part of the CBSA's investigation. This is referred to as the closing of the record date. This allows participants time to prepare their case briefs and reply submissions based on the information that is on the record as of the date the record closed. For this expiry review investigation, the record closed on September 18, 2017. There were no procedural issues surrounding the information submitted on the record.

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<sup>20</sup> Exhibit 26 PRO & 27 NC – Response to ERQ – ABB.

<sup>21</sup> Exhibit 28 PRO & 29 NC – Response to ERQ – PTI.

<sup>22</sup> Exhibit 38 PRO & 39 NC – Response to ERQ – Northern Transformers.

<sup>23</sup> Exhibit 40 PRO & 41 NC – Response to ERQ – Delta Star.

<sup>24</sup> Exhibit 30 PRO & 31 NC – Response to importer ERQ – Hyundai Canada.

<sup>25</sup> Exhibit 34 PRO & 35 NC – Response to importer ERQ – Hyundai Corporation USA.

<sup>26</sup> Exhibit 32 PRO & 33 NC – Response to importer ERQ – Remington.

<sup>27</sup> Exhibit 36 PRO & 37 NC – Response to exporter ERQ – HEES.

<sup>28</sup> Exhibit 24 PRO & 25 NC – Response to exporter ERQ – Hyosung.

<sup>29</sup> Exhibit 56 PRO & 57 NC – Case Briefs on behalf of ABB and PTI and Exhibits 61 PRO & 62 NC – Reply Submissions on behalf of ABB and PTI.

<sup>30</sup> Exhibit 58 PRO & 60 NC- Case Briefs and Exhibit 65 PRO & 66 NC – Reply Submissions on behalf of Hyosung.

<sup>31</sup> Exhibit 54 PRO & 55 NC- Case Briefs and Exhibit 63 PRO & 64 NC – Reply Submissions on behalf of HEES.

## POSITION OF THE PARTIES

### *Parties Contending that Continued or Resumed Dumping is Likely*

#### **ABB and PTI**

[42] ABB and PTI (the complainants) made representations through their responses to the ERQ, their case brief and reply submission in support of the position that dumping from Korea is likely to continue or resume in the event the present order is rescinded. Consequently, the complainants argued that the measures should remain in place.

[43] The main factors identified by the complainants can be summarized as follows:

- Korean imports cannot compete at non-dumped prices;
- The decreased growth rate in the Korean market is leading to an increased reliance on export markets;
- Excess production capacity available to the Korean exporters;
- Stable large power transformers market in Canada;
- Imposition of anti-dumping measures by other countries;
- Price remains the key sales factor in the power transformers industry;
- Recent move by Canadian power utility companies to adopt “open blankets”; and,
- Korean exporters’ loss of important sales in the Middle East.

#### Korean imports cannot compete at non-dumped prices

[44] Subsequent to the CITT’s injury finding in 2012 concerning large power transformers from Korea, imports of subject goods have declined substantially. The complainants argue that this trend of decreasing exports of large power transformers from Korea is “evidence of the fact that the subject goods cannot compete in the Canadian market at normal values”<sup>32</sup> or in other words, at undumped prices. This is consistent with the increase in ABB’s orders after the finding in 2012.

[45] The complainants also argue that the CITT has previously interpreted the assessment of anti-dumping duties to reflect an apparent inability to compete in the Canadian market at non-dumped prices.<sup>33</sup> As a result, the complainants maintain that, in order for Korean exporters to penetrate mature and existing markets, they must undercut prices and this leads to a likelihood of dumping.<sup>34</sup>

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<sup>32</sup> Exhibit 57 NC – Case Briefs on behalf of ABB and PTI at page 4.

<sup>33</sup> Exhibit 57 NC – Case Briefs on behalf of ABB and PTI at page 7.

<sup>34</sup> Exhibit 28 PRO – Response to ERQ – PTI at Q27.

The decreased growth rate in the Korean market is leading to an increased reliance on export markets

[46] The complainants provided an excerpt from HEES's Registration of Securities for 2017 filed with the Korean Financial Services Commission on September 11, 2017. Based on this information, the complainants indicate that the Korean domestic market is contracting. According to the same report, the Korean domestic energy industry is mature and thus demand is primarily for the replacement of transformers.<sup>35</sup> As such, the complainants argued that the demand in the Korean domestic market would also decrease and lead to an increasing number of Korean producers seeking sales in export markets. According to the Korea Electrical Manufacturers Association's 2017 Electrical Industry Forecast Report, the value of Korean production of transformers decreased by more than 20% between 2014 and 2016.<sup>36</sup> Further, it reported that the Korean Electric Power Corporation (KEPCO), a state-owned electricity supplier, continues to reduce its investments which will result in a reduction in orders for large power transformers and cause corresponding excess capacity for the Korean producers of transformers. The complainants note that KEPCO is the dominant player in Korea since it controls 80% of the Korean power market with its major subsidiaries and affiliated companies.<sup>37</sup>

[47] Furthermore, according to the complainants' reply submission, the Korean government is planning to reduce nuclear and coal powered energy generation by the introduction of a new energy policy.<sup>38</sup> The cancellation of these power plants will result in the cancellation of contracts for which HEES was supposed to be the supplier of large power transformers.<sup>39</sup>

[48] The complainants stated that HEES is also involved in court proceedings that could impact its ability to sell large power transformers in the Korean market as its former corporate entity, Hyundai Heavy Industries Co. Ltd., was found by the Korean government to have been involved in a bribery scandal related to the construction of a nuclear power plant in the United Arab Emirates, and on January 13, 2015 an order was issued that suspended them from participating in KEPCO purchases for 2 years.<sup>40</sup>

[49] In conclusion, the complainants argue that this decreasing demand in the Korean market will lead to additional focus by the Korean manufacturers on export markets, including Canada.

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<sup>35</sup> Exhibit 49 NC – Close of record submission ABB.

<sup>36</sup> Exhibit 22 NC – CITT's administrative record at LE-2017-001-02.01 – Submission of ABB and PTI at paragraph 39.

<sup>37</sup> Exhibit 27 NC – Response to ERQ – ABB at Attachment Q32-01.

<sup>38</sup> Exhibits 62 NC – Reply Submissions on behalf of ABB and PTI at page 9.

<sup>39</sup> Exhibit 49 NC – Close of record submission – ABB at Attachment 1 at page 8 and Attachment 8.

<sup>40</sup> Exhibit 57 NC – Case Briefs on behalf of ABB and PTI at page 14.

### Excess production capacity available to the Korean exporters

[50] The complainants contend that the Korean exporters of large power transformers have a substantial and growing excess capacity while the demand in Korea for transformers has been decreasing and is forecast to continue to decrease. As evidence, the complainants provided production capacity information of a selection of exporters from Korea.<sup>41</sup> During the POR, the Korean economy has experienced an economic slowdown leading to a decline in electricity demand and consequently, a decrease in production of electric and electro equipment.<sup>42</sup> As a result of this economic contraction, HEES has indicated that its share of sales of power transformers has dropped significantly from 54% to 43%, between 2015 and the first half of 2017.<sup>43</sup> Likewise, Hyosung has experienced a decline in sales for its heavy industries division (which includes large power transformers), dropping from Korean Won (KRW) 938 billion in 2015 to KRW 858 billion in 2016.<sup>44</sup>

[51] The complainants also noted that the Korean exporters have significantly increased their production capacity even if available data and market predictions don't indicate any major increase in demand in the Korean market.

[52] In the case of HEES, the complainants argue that it has increased its capacity more than 20% between 2013 and 2017 reaching an annual capacity of 121,400 MVA.<sup>45</sup> As such, the complainants argue that HEES had excess capacity available for production during the POR.<sup>46</sup> Similarly, the complainants argue that Hyosung also had excess capacity available for the production of large power transformers.<sup>47</sup> Given HEES and Hyosung's excess production capacity of power transformers, the complainants argue that the producers will be seeking out sales in export markets in order to maintain or increase their capacity utilization.<sup>48</sup>

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<sup>41</sup> Exhibit 27 NC – Response to ERQ – ABB at Q31.

<sup>42</sup> Exhibit 57 NC – Case Briefs on behalf of ABB and PTI at page 10.

<sup>43</sup> *Ibid.*

<sup>44</sup> Exhibit 57 NC – Case Briefs on behalf of ABB and PTI at page 11 and Exhibit 27 NC – Response to ERQ – ABB at Q31(b)-3 at 50-51.

<sup>45</sup> Exhibit 57 NC – Case Briefs on behalf of ABB and PTI at page 17.

<sup>46</sup> Exhibit 56 PRO – Case Briefs on behalf of ABB and PTI at page 18.

<sup>47</sup> *Ibid.*

<sup>48</sup> Exhibit 27 NC – Response to ERQ – ABB at Q32.



### Stable large power transformers market in Canada

[53] Based on the market intelligence and analysis by ABB's sales force, the complainants predict that there are a number of key bids coming within the next one to two years.<sup>49</sup> However, the growth in electricity generation is expected to remain unchanged, as the demand for large power transformers in the Canadian market is expected to be relatively stable in the future.<sup>50</sup> In its ERQ response, ABB provided a forecast based on "*The World Market for T&D Equipment and Systems 2015 – 2025, June 2016*" from Goulden Reports that corroborated the statement made regarding a stable market in Canada in the future.<sup>51</sup>

[54] In their responses to the ERQ, both ABB and PTI indicated that there are several blanket contracts involving a number of power companies expected in the near future. The complainants state that these contracts will be vital for Canadian producers.<sup>52</sup>

[55] In summary, the demand for large power transformers in Canada will continue to be steady. Despite the prediction of important upcoming sales, the market demand will essentially be for the replacement of aging assets rather than new projects. The complainants state that the next 12 to 24 months will be a decisive period for the Canadian producers to win these bids.<sup>53</sup>

### Imposition of anti-dumping measures by other countries

[56] The complainants argued that anti-dumping measures against Korean producers and exporters in place in other jurisdictions prove their past tendency to dump into exports markets. The United States Department of Commerce (USDOC) made an affirmative final determination in the anti-dumping duty investigation of large power transformers from Korea in 2012, which remains in effect.<sup>54</sup>

[57] Also, on September 24, 2014, the Argentina Republic's Direction of Unfair Competition made a final determination of dumping concerning its investigation of three-phase liquid-dielectric transformers of 10 MVA to 600 MVA from Korea and China, and imposed anti-dumping duty for five years.<sup>55</sup>

[58] From the complainants' perspective, these findings reveal that Korean exporters of large power transformer have the tendency to dump into export markets.

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<sup>49</sup> *Ibid* at Q27.

<sup>50</sup> Exhibit 27 NC – Response to ERQ – ABB at Q27, Q28 & Q29.

<sup>51</sup> Exhibit 26 PRO – Response to ERQ – ABB at attachment Q27-2.

<sup>52</sup> Exhibit 27 NC – Response to ERQ – ABB at Q27 and Exhibit 29 NC – Response to ERQ – PTI at Q32.

<sup>53</sup> Exhibit 27 NC – Response to ERQ – ABB at Q27.

<sup>54</sup> Exhibit 57 NC – Case Briefs on behalf of ABB and PTI. at page 21.

<sup>55</sup> *Ibid* at page 22.

### Price remains the key sales factor in the power transformers industry

[59] The complainants argue that price has traditionally been the primary tool for competition and marketing for the Korean exporters of large power transformers.<sup>56</sup> To support their arguments the complainants submitted data summarizing export statistics from Korean Customs which shows the average unit selling values of Korean exports over the 2014 to 2016 period for tariff code 8504.23, the HS code that comprises large power transformers. Based on this information, the complainants noted that the average unit values of exports to Canada and the United States were definitely higher than other top export destinations which could be explained by the anti-dumping orders in place. For the other countries, Saudi Arabia, Algeria, Qatar and Indonesia, the average unit selling price was lower than in the United States and Canada but also decreased between 2014 and 2016.<sup>57</sup>

[60] The complainants also argued that HEES indicated that it was struggling with the strong price competition. According to HEES, “the market is becoming driven by price competition” and “becoming increasingly difficult to achieve both orders and profitability”.<sup>58</sup> The complainants also state that European and Japanese producers of large power transformers have recently been experiencing favorable exchange rates, thereby increasing their price competitiveness. Together, with late competitors from China (Xian and TBEA) and India (CGL) seeking to expand their markets, the price competition will impact future sales worldwide.<sup>59</sup>

[61] The complainants allege that, as a result of strong competition, mainly price based, the sales of large power transformers will continue to experience downward price pressure. The complainants believe that without dumping measures in place, importers will continue to import dumped products into the Canadian market.<sup>60</sup>

### Recent move by Canadian power utility companies to adopt “open blankets”

[62] In their ERQ responses, both ABB and PTI raise a concern regarding a recent change in the Canadian market that is resulting in increased price competition. A number of Canadian utility companies have adopted “open blankets”, whereby a purchaser qualifies multiple suppliers and the purchaser then orders a transformer from one of the qualified suppliers. In open blankets, qualified suppliers are forced to re-compete on price even after blanket agreements are concluded. As such, suppliers qualified in open blanket agreements may be forced to provide further price discounts in order to be awarded with purchase orders.<sup>61</sup>

[63] The complainants argue that, in the absence of the CITT’s order, this increased price competition will lead to Korean exporters dumping large power transformers into the Canadian market in order to obtain sales.

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<sup>56</sup> Exhibit 27 NC – Response to ERQ – ABB at Q13.

<sup>57</sup> Exhibit 57 NC – Case Briefs on behalf of ABB and PTI at page 24.

<sup>58</sup> *Ibid* at page 11.

<sup>59</sup> *Ibid* at pages 15 and 17.

<sup>60</sup> *Ibid* at pages 13 and 26.

<sup>61</sup> Exhibit 27 NC– Response to ERQ – ABB at Q13 and Exhibit 29 NC– Response to ERQ – PTI at Q25.



### Korean exporters' loss of important sales in the Middle East

[64] The complainants allege that the Korean exporters of subject goods are experiencing decreasing demand in their primary export market, the Middle East.<sup>62</sup> The complainants report that the demand for large power transformers will remain weak in this market. They state that, the Middle East has “suffered delays and cancellation in electric infrastructure investments due to oil price declines, which resulted in shrinking government budgets”.<sup>63</sup> This in turn, will impact HEES and Hyosung since this territory represents an important market for both of these exporters.<sup>64</sup>

[65] The complainants state that, according to the market forecast entitled “*The World Markets for Transformers, 2015 – 2025, March 2015*” from Goulden Reports (the 2015 Goulden Report), growth in the Middle East appears to be weak, from 2015 to 2020.<sup>65</sup>

[66] According to the complainants, this decline in the Middle East demand was confirmed by HEES’ Director of Sales, Mr. Lee Chang Ho in a recent interview in *The Korea Electric Power News*. According to Mr. Lee, there is a general world-wide economic depression in market conditions for high-voltage electric equipment that has resulted in a dramatic decline in new order volumes in 2017 compared to the year before in the Middle Eastern market in particular.<sup>66</sup> Similarly, the complainants also allege that declines in new order volumes in Middle Eastern markets will also negatively affect Hyosung’s performance by referencing an excerpt from the Business Post from June 28, 2017 in which it indicates that “exports to Middle East are estimated to have declined as the Middle Eastern economy has stagnated and competition has intensified during the second quarter {2017}”.<sup>67</sup>

[67] Moreover, Siemens recently entered a framework agreement with the Saudi Arabian government relating to its Saudi National Industrial Clusters Development Program. The complainants allege that this represents a significant lost opportunity for Korean exporters of large power transformers into the future.<sup>68</sup> According to the complainants, the failure of Korean exporters to secure this framework agreement represents considerable potential lost sales in Saudi Arabia as this program is estimated at one billion Euros in infrastructure equipment purchases, including many large power transformers.<sup>69</sup>

[68] Under these circumstances, the complainants argue that it is reasonable to expect that the Korean exporters will strive for alternative markets such as Canada, particularly if the CITT’s order on large power transformers is allowed to expire.<sup>70</sup>

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<sup>62</sup> Exhibit 49 NC – Close of record Submission – ABB at Attachment 1 at page 6

<sup>63</sup> *Ibid*, at Attachment 1 at page 6 and Attachment 12.

<sup>64</sup> Exhibit 57 NC – Case Briefs on behalf of ABB and PTI at pages 8-9.

<sup>65</sup> Exhibit 56 PRO – Case Briefs on behalf of ABB and PTI at page 16.

<sup>66</sup> Exhibit 49 NC – Close of record submission – ABB at Attachment 6.

<sup>67</sup> *Ibid*, Attachment 12.

<sup>68</sup> Exhibit 29 NC – Response to ERQ – PTI at Q29.

<sup>69</sup> Exhibit 57 NC – Case Briefs on behalf of ABB and PTI at page 15.

<sup>70</sup> *Ibid* at pages 15-16.

***Parties Contending that Continued or Resumed Dumping is Unlikely***

**HEES, Hyundai Canada, Remington and Hyundai Corporation USA (collectively, HEES) and Hyosung.**

[69] HEES and Hyosung made representations through their responses to the ERQs, in case arguments and reply briefs in support of the position that dumping from Korea is unlikely to continue or resume in the event the present order is rescinded. Consequently, they argued that the measures should not remain in place.

[70] The main factors identified by HEES and Hyosung can be summarized as follows:

- The assessment of anti-dumping duties during the POR is technical and is the result of the time lag between bids and orders due to long term contracts;
- Korean exporters have almost no excess production capacity;
- Market conditions in Canada and Korea remain stable and a strong demand is expected from other markets; and,
- Anti-dumping orders in other jurisdictions do not indicate a likelihood of dumping.

**The assessment of anti-dumping duties during the POR is technical and is the result of the time lag between bids and orders due to long term contracts**

[71] HEES claims that, while anti-dumping duties were assessed on some of its exports to Canada during the POR, an examination of the total of all transactions during the period reveal that, the weighted average margin of dumping was negative.<sup>71</sup>

[72] HEES also argues that the assessment of anti-dumping duties was due to the nature of the goods in that it is a function of the long delay between bids and orders that are the result of the use of long term contracts. As a result, in some cases “technical dumping” occurred due to fluctuations in the currency exchange rate between the time of the tender, the date of the actual order, and subsequent fabrication and shipment of the transformer to Canada.

**Korean exporters have almost no excess production capacity**

[73] HEES reported in its ERQ response that its capacity utilization was very high in the first half of 2017. For this reason, it argues that there is no way for HEES to increase sales destined to the Canadian market. To demonstrate this fact, HEES provided capacity utilization data relating to its Ulsan facility, details of which cannot be disclosed due to confidentiality reasons.<sup>72</sup>

[74] HEES also mentioned that the CBSA should disregard the target set of KRW680 billion by HEES in its “Vision 2021 strategy” because it applies to all of the company’s business lines of which only a portion of HEES sales relate to power transformers.<sup>73</sup>

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<sup>71</sup> Exhibit 55 NC – Case Briefs on behalf of HEES at page 3.

<sup>72</sup> Exhibit 36 PRO – Response to exporter ERQ – HEES at Appendix 1.

<sup>73</sup> Exhibit 55 NC – Case Briefs on behalf of HEES at pages 5-6.

Market conditions in Canada and Korea remain stable and a strong demand is expected from other markets

[75] HEES further argued that the market situation is expected to be stable in Canada and will remain the same in the Korean market.

[76] With regard to legal proceedings in Korea relating to bribery convictions resulting in HEES' two-year suspension from participating in KEPCO purchases, HEES argued that this relates to Hyundai Heavy Industries, its former corporate entity, and these issues should not impact future sales between HEES and KEPCO. HEES also stressed that the allegations are being appealed via the Korean court system and therefore could result in the suspension being overturned.<sup>74</sup>

[77] Further, HEES forecast that the demand for large power transformers in the Middle East and Asia will remain strong in the near term because countries in these regions are expanding their electrical grids.<sup>75</sup> Moreover, HEES argues that, it is premature to assume that it will not be able to bid on future transformer contracts in Saudi Arabia just because it wasn't awarded the contract for the Saudi National Industrial Clusters Project, as the scope of these projects is very large.<sup>76</sup>

[78] For its part, Hyosung provided a number of details that point to the fact that its future performance will remain stable and that the continuation or resumption of dumping is not likely.<sup>77</sup>

Anti-dumping orders in other jurisdictions do not indicate a likelihood of dumping

[79] According to HEES, the anti-dumping findings in Argentina, Australia and the United States do not indicate that there is a propensity for HEES to dump large power transformers.

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<sup>74</sup> *Ibid.* at page 7.

<sup>75</sup> *Ibid.*

<sup>76</sup> *Ibid.*

<sup>77</sup> Exhibit 60 NC – Case Briefs on behalf of Hyosung at pages 2 -3.

[80] First, with regard to the United States finding, HEES states that it has continuously cooperated with the USDOC, and the recent determination by the USDOC to apply adverse facts available against HEES has been appealed.<sup>78</sup> As such, the CBSA should disregard the USDOC's decision as part of its analysis for this expiry review proceeding. Similarly, HEES states that the CBSA should not give any weight to the Argentinian anti-dumping proceedings because (i) Hyundai (now HEES) did not participate in the investigation due to a lack of sales volumes, (ii) the 52%<sup>79</sup> margin of dumping determined by the Argentinian authorities does not appear to be WTO compliant, and (iii) the anti-dumping order was suspended as soon as it was made and that suspension appears to have been extended. Finally, HEES indicated that it participated in the Australian proceedings and was found not to have dumped the power transformers subject to that investigation. Furthermore, it stated that the Australian investigation determined that the actual volume of transformers exported from Korea at dumped prices was negligible and, as a result, terminated its investigation involving transformers from Korea.<sup>80</sup> For these reasons HEES maintains that the CBSA shouldn't give any credibility to these dumping determinations in other jurisdictions.

## **CONSIDERATION AND ANALYSIS**

[81] In making a determination under paragraph 76.03(7)(a) of SIMA whether the expiry of the order is likely to result in the continuation or resumption of dumping of the goods, the CBSA may consider the factors identified in subsection 37.2(1) of the SIMR, as well as any other factors relevant under the circumstances.

## **LIKELIHOOD OF CONTINUED OR RESUMED DUMPING**

[82] Guided by the factors in subsection 37.2(1) of the SIMR and having considered the information on the administrative record, the following is a summary of the CBSA's analysis conducted in this expiry review investigation with respect to dumping:

- Korean producers are export-oriented, which is likely to continue in the future;
- Korean exporters are facing declining sales for power transformers and weak future demand for power transformers in their home market;
- Korean producers/exporters have excess production capacity;
- Increased competitive price pressure on sales of large power transformers in Canada;
- Anti-dumping measures in other countries demonstrate that Korean exporters have a propensity to dump large power transformers;
- Measures taken by the United States are likely to cause a diversion of dumped goods into Canada; and,
- Anti-dumping duties have been assessed on subject goods imported into Canada during the period of review.

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<sup>78</sup> Exhibit 55 NC – Case Briefs on behalf of HEES at page 8.

<sup>79</sup> Exhibit 23 NC – Argentina – Anti-dumping Measures on Transformers exported from South Korea at page 12.

<sup>80</sup> Exhibit 55 NC – Case Briefs on behalf of HEES at page 8.

[83] As indicated earlier, the CBSA received ERQ responses relating to this expiry review investigation concerning certain liquid dielectric transformers from four Canadian producers (ABB, PTI, Northern Transformer and Delta Star), three Canadian importers (Hyundai Canada, Hyundai Corporation USA and Remington) and two exporters (HEES and Hyosung). The CBSA also received case briefs and reply submissions on behalf of ABB and PTI (the complainants), Hyosung and HEES.

[84] The CBSA relied on information submitted from these parties, as well as other information on the administrative record for purposes of the expiry review investigation.

[85] Both Hyosung and Hyundai Heavy Industries (now known as HEES) participated in the original investigation and the subsequent re-investigation of the normal values and export prices of certain liquid dielectric transformers from Korea. The continued participation by these exporters, including in this expiry review investigation, suggests they are interested in participating in the Canadian market.

Korean producers are export-oriented, which is likely to continue in the future

[86] As noted by the complainants, Korean producers of large power transformers are export-oriented. Table 2a and 2b below provide a summary of the sales reported by HEES and Hyosung in their domestic and export markets. The CBSA cannot release specific quantitative data for sales from Republic of Korea as it relates to only two Korean companies and would lead to the disclosure of confidential information. As such information is presented in percentages only.

**Table 2a**  
**Sales of Large Power Transformers (Units)**  
**by HEES and Hyosung<sup>81</sup>**

Market	2014	2015	2016	Jan – Jun 2016	Jan – Jun 2017
	%	%	%	%	%
Korea	24.2%	17.8%	13.4%	10.2%	17.3%
Canada	6.3%	4.9%	3.2%	3.3%	5.1%
Middle East:	26.6%	45.8%	43.2%	46.3%	35.4%
Other Exports	42.9%	31.4%	40.2%	40.2%	42.1%
Total Exports	75.8%	82.2%	86.6%	89.8%	82.7%
Total Sales	100%	100%	100%	100%	100%

<sup>81</sup> Exhibit 36 PRO – Response to exporter ERQ – HEES at Appendix 2 and Exhibit 24 PRO – Response to exporter ERQ – Hyosung at Appendix 2.

**Table 2b**  
**Sales of Large Power Transformers (Value in KRW)**  
**by HEES and Hyosung<sup>82</sup>**

Market	2014	2015	2016	2016 Jan 1 to Jun 30	2017 Jan 1 to Jun 30
	%	%	%	%	%
Korea	19.9%	15.3%	12.0%	7.7%	12.0%
Canada	6.5%	4.2%	3.4%	4.4%	5.0%
Middle East	26.8%	42.7%	38.7%	44.2%	26.7%
Other exports	46.8%	37.8%	46.0%	43.7%	56.4%
Total Exports	80.1%	84.7%	88.0%	92.3%	88.0%
Total Sales	100%	100%	100%	100%	100%

[87] As seen in Table 2a above, HEES and Hyosung's volume of exports of large power transformers as a percentage of all sales was 75.8% in 2014, 82.2% in 2015, 86.6% in 2016 and 82.7% in the first half of 2017. Similarly, when examining HEES and Hyosung's value of exports of large power transformers in Table 2b, the percentage of export sales to total sales was 80.1% in 2014, 84.7% in 2015, 88.0% in 2016 and 88.0% in the first half of 2017. Indeed, the share of domestic sales for these companies has decreased between 2014 and 2017 and remains a small proportion of their overall sales and indicates that HEES and Hyosung, are export-oriented and dependent on export markets for sales.

[88] Furthermore, according to HEES' Registration of Securities filed with the Korean Financial Services Commission on September 11, 2017, "as the domestic energy industry has matured, infrastructure investments have stagnated".<sup>83</sup> This results in HEES turning its focus to export markets, as according to this same filing, HEES states "This company is trying to increase sales in overseas tenders in order to boost its sales revenue".<sup>84</sup>

[89] As can be seen in Tables 2a & 2b above, the Middle Eastern market is an important market for the both HEES and Hyosung.

<sup>82</sup> *Ibid* at Appendix 3.

<sup>83</sup> Exhibit 49 NC – Close of record Submission – ABB at Attachment 1 at page 4.

<sup>84</sup> *Ibid* at pages 63-64.



[90] An excerpt from HEES' 2017 Q2 financial review suggests that the sustained depression of oil prices has led major Middle East countries like Saudi Arabia to reduce expenditures on infrastructure, including power generation and the electrical grid.<sup>85</sup> According to HEES' Registration of Securities filed with the Korean Financial Services Commission on September 11, 2017, there is a decrease in demand in the Middle Eastern market and according to the report, "In 2015, low oil prices have led to the contraction of infrastructure investments in energy industry and weakened profitability, which has in turn resulted in a depression of electric and electro equipment market".<sup>86</sup> The report further states "The Middle Eastern market, which is our primary market, has suffered delays or cancellations in electric infrastructure investments due to oil price decline, which resulted in shrinking government budgets".<sup>87</sup>

[91] Additionally, the Saudi Arabian government recently entered a framework agreement with Siemens relating to its Saudi National Industrial Clusters Development Program.<sup>88</sup> This program is estimated at one billion Euros in infrastructure equipment purchases, including many large power transformers. It is unclear at this stage whether the Korean exporters will be able to compete for transformers that will form part of this development and, therefore, this may represent significant future lost opportunity for Korean exporters of large power transformers in a significant export market.

[92] There is also evidence on the record indicating that there is increased competition in various export markets. According to HEES' Registration of Securities filed with the Korean Financial Services Commission on September 11, 2017, "Advanced companies in Europe and Japan have increased price competitiveness [globally] by taking advantage of favorable exchange rates, while late entrants from China and India are expanding market penetration in the North American and Middle Eastern markets".<sup>89</sup> According to the Frost & Sullivan Global Transformer Market Report, "The global transformer market has been facing an overcapacity of production due to a high influx of manufacturing companies from Asia in the past 10 years. It faces intense competition from manufacturers in India, China, and South Korea, which sell low-cost transformers in Europe and North America with prices reduced by nearly 30%-50%".<sup>90</sup>

[93] In summary, HEES and Hyosung are export-oriented producers that are experiencing increased competition in their traditional export markets, which will bring added competitive pressure on pricing of large power transformers in these markets. Due to its relatively stable economy, Canada is considered to be an attractive market for Korean exporters of large power transformers.<sup>91</sup> As a result, it is likely that the Canadian market will continue to be attractive to the Korean exporters in the absence of the CITT order.

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<sup>85</sup> Exhibit 27 NC – Response to ERQ – ABB at Q31(b)-3 at 001780.

<sup>86</sup> Exhibit 49 NC – Close of record Submission – ABB Attachment 1 at page 3.

<sup>87</sup> *Ibid* at page 6.

<sup>88</sup> Exhibit 29 NC – Response to ERQ – PTI at Q29.

<sup>89</sup> Exhibit 49 NC – Close of record Submission – ABB at Attachment 1 at page 3.

<sup>90</sup> Exhibit 36 PRO – Response to Exporter ERQ – HEES at Exhibit Q37-2, Frost & Sullivan Global Transformer Market (2016).

<sup>91</sup> Exhibit 36 PRO – Response to Exporter ERQ – HEES at Exhibit Q37-2, Frost & Sullivan Global Transformer Market (2016), page 97.



Korean exporters are facing declining sales for power transformers and weak future demand for power transformers in their home market

[94] As shown in Tables 2a and 2b, HEES and Hyosung have experienced declining sales of large power transformers in their home market. The volume of units sold has decreased from 24% of total sales in 2014 to 13% in 2016, and was 17% in the first half of 2017. In terms of value, the sales represented 20% in 2014 and decreased to 12% in 2016 and remained at 12% in the first half of 2017.

[95] The largest purchaser of transformers in Korea is KEPCO. According to information provided by HEES in its ERQ response, KEPCO represents approximately 70% of HEES' domestic sales of large power transformers.<sup>92</sup> Indeed, KEPCO controls 80% of the market share in the Korean power market when its subsidiaries are included, which makes KEPCO the dominant player in the domestic market for large power transformers.<sup>93</sup>

[96] According to KEPCO's September 2017 Forecast, its capital expenditure plan indicates expenditures of KRW15,346 billion in 2017 and KRW16,386 billion in 2018.<sup>94</sup> This indicates that the major purchaser of transformers in Korea will continue a consistent purchasing pattern.

[97] Moreover, additional instability has been created in the Korean market with the announcement by the Korean government that it is cancelling construction plans involving the Shin-Go-Ri Nuclear Power Reactors #5 and #6 and also that it is planning for the country to become nuclear-free.<sup>95</sup> While there are provisions for suppliers to be compensated for the cancellation, uncertainty will remain in the Korean marketplace while decisions are made with regard to future power generation, thereby negatively impacting the domestic demand for the large power transformers in the short term.

[98] Based on the foregoing, there is evidence that HEES and Hyosung have experienced a decline in domestic sales of large power transformers during the POR. In the near term, it would appear that the Korean market will be stable and may in fact decline slightly, the result of which will be continued focus by the Korean exporters on export markets, including Canada.

Korean producers/exporters have excess production capacity

[99] Table 3 below provides a summary of capacity utilization rates from 2014 to the first half of 2017, based on information provided by HEES and Hyosung. The CBSA cannot release specific production and capacity data as it relates to only two Korean companies and would lead to the disclosure of confidential information. As such information is presented for total capacity in percentages only.

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<sup>92</sup> Exhibit 37 NC – Response to exporter ERQ – HEES at Exhibit Q34, KEPCO Forecast.

<sup>93</sup> Exhibit 35 NC – Response to exporter ERQ – HEES at Q34.

<sup>94</sup> Exhibit 37 NC – Response to exporter ERQ – HEES at Exhibit Q34, KEPCO Forecast.

<sup>95</sup> Exhibit 49 NC – Close of record Submission – ABB at Attachment 1 at page 3.

**Table 3**  
**Production and Capacity Utilization - HEES & Hyosung<sup>96</sup>**  
**Large Power Transformers**

	2014		2015		2016		2016 Jan 1 to Jun 30		2017 Jan 1 to Jun 30	
	Units	MVA	Units	MVA	Units	MVA	Units	MVA	Units	MVA
<b>Capacity Utilization (%)</b>	62%	58%	67%	67%	68%	64%	66%	47%	71%	46%
<b>Excess Capacity Rate (%)</b>	38%	42%	33%	33%	32%	36%	34%	53%	29%	54%

Note: In considering the capacity utilization rates for HEES and Hyosung, the CBSA adjusted the information to establish production capacity and utilization.

[100] In percentage terms these two exporters have excess capacity that has consistently been in the 30% - 40% range of total capacity during the POR. Given the size of these two companies, the excess production capacity available suggests they could easily supply the entire Canadian market and still have remaining excess capacity.

[101] There is also evidence on the record that HEES has plans to invest KRW 1,100 billion in the second half of 2017 and first half of 2018, to increase production capacity and reduce costs by constructing new production facilities.<sup>97</sup>

[102] In addition to HEES and Hyosung, there are two other Korean producers, Iljin Electric and LSIS Co. Ltd. that are involved in the manufacture of power transformers. While these two companies are currently not involved in exporting large power transformers to Canada, they have exported non-subject transformers to Canada. Given their interest in the Canadian market for non-subject goods, it is likely they would also have an interest in the Canadian market for large power transformers in the absence of the CITT's order. Based on Hyosung's testimony in 2012 at the U.S. International Trade Commission, Iljin Electric and LSIS Co. Ltd. had annual transformers capacity of 12,000 MVA and 15,000 MVA, respectively.<sup>98</sup>

[103] As indicated earlier, HEES and Hyosung are export oriented. Given Canada's stable economy and consistent demand for large power transformers, the Canadian market should continue to be an attractive market for Korean exporters. Given the exporters' additional excess capacity, in the absence of the CITTs order, there will likely be an increased focus by the Korean exporters to sell into the Canadian market.

<sup>96</sup> Exhibit 36 PRO – Response to exporter ERQ – HEES at Appendices & Exhibit Q43-Production Capacity and Exhibit 24 PRO – Response to exporter ERQ – Hyosung at Appendices.

<sup>97</sup> Exhibit 49 NC – Close of record Submission – ABB at Attachment 1 at pages 8-9.

<sup>98</sup> Exhibit 27 NC – Response to ERQ – ABB at Q31(b).

### Increased competitive price pressure on sales of large power transformers in Canada

[104] Recently, Canadian utility companies have switched from having a sole-sourced tendered contract to having a number of pre-qualified suppliers/bidders via an open blanket process. In an open blanket process, the utility company qualifies multiple suppliers to supply its transformer needs. Once the utility company is ready to place an order, these suppliers are asked to re-quote the price for the transformer(s) and the utility company then orders a transformer from one of the qualified suppliers.<sup>99</sup> Consequently, this recent modification in the tender process has placed additional pressure on the pre-qualified manufacturers to further lower prices at the time the utility company is ready to place an order. By preselecting multiple manufacturers eligible for the production for specific models of transformers, the open blanket agreements risk intensifying downward pressure on pricing of large power transformers.

[105] Under these circumstances, in the absence of the CITT's order, Korean producers of large power transformers will be inclined to lower their price in order to win Canadian sales.

### Anti-dumping measures in other countries demonstrate that Korean exporters have a propensity to dump large power transformers

[106] On July 11, 2012, the USDOC made a final determination of dumping concerning large power transformers from Korea.<sup>100</sup> This finding remains in place.

[107] On July 2, 2014, the Argentinian Anti-dumping Commission made a final determination of dumping concerning three-phased liquid dielectric transformers with power greater than 10 MVA but not exceeding 600 MVA from Korea.<sup>101</sup> The goods from Korea were found to be dumped by a margin of 52%. For its part, HEES (formerly Hyundai) indicated that it did not participate in the Argentinian investigation due its lack of sales in this market.<sup>102</sup> It is noted that the Argentinian authorities later chose to suspend the application of anti-dumping duties for public interest reasons as the Argentinian producers did not have the production capacity to supply an increased demand in their domestic market.<sup>103</sup> Nevertheless, a definitive decision was made that three-phased liquid dielectric transformers with power greater than 10 MVA but not exceeding 60 MVA from Korea were dumped into Argentina.<sup>104</sup>

[108] As was noted in HEES' case brief, the Australian Anti-Dumping Commission also conducted an investigation into the dumping of power transformers greater than 10 MVA from a number of countries, including Korea. HEES indicated that it was found not to have dumped in this investigation. Furthermore, while the Australian Anti-Dumping Commission found that there was dumping by other Korean exporters, the volume of dumped goods from Korea was negligible and, as a result, it terminated the investigation with respect to Korea.<sup>105</sup>

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<sup>99</sup> Exhibit 27 NC – Response to ERQ – ABB, Q13.

<sup>100</sup> Exhibit 8 NC – USDOC Final Determination of Dumping, July 11, 2012.

<sup>101</sup> Exhibit 23 NC – Argentina – Anti-dumping Measures on Transformers exported from South Korea.

<sup>102</sup> Exhibit 55 NC – Case brief on behalf of HEES at page 8.

<sup>103</sup> <http://servicios.infoleg.gob.ar/infolegInternet/anexos/240000-244999/241487/norma.htm>.

<sup>104</sup> Exhibit 23 NC – Argentina – Anti-dumping Measures on Transformers exported from South Korea.

<sup>105</sup> Exhibit 21 NC – Public version of CITT's administrative record at EX LE-2017-001-08.01 Public Exhibits 3.

[109] The dumping findings by the United States on Korean large power transformers and on a similar range of goods by Argentina, indicate that Korean exporters have a propensity to dump power transformers into export markets.

Measures taken by the United States are likely to cause a diversion of dumped goods into Canada

[110] The imposition of anti-dumping measures by the United States on Korean large power transformers has made it more difficult for the Korean exporters to sell large power transformers into the United States.

[111] HEES and Hyosung have excess capacity, and are faced with a relatively stable, even declining, domestic market. There is also increased competitive price pressure on sales of large power transformers in Canada. Given that the United States, which is one of “the most attractive markets for transformer manufacturers globally”,<sup>106</sup> has imposed anti-dumping measures on large power transformers from Korea, it is likely that in the absence of the CITT’s order, Korean exporters will be more focused on the Canadian market.

Anti-dumping duties have been assessed on subject goods imported into Canada during the period of review

[112] Given the nature of large power transformers in that they are a capital goods built to a customer’s specific requirements, there are no domestic sales of like goods in Korea. Therefore, normal values have been determined on a “cost plus” basis pursuant to paragraph 19(b) of SIMA. For enforcement purposes, each cooperative exporter was provided with a spreadsheet to be used to calculate the normal value and export price for each transformer exported to Canada. This spreadsheet contained the factors for selling, general and administrative expenses and an amount for profit, relative to each exporter, to be applied to the full cost of the transformer in order to determine the normal value. HEES and Hyosung, therefore, had the ability to calculate the normal value for each transformer prior to it being shipped to Canada and, had the option to set the selling price at a non-dumped level.

[113] During the POR significant amounts of anti-dumping duties have been assessed on importations of subject goods. Furthermore, the amount of anti-dumping duties assessed in the first half of 2017 represents 60% of the total amount assessed during the POR. The CBSA cannot disclose specific details regarding the amount of anti-dumping duties assessed during the POR due to the limited number of parties involved.

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<sup>106</sup> Exhibit 36 PRO – Response to Exporter ERQ – HEES at Exhibit Q37-2, Frost & Sullivan Global Transformer Market (2016), page 96.

[114] HEES argued that the dumping was “technical dumping” due to changes in the currency exchange rate between the time of the irrevocable tender and the date when a transformer was subsequently ordered under the long-term agreement.<sup>107</sup> The CBSA determines whether goods are dumped in accordance with the provisions of SIMA and the SIMR and notes that the concept of “technical dumping” as a result of exchange rate fluctuations is not provided for in SIMA. This is consistent with the CITT’s statements in the recent Inquiry involving Gypsum Board in which the CITT noted “There is no “good” or “bad”, “passive” or “aggressive” dumping. There is only dumping as it is defined under *SIMA* and the underlying international agreement”.<sup>108</sup> Ultimately, exporters must take into consideration possible fluctuations in exchange rates when setting their export prices in order to ensure the export price is at a non-dumped level.

[115] HEES further argued that, while anti-dumping duties were assessed on some of its exports to Canada during the POR, an examination of the total of all transactions during the period reveal that, overall, the weighted average margin of dumping was negative. The CBSA notes that once a finding is in place anti-dumping duties are assessed on an importation-by-importation basis, and as such there is no offset of non-dumped importations with dumped importations.

[116] The fact that anti-dumping duties were assessed on importations of subject good during the POR, even though the cooperative exporters had the capability to calculate specific normal values and set pricing accordingly, demonstrates an inability to sell at undumped prices.

#### **Determination Regarding Likelihood of Continued or Resumed Dumping for Korea**

[117] Based on the information on the record in respect of the fact that: Korean producers are export-oriented, which is likely to continue in the future; Korean exporters are facing declining sales for large power transformers and weak future demand for power transformers in their home market; Korean producers/exporters have excess production capacity; there is increased competitive price pressure on sales of large power transformers in Canada; anti-dumping measures in other countries demonstrate that Korean exporters have a propensity to dump large power transformers; measures taken by the United States are likely to cause a diversion of dumped goods into Canada; and Anti-dumping duties have been assessed on subject goods imported into Canada during the period of review; the CBSA determined that the expiry of the order is likely to result in the continuation or resumption of dumping into Canada of certain liquid dielectric transformers originating in or exported from Korea.

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<sup>107</sup> Exhibit 55 NC – Case brief on behalf of HEES at page 4.

<sup>108</sup> CITT NQ-2016-002, Gypsum Board, para. 131.



## **CONCLUSION**

[118] For the purpose of making a determination in this expiry review investigation, the CBSA conducted its analysis within the scope of the factors found under subsection 37.2(1) of the SIMR. Based on the foregoing consideration of pertinent factors and an analysis of the evidence on the record, on December 22, 2017, the CBSA made a determination pursuant to paragraph 76.03(7)(a) of SIMA that expiry of the CITT's order made on May 31, 2016, in Interim Review No. RD-2013-003 continuing, without amendment, its finding made on November 20, 2012, in Inquiry No. NQ-2012-001 in respect of the dumping of certain liquid dielectric transformers originating in or exported from Korea is likely to result in the continuation or resumption of dumping of the goods into Canada.

## **FUTURE ACTION**

[119] On December 27, 2017, the CITT commenced its inquiry to determine whether the expiry of the order with respect to the dumping of the goods from Korea is likely to result in injury. The CITT's Expiry Review schedule indicates that it will make its decision by May 31, 2018.

[120] If the CITT determines that the expiry of the order with respect to the goods is likely to result in injury, the CITT will make an order continuing the order in respect of those goods, with or without amendment. If this is the case, the CBSA will continue to levy anti-dumping duties on dumped importations of the subject goods.

[121] If the CITT determines that the expiry of the order with respect to the goods is not likely to result in injury, the CITT will make an order rescinding the order in respect of those goods. Anti-dumping duties would then no longer be levied on importations of the subject goods, and any anti-dumping duties paid in respect of goods that were released after the date that the order was scheduled to expire will be returned to the importer.

## **INFORMATION**

[122] For further information, please contact one of the officers listed below:

**Mail:** SIMA Registry and Disclosure Unit  
Trade and Anti-dumping Programs Directorate  
Canada Border Services Agency  
100 Metcalfe Street, 11<sup>th</sup> floor  
Ottawa, Ontario K1A 0L8  
Canada

**Telephone:** Ron McTiernan 613-954-7271  
Laurie Trempe 613-954-7337

**E-mail:** [simaregistry@cbsa-asfc.gc.ca](mailto:simaregistry@cbsa-asfc.gc.ca)

**Web site:** [www.cbsa-asfc.gc.ca/sima-lmsi](http://www.cbsa-asfc.gc.ca/sima-lmsi)



*for* Doug Band  
Director General  
Trade and Anti-dumping Programs Directorate

## **ATTACHMENT**

**Appendix A – Product Information**



## **APPENDIX A**

### **PRODUCT INFORMATION**

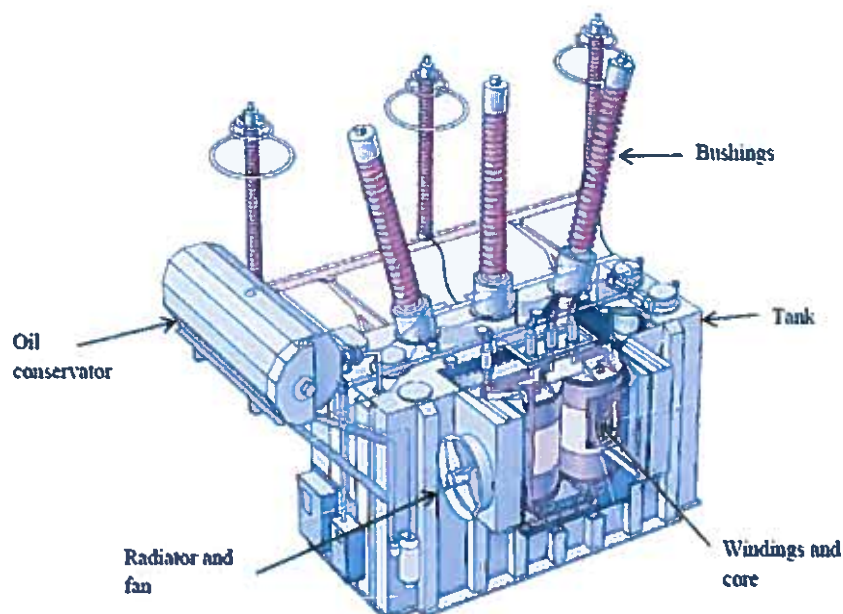
Power transformers are used to increase, maintain or decrease electric voltage in high voltage transmission and distribution systems. Incomplete power transformers are subassemblies consisting of the active part and any other parts attached to, imported with or invoiced with the active part of the power 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.

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.

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.

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:

## Major Components of a Power Transformer



The core is made of silicon steel and is laminated with an inorganic coating. The silicon 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.

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.

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.

All power transformers have 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.