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# Submission received electronically

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# Soumission reçu électroniquement

Submission Date /  
Date de soumission

**September 24, 2024**

**NON-CONFIDENTIAL**

**SENT VIA E-MAIL**

September 24, 2024

SIMA Registry and Disclosure Unit  
Anti-dumping and Countervailing Program  
Canada Border Services Agency  
11<sup>th</sup> Floor, 100 Metcalfe Street  
Ottawa ON K1A 0L8

**RE: Reply to ILJIN Electric Co., Ltd.’s Comments Concerning the Request for a Normal Value and Export Price Review of Large Power Transformers and Small Power Transformers by HD Hyundai Electric Co., Ltd.**

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On behalf of Northern Transformer Corporation, PTI Transformers Inc., PTI Transformers L.P., and Transformatours Delta Star Inc. (collectively, the “domestic producers”), we submit in response to ILJIN Electric Co., Ltd.’s (“Iljin”) request dated September 19, 2024 for an “opportunity to fully participate and to be issued a determination” in a re-investigation concerning large power transformers (“LPT”) from Korea. The domestic producers submit that this request should be rejected for the following reasons.

*First*, the domestic producers wish to clarify that they have not requested a re-investigation covering all producers and exporters of LPTs and small power transformers (“SPT”) but have, rather, requested a normal value and export price review concerning HD Hyundai Electric Co., Ltd. (“HD Hyundai”). As set out in the opening paragraph of their request, the domestic producers state that they are “requesting a normal value and export price review for exports of {LPTs} and {SPTs} by {HD Hyundai}.” As the CBSA notes in Memorandum D14-1-8, “{f}or normal value reviews, interested persons only include domestic producers, **the exporter for which normal values will be issued**, importers who purchased goods from the exporter, relevant unions and trade associations, and foreign governments in cases where amounts of subsidy are being updated.” {Emphasis added}. Iljin is not an “interested person” for the purposes of the domestic producers’ request for a normal value and export price review of HD Hyundai, and its submission should therefore be disregarded.

*Second*, there was good reason to restricting the request to HD Hyundai alone. As noted in the domestic producers request, the Canadian International Trade Tribunal (“CITT”) found that HD Hyundai was responsible for all Korean LPT imports in Canada from 2020 to Q1 2023.<sup>1</sup> Iljin does not dispute this. Rather, Iljin’s earlier submissions confirm that it has not exported subject LPTs to Canada. For example, it stated that “ILJIN has not imported the subject goods {LPTs}

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<sup>1</sup> *Liquid Dielectric Transformers* (20 December 2023), RR-2022-004 (CITT) at para 69.

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into Canada for many years;”<sup>2</sup> and argued that “the absence of past exports of large power transformers to Canada would pose no impediment to establishing a... specific normal values for ILJIN’s future shipment of large power transformers.”<sup>3</sup>

Iljin does not appear to have made any LPT exports to Canada since then. In particular, the StatsCan import data show that there were total of 11 entries for LPT imports from Korea from Q2 2023 to Q2 2024, incurring special assessments ranging from 0 percent to 26 percent. None of the entries had the special assessment of 101 percent, which would have applied to exports by Iljin.<sup>4</sup> As a result, a significant, if not all, volume of the imports of subject goods during the last several years are from HD Hyundai, which supports the initiation of a company-specific review, as opposed to a country-wide re-investigation.<sup>5</sup>

*Third*, and conversely, there is no evidence that there is any new exporter, let alone the number of new exporters that are generally required to trigger a measure-wide re-investigation. According to the CBSA policy in Memorandum D14-1-8, “where there are many exporters who have exported subject goods to Canada since the conclusion of the last proceeding” and “where there are multiple new exporters in the market who have requested to be part of the next re-investigation” are factors that support the initiation of a re-investigation. As noted above, Iljin does not dispute that HD Hyundai is largely responsible for the increase in Korean imports of SPT and LPT observed during the past 24 months, nor does it claim that there are any new Korean exporters.

*Finally*, Iljin’s request is misplaced in any event, because there is no basis for the CBSA to issue new normal values to Iljin. This is because Iljin has neither produced nor sold any LPTs, for which it seeks normal values and export prices. As noted in its previous submissions, Iljin’s request is based on its “future” production and sales of LPTs to Canada.<sup>6</sup> However, it is well-established that normal values cannot be determined without production or sales during the period of investigation (“POI”), as was found recently in the 2022 re-investigation of oil country tubular goods (“OCTG”) as follows:

Counsel for SeAH reiterated its position that normal values should be established for goods ordered during the POI, but produced after the POI. ...

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<sup>2</sup> Iljin’s Request for Initiation of a Normal Value Review or a Re-investigation for the Purposes of Establishing Normal Values and Export Prices for Subject Goods Exported by Iljin Electric Co., Ltd. (December 21, 2023) at 2.

<sup>3</sup> Iljin’s Comments in Reply to the Representations Made on Behalf of PTI Transformers LP. and Hitachi Energy Canada Inc. Regarding the Request for a Normal Value Review or a Re-investigation Submitted by Iljin Electric Co., Ltd. (February 19, 2024) at 6.

<sup>4</sup> Domestic producers’ Request for Re-Investigation of Normal Values and Export Prices for Exports of Large Power Transformers and Small Power Transformers by HD Hyundai Electric Co., Ltd. (August 26, 2024) at Confidential Attachment 1.

<sup>5</sup> Memorandum D14-1-8, “Re-investigation and Normal Value Review Policy – Special Import Measures Act (SIMA)” at para. 14.

<sup>6</sup> Iljin’s Request for Initiation of a Normal Value Review or a Re-investigation for the Purposes of Establishing Normal Values and Export Prices for Subject Goods Exported by Iljin Electric Co., Ltd. (December 21, 2023) at 2.

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While the CBSA may grant normal values for goods in a situation described by counsel for SeAH based on an exporters costing and sales information, such goods would normally have to have been either produced and/or sold during the POI/{profitability analysis period or “PAP”}. The CBSA does not typically determine normal values for goods that were not either produced and/or sold by an exporter during the POI/PAP.<sup>7</sup>

Likewise, Iljin has previously stated that a related company, ILJIN Electric USA Inc. (“Iljin USA”) operates as its importer and distributor in Canada.<sup>8</sup> Given that Iljin and Iljin USA are related, the export price between them must be determined under section 25 of the *Special Import Measures Act* (“SIMA”), which requires, among others, actual costs associated with preparing, shipping and exporting LPTs to Canada, all costs incurred in re-selling LPTs in Canada, as well as an industry profit for sales in Canada.<sup>9</sup> However, since Iljin has not made any actual export sales, none of these costs exist. In other words, there is no basis for CBSA to determine Iljin’s normal values and export price, even if a measure-wide re-investigation were to be initiated.

Given the foregoing, the domestic producers submit that Iljin’s request for a measure-wide re-investigation of LPTs from Korea should be rejected and that the evidence supports the initiation of a company-specific normal value and export price review of HD Hyundai.

Sincerely yours,



Andrew M. Lanouette  
Cassidy Levy Kent (Canada) LLP

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<sup>7</sup> CBSA, Notice of Conclusion of Re-investigation (September 6, 2022), OCTG 2022 RI at Appendix 2, comment “Normal values for goods not produced and/or sold during the POI/PAP”.

<sup>8</sup> Iljin’s Request for Initiation of a Normal Value Review or a Re-investigation for the Purposes of Establishing Normal Values and Export Prices for Subject Goods Exported by Iljin Electric Co., Ltd. (December 21, 2023) at 4.

<sup>9</sup> CBSA, *SIMA Handbook* (December 14, 2023) at 368.