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

Re: Response to Request for Normal Value and Export Reviews of HD Hyundai Electric Co., Ltd.

A. INTRODUCTION

1. We write on behalf of HD Hyundai Electric Co., Ltd. ("**HD Hyundai Electric**") to oppose the request made by Northern Transformer Corporation, PTI Transformers Inc., PTI Transformers L.P., and Transformateurs Delta Star Inc. (collectively, the "**domestic producers**") for the CBSA to initiate normal value reviews and export price reviews of HD Hyundai Electric's exports of large power transformers ("**LPTs**") and small power transformers ("**SPTs**") ("**NVRs**").

2. The factors identified in D Memorandum 14-1-8 "Re-investigation Policy and Normal Value Review" ("**D14-1-8**") do not support the NVR Requests.

- (a) HD Hyundai Electric's export volumes do not warrant the initiation of NVRs. The domestic producers have no actual data to support their speculative and incorrect claims regarding the volume of HD Hyundai Electric's exports of LPTs and SPTs in 2023 and 2024 and or their wild and baseless allegations that HD Hyundai

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Electric is engaging in a pattern of behaviour based on the timing of NVRs, Re-investigations or Expiry Reviews.

- (b) HD Hyundai Electric's normal values are not out of date. The CBSA's normal value methodology for LPTs and SPTs ensures that HD Hyundai Electric's export prices reflect its contemporaneous production costs, including any "significant" changes to its costs, as opposed to fixed normal values, which reflect historical production costs and must be regularly updated to reflect changes in production costs.
- (c) NVRs would also be premature. The Canadian International Trade Tribunal ("CITT") is scheduled to hear an appeal on January 23, 2025, brought by HD HE America, a distributor and importer of HD Hyundai Electric power transformers, relating to issues that significantly affect the CBSA's calculation of LPT and SPT normal values. The resolution of this appeal is necessary before the CBSA initiates an NVR of HD Hyundai Electric.
- (d) The domestic producers fail to provide any concrete instances of business lost to HD Hyundai Electric or evidence that the current normal value methodology does not provide them with sufficient protection from competition with HD Hyundai Electric.

B. SUBMISSIONS**1. The Volume of Imports of LPTs and SPTs**

3. Factor (a) at paragraph 12 of D14-1-8 states that the volume of imports or fluctuations in the volume of imports may warrant the initiation of an NVR. The domestic producers allege that HD Hyundai Electric's exports of LPT and SPT NVRs to Canada have increased to justify their request for an NVR.

4. The domestic producers acknowledge their lack of evidence regarding import volumes. While the domestic producers state that there is data available publicly which shows that HD

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Hyundai Electric has increased its volumes of imports of LPTs and SPTs into Canada, they later explain in a footnote that there is insufficient evidence to demonstrate increased *volume* due to "inconsistent" trade data, and instead, that there is publicly available information demonstrating an increase in the *value* of imports of LPTs and SPTs.¹

5. In fact, volumes of LPTs and SPTs have not increased since the most recent CBSA reviews of exports of LPTs and SPTs from the Republic of Korea.

6. In the LPT Normal Value Review that concluded on July 25, 2019 and covered a period of review from November 1, 2016 and October 31, 2018, HD Hyundai Electric reported exports of [] LPT units. In its exporter questionnaire response to the CBSA in the LPT Expiry Review that concluded on July 28, 2023, HD Hyundai Electric reported exports of [] LPT units from 2020 to 2022.² In the two years between August 2022 and July 2024, [] of HD Hyundai Electric LPTs were imported into Canada, which is not an increase in the volume of LPT exports over the course of 2023 and 2024 year-to-date relative to prior periods.

7. In its RFI submission in the SPT Export Price Review that concluded on April 11, 2023, HD Hyundai Electric reported that it exported [] SPT units during the single year period of review (January 1, 2021 to December 1, 2021).³ By comparison, in the two year period between [], [] units of HD Hyundai Electric SPTs were imported into Canada.

8. HD Hyundai Electric's actual export volumes demonstrate that the domestic producers' allegations of "significant volumes" and "elevated imports" on the part of HD Hyundai Electric are inaccurate. In fact, the increase in the value of imported transformers in Statistics Canada data suggests that HD Hyundai Electric is raising its prices of SPTs and LPTs per unit. HD Hyundai Electric's actual export volumes also disprove the wild and speculative claims made by the

¹ Domestic producer representations at footnote 3.

² EX 022 PRO - Response to expiry review questionnaire (ERQ) from Hyundai Electric & Energy Systems Co., Ltd. ("Hyundai Electric"), TR 2023 ER (April 5, 2023) at Appendix 4.

³ EX 010 PRO – Response to request for information (RFI) - dumping from Hyundai Electric & Energy Systems Co., Ltd, SPT 2022 UP1 (March 18, 2022) at Appendix 1.

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domestic producers that HD Hyundai Electric intentionally plans its export strategies based on how long ago it participated in an NVR or Re-investigation.

2. Changes to the Exporter's Costs

9. Factor (g) at paragraph 12 of D14-1-8 states that changes to the exporter's costs justify the initiation of an NVR. As changes to HD Hyundai Electric's costs are reflected in its transaction-specific normal values reported to the CBSA following each LPT and SPT importation, the initiation of new NVRs is not warranted.

10. The domestic producers cite to increases in the price of inputs such as grain-oriented steel, electrical steel, mineral oil, paper and copper, as well as producer price index increases for power transformers to argue that NVRs are necessary to ensure that HD Hyundai Electric is raising prices to meet these increases.

11. LPTs and SPTs are high-value, built-to-order capital goods that can vary in both physical properties and selling price depending on purchaser demand. As each LPT or SPT is unique (unless the end-user in Canada orders multiple units of an identical transformer), HD Hyundai Electric and its importers in Canada report importations of LPTs and SPTs to the CBSA using methodologies determined by the CBSA to determine a normal value and export price for each imported transformer. Under the CBSA's normal value reporting methodology, HD Hyundai Electric must report the material, labour, and overhead costs for each imported transformer.

12. HD Hyundai Electric's normal values therefore reflect its contemporaneous production costs and capture changes in the costs of raw materials, labour and overhead over time. As HD Hyundai Electric's current production costs are by far the most significant element in the CBSA's normal value methodology, HD Hyundai Electric's constantly changing normal values need not be updated with same frequency as fixed normal values, which are based on historical costs that do not change over time.

13. The domestic producers' arguments that the initiation of NVRs are necessary to determine HD Hyundai Electric's on the basis of changes in material and other costs are therefore irrelevant

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given that HD Hyundai Electric's normal values have and continue to reflect contemporaneous production costs.

3. An NVR would be premature

14. Initiating the NVRs now would be premature due to an ongoing appeal before the CITT relating to export price and normal value adjustments applied by the CBSA to assess anti-dumping duties on LPTs imported by HD Hyundai Electric America. These appeals arise from CBSA decisions in the Export Price Review of HD Hyundai Electric America (TR 2021 UP1) that concluded on February 8, 2022 and the Normal Value Review of HD Hyundai Electric that concluded on July 25, 2019. The CITT's decision in these appeals will resolve disputed issues arising from the last rounds of NVRs conducted by the CBSA and directly affect the scope of the CBSA's investigation in the next NVRs of LPT and SPTs and the calculation of export prices and normal values for both LPTs and SPTs.

15. The primary question at issue in the CITT enforcement appeals in EA-2021-006, EA-2022-001 and EA-2023-002 (the "CITT Appeals") is the CBSA's application of a present value adjustment to its normal value and export price calculations. The CITT has scheduled a hearing date for the CITT Appeals on January 23, 2025.

16. The decision in the CITT Appeals will have a significant impact on the CBSA's normal value and export price calculation methodology as well as the scope of its investigation. For example, under the current present value adjustment methodology, the CBSA must gather extensive payment information and conduct complex present value calculations. As the CBSA must follow the CITT's decision relating to present value adjustments, conducting NVRs now will foreseeably result in additional administrative burdens on the CBSA that can be avoided by waiting for the conclusion of the CITT appeal.

NON-CONFIDENTIAL**4. Domestic producers are more than sufficiently protected**

17. Finally, in arguing that NVRs are warranted for both LPTs and SPTs, the domestic producers do not provide any evidence that HD Hyundai Electric's current normal values are inadequately protecting the domestic industry.

18. The domestic producers do not provide any allegations of lost business, decreased sales margins, or any other form of financial injury caused by HD Hyundai Electric's exports to Canada. The domestic producers acknowledge that the CITT in its latest Expiry Review decision estimated that at least 3,000 MVA in LPT procurements would be issued between the conclusion of the LPT expiry review (*i.e.*, October 2023) and March 31, 2025, but fail to provide any evidence that they are suffering economic harm due to inadequate normal values.

19. To the contrary, the domestic producers cite to the findings of the CITT in RR-2022-004 for the proposition that demand in the Canadian market will "continue to be healthy", providing ample opportunities for domestic producers.⁴ Indeed, increased import values coupled with "healthy" demand for transformers in Canada suggests that HD Hyundai Electric's current normal values provide sufficient protection for domestic producers. We note in this regard that Hitachi Energy Canada, a significant domestic producer of transformers, did not sign on to the domestic producers' request for NVRs of HD Hyundai Electric, suggesting that it does not see the need to support the initiation of NVRs into HD Hyundai Electric based on the current, strong market conditions for power transformer producers.

20. The domestic producers are also receiving protection from imports of Korean LPTs and SPTs beyond the prospective normal value regime. According to the CBSA's "Measures in Force", only three Korean exporters of LPTs have normal values and only two Korean exporters of SPTs as have normal values. The all-other exporters rates for LPTs (101%) and SPTs (73.1%) effectively bar exports from other Korean exporters because transformers are high-value goods and anti-dumping assessments at the all-other exporters rates are prohibitive of imports. The CBSA will be

⁴ *Liquid Dielectric Transformers*, RR-2022-004 (December 20, 2023) at para. 62.

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able to confirm the volume of imports assessed at these all-others rates to judge whether these rates are providing sufficient protection to the domestic producers.

C. CONCLUSION

21. HD Hyundai Electric requests that:

- (a) The confidential version of these submissions and the confidential attachments filed with these submissions not be disclosed to any third party or to their counsel in accordance with para. 9 of D14-1-8; and
- (b) The CBSA dismiss the domestic producers' NVR requests for the reasons outlined in this letter.

22. Please contact the undersigned with any questions you may have regarding this letter and its attachments.

Yours truly,

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GWHR
Enclosures