



SPT 2021 IN

OTTAWA, December 10, 2021

STATEMENT OF REASONS

Concerning the termination of the dumping investigation in respect of

**CERTAIN SMALL POWER TRANSFORMERS ORIGINATING IN OR EXPORTED
FROM SOUTH KOREA BY IEN HANCHANG CO., LTD.**

and the final determination with respect to the dumping of

**CERTAIN SMALL POWER TRANSFORMERS ORIGINATING IN OR EXPORTED
FROM AUSTRIA, CHINESE TAIPEI, AND SOUTH KOREA (EXCLUDING GOODS
EXPORTED FROM SOUTH KOREA BY IEN HANCHANG CO., LTD.)**

DECISIONS

On November 25, 2021, pursuant to paragraph 41(1)(a) of the *Special Import Measures Act*, the Canada Border Services Agency terminated the dumping investigation in respect of certain small power transformers exported to Canada from South Korea by IEN Hanchang Co., Ltd.

On the same date, pursuant to paragraph 41(1)(b) of the *Special Import Measures Act*, the Canada Border Services Agency made a final determination respecting the dumping of certain small power transformers originating in or exported from Austria, the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu (Chinese Taipei), and South Korea (excluding goods exported from South Korea by IEN Hanchang Co., Ltd.).

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

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SUMMARY OF EVENTS

[1] On February 23, 2021, the Canada Border Services Agency (CBSA) received a written complaint from Transformateurs Delta Star Inc., Northern Transformer, PTI Transformers Inc., and PTI Transformers L.P. (hereinafter, the “complainants”) alleging that imports of certain small power transformers (SPT) originating in or exported from Austria, the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu (Chinese Taipei), and South Korea (hereinafter “named sources”) have been dumped, have caused injury and are threatening to cause injury to Canadian producers of SPT.¹

[2] On March 16, 2021, pursuant to paragraph 32(1)(a) of the *Special Import Measures Act* (SIMA), the CBSA informed the complainants that the complaint was properly documented. The CBSA also notified the governments of the named sources that a properly documented complaint had been filed with the CBSA.

[3] The complainants provided evidence to support the allegations that SPT from the named sources have been dumped and that this dumping has caused injury and is threatening to cause injury to the domestic industry producing like goods.

[4] On April 15, 2021, pursuant to subsection 31(1) of SIMA, the CBSA initiated an investigation respecting the dumping of SPT from the named sources.

[5] Upon receiving notice of the initiation of the investigation, the Canadian International Trade Tribunal (CITT) commenced a preliminary injury inquiry, pursuant to subsection 34(2) of SIMA, into whether the evidence discloses a reasonable indication that the alleged dumping of the above-mentioned goods has caused injury or retardation or is threatening to cause injury to the Canadian industry producing the like goods.

[6] On June 14, 2021, pursuant to subsection 37.1(1) of SIMA, the CITT made a preliminary determination that there is evidence that discloses a reasonable indication that the dumping of SPT from the named sources has caused injury or is threatening to cause injury to the domestic industry.²

[7] On July 7, 2021 the CBSA notified interested parties that the preliminary stage of the investigation will be extended pursuant to subsection 39(1) of SIMA.

[8] On August 27, 2021, as a result of the CBSA’s preliminary investigation and pursuant to subsection 38(1) of SIMA, the CBSA made a preliminary determination of dumping of SPT from the named sources.

¹ Exhibit 2 (NC) – Small Power Transformers Complaint

² Canadian International Trade Tribunal; Certain Small Power Transformers Determination and Reasons (June 14, 2021), PI-2021-001

[9] On the same day, pursuant to subsection 8(1) of SIMA, provisional duty was imposed on imports of dumped goods that are of the same description as any goods to which the preliminary determination applies, and that are released during the period commencing on the day the preliminary determination was made and ending on the earlier of the day on which the CBSA causes the investigation in respect of any goods to be terminated pursuant to subsection 41(1) of SIMA or the day the CITT makes an order or finding pursuant to subsection 43(1) of SIMA. Where an exporter's estimated margin of dumping was found to be insignificant, provisional duty does not apply.

[10] Based on the available evidence, the CBSA is satisfied that SPT originating in or exported from South Korea by IEN Hanchang Co., Ltd. have not been dumped. As a result, on November 25, 2021, the CBSA terminated the dumping investigation in respect of the goods of this exporter pursuant to paragraph 41(1)(a) of SIMA.

[11] Based on the available evidence, the CBSA is satisfied that SPT originating in or exported from the names sources have been dumped (excluding goods exported from South Korea by IEN Hanchang Co. Ltd.). Therefore, on November 25, 2021, the CBSA made a final determination of dumping pursuant to paragraph 41(1)(b) of SIMA in respect of those goods.

[12] The CITT's inquiry into the question of injury to the domestic industry is continuing, and it will issue its decision by December 24, 2021. Provisional duties will continue to be imposed on the subject goods from the named sources (excluding goods exported from South Korea by IEN Hanchang Co., Ltd.) until the CITT renders its decision.

PERIOD OF INVESTIGATION

[13] The Period of Investigation (POI) for the dumping investigation is July 1, 2019 to December 31, 2020.

PROFITABILITY ANALYSIS PERIOD

[14] The Profitability Analysis Period (PAP) is January 1, 2019 to December 31, 2020.

INTERESTED PARTIES

Complainants

[15] The contact information of the complainants is as follows:

Northern Transformer Corporation
245 McNaughton Road East
Maple, ON, L6A 4P5

PTI Transformers Inc.
1155 Park Street
Regina, SK, S4N 4Y8
PTI Transformers L.P.
101 Rockman Street Winnipeg, MB, R3T 0L7

Transformateurs Delta Star Inc.
860 Lucien Beaudin
Saint-Jean-sur Richelieu, QC, J2X 5V5

Northern Transformers Corporation

[16] Northern Transformers Corporation (Northern) is a manufacturer of SPT that has been located in Maple, Ontario, since 2016. Northern manufactures power transformers throughout the range covered by the scope of this complaint, and up to 200 mega volt amperes (MVA) and 240 kilo volts (kV).³

[17] Northern was founded in 2012 when new ownership led by Giovanni Marcelli purchased the assets of Northern Transformer Inc., which was originally incorporated in Concord, Ontario in 1981 by Eric Borgenstein, Doug Hazelton and William Kemp.⁴

PTI Transformers Inc.

[18] PTI Transformers Inc. and PTI Transformers L.P. (collectively, “PTI”), is the largest fully Canadian-owned manufacturer of power transformers in Canada. PTI produces power transformers at two facilities in Regina and Winnipeg. The Regina factory can produce SPT to as large as 40 MVA. The Winnipeg facility is a modern plant producing SPT throughout the range covered by this complaint, as well as up to 750 MVA.⁵

[19] PTI was founded in 1989 in Regina, Saskatchewan. In 2015, PTI acquired the former CG Power Winnipeg transformer production facility and has been in operation since 1979. The Winnipeg facility was first established in 1946 when Pioneer Electric began producing small distribution transformers. The facility changed ownership over the years, from Pioneer to Schneider Electric, Pauwels Canada, and CG Power Systems Canada before its acquisition by PTI.⁶

³ Exhibit 2 (NC) – Small Power Transformers Complaint, Paras. 75-77.

⁴ Exhibit 2 (NC) – Small Power Transformers Complaint, Paras. 75-77.

⁵ Exhibit 2 (NC) – Small Power Transformers Complaint, paras. 73-74.

⁶ Exhibit 2 (NC) – Small Power Transformers Complaint, paras. 73-74.

Transformateurs Delta Star Inc.

[20] Transformateurs Delta Star Inc. (Delta Star Canada) is a wholly owned subsidiary of Delta Star Inc., which is an employee-owned company, with its headquarters located in the United States of America (USA). Delta Star Inc. has three production facilities between the USA and Canada, the Canadian facility is located in Saint-Jean-sur-Richelieu, Québec. The facility in Québec is capable of producing the full range of transformers which are the subject of this complaint, as well as larger transformers of up to 175 MVA and 345 kV.⁷

Other Canadian Producers

[21] The following Canadian producers also manufacture SPT:

Transformateurs Pioneer Ltée.
612, Bernard Road
Granby, QC
J2J 0H6
Tel: (450) 378-9018

Stein Industries Inc.
19 Artisans Crescent
London, ON N5V 5E9
Tel: (519) 659-3659

Transformateurs Pioneer Ltée.

[22] Transformateurs Pioneer Ltée. (Pioneer) is a subsidiary of Spire Power Solutions (Spire). Spire provides a full range of solutions to meet the most demanding needs of the commercial, industrial, and utility markets for power and distribution transformers.⁸ As a part of Spire, Pioneer designs and manufactures liquid-filled transformers for unique applications.⁹ Pioneer submitted a letter expressing its support to the complaint.¹⁰

⁷ Exhibit 2 (NC) – Small Power Transformers Complaint, paras. 78-81.

⁸ <https://spirepowersolutions.com/about/>

⁹ <https://pioneertransformers.com/about/>

¹⁰ Exhibit 2 (NC) – Small Power Transformers Complaint, Exhibit 5-7 – Public.

Stein Industries Inc.

[23] Stein Industries Inc. (Stein) designs and manufactures power and distribution transformers, preventive auto transformers, transit rectifier power transformers along with transformer rectifiers for electrostatic precipitators. It also offers expertise and guidance in designing to the customers' specifications and requirements.¹¹ Stein submitted a letter expressing its support to the complaint.¹²

Trade Unions

[24] Northern's workforce is represented by Unifor.¹³

[25] PTI's Winnipeg workforce is represented by the United Steel Workers.¹⁴

Importers

[26] At the initiation of the investigation, the CBSA identified 12 potential importers of the subject goods from CBSA import entry documentation. All of the potential importers were asked to respond to the CBSA's Importer Request for Information (RFI).¹⁵ Upon review of the Exporter Dumping RFIs, additional potential importers were identified and subsequently sent the CBSA's Importer RFI. In total, the CBSA received eight responses to the Importer RFI.

Exporters

[27] At the initiation of the investigation, the CBSA identified 10 potential exporters, producers, and vendors of the subject goods from CBSA import documentation. All of the potential exporters, producers, and vendors were asked to respond to the CBSA's Dumping RFI.¹⁶

[28] Five companies provided responses to the CBSA's Dumping RFI. These submissions and results have been summarized in the *Results of the Dumping Investigation* section, found below.

[29] Respondents who have not provided complete submissions have been informed that their information could not be used for the purposes of the final determination as it was not found to be complete and/or reliable.

¹¹ <https://steinindustriesinc.com/>

¹² Exhibit 1 (PRO) – Small Power Transformers Complaint, Exhibit 5-6 – Confidential.

¹³ Exhibit 2 (NC) – Small Power Transformers Complaint, para. 99.

¹⁴ Exhibit 2 (NC) – Small Power Transformers Complaint, para. 101.

¹⁵ Exhibit 23 (NC) – Importer RFI.

¹⁶ Exhibit 22 (NC) – Exporter RFI – Dumping.

[30] CBSA officers performed verifications by way of Verification Questionnaires for Shihlin Electric & Engineering Corp., IEN Hanchang Co., Ltd. and Hyundai Electric & Energy Systems.

PRODUCT INFORMATION

Product Definition¹⁷

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

Liquid dielectric transformers having a top power handling capacity equal to or greater than 3,000 kilovolt amperes (kVA) (3 megavolt amperes (MVA)), and less than 60,000 kilovolt amperes (kVA) (60 megavolt amperes (MVA)), and having a nominal high voltage rating of greater than 34.5 kilovolts (kV), whether assembled or unassembled, complete or incomplete, originating in or exported from the Republic of Austria, the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu (Chinese Taipei), and the Republic of Korea.

Additional Product Information¹⁸

[32] For greater clarity, the subject goods include but are not limited to transformers manufactured to meet CSA standard C88-16, “Power transformers and reactors,” and superseding or equivalent standards, and similar proprietary specifications and standards that may be established by a customer for power transformers whether or not expressly based on or incorporating CSA C88-16.

[33] Incomplete SPT are subassemblies consisting of the active part and any other parts attached to, imported with, or invoiced with the active parts of the SPT. The “active part” of the SPT 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 an SPT.

[34] The product definition encompasses all SPT regardless of name designation, including but not limited to: Generation Station/Generator Step-Up Transformers, Step-Down Transformers, Auto-Transformers, Interconnection Transformers, Voltage Regulator Transformers, High-voltage Direct Current (“HVDC”) Transformers, and Mobile Transformers.

¹⁷ Exhibit 2 (NC) – Small Power Transformers Complaint, para. 4.

¹⁸ Exhibit 2 (NC) – Small Power Transformers Complaint, paras. 5-9.

[35] The subject goods do not include reactors, as reactors are not like SPT. Reactors are used at the terminal end of a transmission line to neutralize the reactive power generated by the line capacitance. Rather than transform voltage from one level to another, as SPT do, reactors reduce voltage drop by consuming reactive power. Reactors, therefore, have very different end uses than SPT. Reactors are also produced differently than SPT. Reactors contain, in general, only one winding and are based on a completely different core concept than SPT. SPT, on the other hand, typically have more than one winding.

[36] For greater clarity, the subject goods also do not include fully assembled mobile substations but do include SPT that are designed to be incorporated into mobile substations.

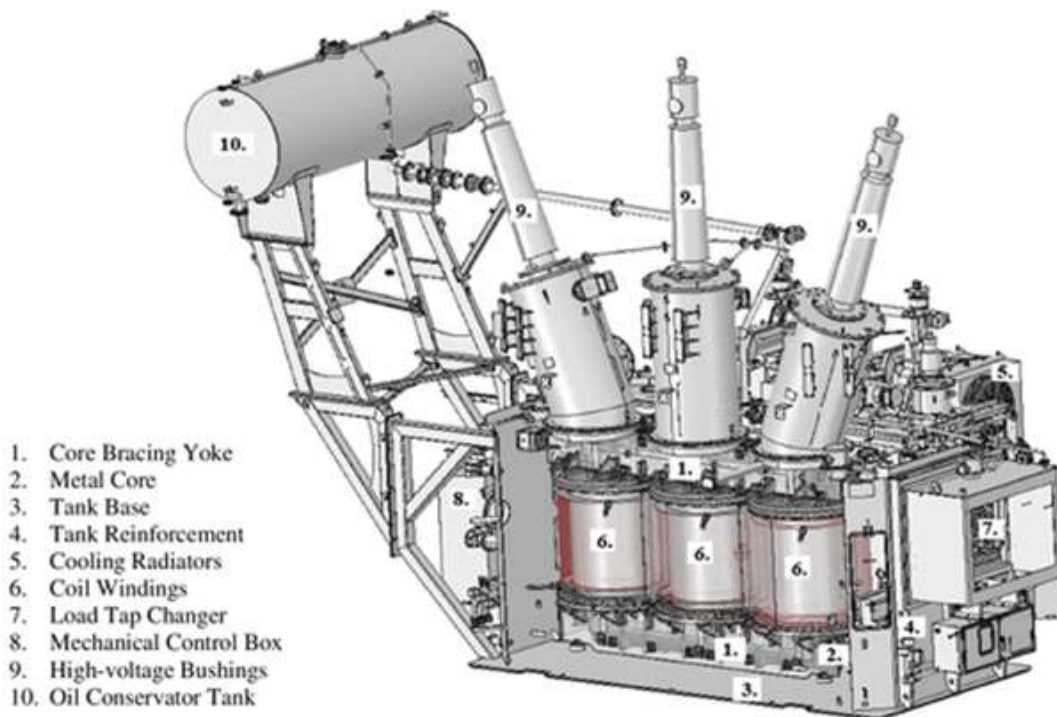
Product Characteristics

[37] All SPT are capital goods that are made to order from a customer's specifications based on the customer's particular needs. They are used to increase, maintain or decrease electric voltage in high voltage transmission and distribution systems. Broadly speaking, the distribution of electricity requires transformers to first increase (or "step-up") the voltage from the source of generation (e.g., a hydro dam) so that it can be transmitted more efficiently at higher voltages; and to second decrease (or step-down) voltage for purposes of distribution to users. SPT are also used to connect different parts of transmission and distribution networks.

[38] SPT 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.

[39] SPT all share certain basic, key physical characteristics. All SPT 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 an insulating media and has a cooling system attached. A diagram showing the major internal components of an SPT follows:

Figure 1 - SPT Showing Major Internal Components



[40] The core of an SPT is made of grain-oriented silicone steel and is laminated with an inorganic coating. The silicone steel is layered in pieces and shaped into the legs and yokes of the core. Cores typically consist of two, three, four, or five legs depending on the number of phases, capacity, and transport restrictions. SPT below 10 MVA may sometimes use wound cores in some applications where the core laminations are wound around the windings instead of stacked into legs and yokes.

[41] 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 SPT as specified.

[42] The core and windings are placed in a tank, which protects the active parts of the SPT. 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, required voltage clearances, number of windings and type of regulation, which itself is a function of the energy being transformed and customer specification.

[43] Lastly, all SPT possess a cooling system which ensures that heat is dissipated and prevents exceeding the specified temperature rise in the SPT. The cooling method is determined by the customer's requirements and use. SPT can employ several different cooling systems including: natural oil cooling/natural air cooling (often abbreviated as "ONAN"), natural oil cooling/forced air cooling ("ONAF"), forced oil cooling/forced air cooling ("OFAF"), directed oil cooling/forced air cooling ("ODAF"), and forced oil cooling/forced water cooling ("OFWF"). Other insulating fluids, such as ester-based fluids or silicone, will have the 'O' abbreviation substituted with other characters identifying the fluid (i.e. K or L).

[44] A number of raw materials are common to the construction of all SPT. The most significant raw materials used are copper, electrical (magnetic) steel, tank steel, and insulation material. Oil is also a very important insulation element often included in the sale of the SPT or purchased separately by the customer.

[45] Within the class of goods of SPT, there are 16 common customizable features or product characteristics, which can be manufactured to correspond to specified customer criteria. The precise specification required for each of these features may significantly affect the overall cost of producing the required transformer.

[46] The most common customizable features are:

- Maximum MVA rating;
- Type;
- Voltage;
- Basic impulse level (BIL) voltage;
- Number of windings;
- Number of phases (either 1 or 3 phase);
- Impedance;
- Regulation by tap changer;
- Noise level;
- Load losses (expressed in kilowatts);
- No load losses (expressed in kilowatts);
- Cooling class;
- Overload capability requirement;
- Frequency;
- Type of current to be transformed (AC current or DC current)

Production Process¹⁹

[47] The production of SPT normally has five main steps, which entails: (1) design; (2) core fabrication; (3) coil fabrication and coil-and-core assembly; (4) tanking; and (5) testing.

1. Design

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

2. Core fabrication

[49] After the design phase, the manufacturing phase begins. The first step in the manufacturing phase is creating the core of the SPT. The core is made by cutting laminated electrical steel sheets and stacking them one upon the other in a well-defined way. The stacked sheets are then pressed together, and positioning equipment is used to set the core in an upright position. As noted above, SPT below 10 MVA may sometimes use wound cores where the core laminations are wound around the windings instead of stacked, although the functionality of the transformer remains the same.

3. Coil fabrication and coil-and-core assembly

[50] The next step is to prepare the windings (coil fabrication) and coil-and-core assembly. The windings are fabricated from copper wire and covered with insulation paper. They are dried to eliminate all moisture content. The particular winding method employed can vary depending on the particular SPT design. The core-and-coil assemblies are held together by a specific design system.

4. Tanking

[51] The tank is usually painted inside and out to prevent corrosion. After assembly, the unit is dried a second time to eliminate any moisture. The coil-and-core assembly is then placed into a steel tank. The tank is equipped with a cooling system. The cooling media is the electrical insulating fluid. The cooling system used depends on the application of the SPT as specified by the customer.

¹⁹ Exhibit 2 (NC) – Small Power Transformers Complaint, paras. 33-38.

5. Testing

[52] After the manufacturing steps are complete, the SPT is subjected to rigorous testing in accordance with the applicable standards defined by the customer before it is sent for delivery to the customer. For purposes of testing prior to shipment to the customer, the cooling media (usually insulating oil) must be added to the tank. However, for purposes of shipping, the cooling media is often drained and refilled on site with a local supply due to the added weight. In the case of imported SPT from the named sources, which must be shipped a much longer distance overseas and loaded and offloaded at ocean ports, the Complainants understand that the cooling media (e.g. insulating oil) is drained at the foreign factory and refilled onsite in Canada from a local supply.

Product Use²⁰

[53] All SPT are used to transform voltage from one level to another as a result of the electromagnetic induction coils. There are three types of applications for SPT in terms of how they transform voltages. SPT can be applied as a Generation Station Unit, as an Auto-Transformer or as a Substation Transformer. Generation Station Units are primarily used to step voltage from a generating station up to a high voltage transmission grid. Depending on the secondary voltage, an Auto-Transformer is sometimes used after the generator transformer to further step up the voltage. Auto-Transformers are also used to interconnect systems operating at different voltage classes. The third use of an Auto-Transformer is to gradually step voltage down to the substation units. Auto-Transformers work in both the step-up and step-down operations. Substation Transformers step the voltage down to the distribution grid. In general, the difference between Auto-Transformers and Substation Transformers is in the design. Substation Transformers are galvanically separated whereas an Auto-Transformer is based on common winding in two voltage systems.

Classification of Imports

[54] Prior to 2019, imports into Canada of the subject goods were normally classified under the following tariff classification numbers: 8504.22.00.20 and 8504.23.00.00.

[55] Since 2019, imports into Canada of the subject goods are normally classified under the following tariff classification numbers: 8504.22.00.20 and 8504.23.00.10.

[56] Incomplete SPT and parts and components thereof may also be imported under the following tariff classification numbers: 8504.90.90.10, 8504.90.90.82 and 8504.90.90.90.

[57] The listing of tariff classification numbers is for convenience of reference only. The tariff classification numbers may include non subject goods. Also, subject goods may fall under tariff classification numbers that are not listed. Refer to the product definition for authoritative details regarding the subject goods.

²⁰ Exhibit 2 (NC) – Small Power Transformers Complaint, paras. 30-31.

LIKE GOODS AND CLASS OF GOODS

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

[59] In considering the issue of like goods, the CITT typically looks at a number of factors, including the physical characteristics of the goods (such as composition and appearance), their market characteristics (such as substitutability, pricing, distribution channels and end uses) and whether the domestic goods fulfill the same customer needs as the subject goods.

[60] In its preliminary injury inquiry for the investigation, the CITT further reviewed the matter of like goods and classes of goods. On June 29, 2021 the CITT issued its preliminary injury inquiry determination and reasons indicating that “... the Tribunal is satisfied that domestically produced small power transformers are like goods to the subject goods” ²¹. The Tribunal further concluded that “... the subject goods form a single class of goods” ²².

[61] While all SPT have similar characteristics and uses, they are capital goods that are made to order from a customer’s specifications based on the customer’s particular needs. The goods produced in the named sources are used to increase, maintain or decrease electric voltage in high voltage transmission and distribution systems. Both the goods in Canada and in the named sources are produced following substantially the same production process and follow the same key steps of design. Given the same specifications, the goods produced by the complainants are completely substitutable with the subject goods imported from the named sources.

[62] Although the goods produced by the Canadian industry may or may not be considered identical in all respects to the subject goods imported from the named sources, the CBSA has concluded that the Canadian goods closely resemble the subject goods. Further, after reviewing the raw material used to produce the goods, the production process, the physical characteristics of the goods, the end-uses and all other relevant factor, the CBSA is of the opinion that the subject goods constitute only one class of goods.

THE CANADIAN INDUSTRY

[63] The domestic industry is comprised of the three complainants, as well as Transformateurs Pioneer Ltée. and Stein Industries Inc., who support the complaint.²³ Based on the available evidence, the CBSA is satisfied that the complainants and the supporting producers account for all known production of like goods produced in Canada.

²¹ CITT Determination and Reasons, Certain Small Power Transformers Preliminary Injury Inquiry No. PI-2021-001, June 29, 2021, paragraph 28.

²² CITT Determination and Reasons, Certain Small Power Transformers Preliminary Injury Inquiry No. PI-2021-001, June 29, 2021, paragraph 33.

²³ Exhibit 2 (NC) – Small Power Transformers Complaint

IMPORTS INTO CANADA

[64] During the final phase of the investigations, the CBSA reaffirmed the volume and value of imports based on information from CBSA import entry documentation and other information received from exporters and importers.

[65] The following table presents the CBSA's analysis of imports of SPT for the purposes of the final determinations:

Imports of Certain Small Power Transformers
(POI : July 1, 2019 – December 31, 2020)

Origin or Source	% of Total Imports (by Volume)
Austria	4.2%
Chinese Taipei	6.3%
South Korea	33.3%
All Other Sources	56.3%
Total Imports	100%

INVESTIGATION PROCESS

[66] Regarding the investigation, information was requested from all known and potential exporters, producers, vendors, and importers, concerning shipments of SPT released into Canada during the POI.

[67] The exporters, producers, and vendors were notified that failure to submit all required information and documentation, including non-confidential versions, failure to comply with all instructions contained in the RFI, failure to permit verification of any information or failure to provide documentation requested during verification may result in the margins of dumping, and the assessment of anti-dumping duties on subject goods being based on facts available to the CBSA. Further, they were notified that a determination on the basis of facts available could be less favorable to their firm than if complete, verifiable information was made available.

[68] Several parties requested an extension to respond to their respective RFIs. Measures being taken to address the Covid-19 global pandemic by governments and health authorities around the world have made it difficult for stakeholders, including exporters located in foreign countries and domestic companies and their counsel to respond to the CBSA's RFI in a timely manner. As a result, the CBSA granted extensions to exporters where appropriate, in an effort to alleviate pressures brought on by the Covid-19 global pandemic, which still provided the CBSA adequate time to review the responses for purposes of the preliminary determination of the investigation.

[69] After reviewing the RFI responses, supplemental RFIs (SRFIs) and deficiency letters were sent to several responding parties to clarify information provided in the responses and request additional information, where necessary. Verifications of select responding parties were conducted by way of Verification Questionnaires.

[70] Details pertaining to the information submitted by the exporters in response to the Dumping RFI as well as the results of the CBSA's investigation, are provided in the *Dumping Investigation* section of this document.

[71] As part of the final phase of the investigation, case briefs and reply submissions were provided by counsels representing the complainants, importers and exporters from the named sources. Details of the representations are provided in **Appendix 2**.

DUMPING INVESTIGATION

Normal Value

[72] Normal values are generally determined based on the domestic selling prices of like goods in the country of export, in accordance with section 15 of SIMA, or based on either the methodology of paragraph 19(a) or on the aggregate of the cost of production of the goods, a reasonable amount for administrative, selling and all other costs, plus a reasonable amount for profits, in accordance with paragraph 19(b) of SIMA.

[73] Where, in the opinion of the CBSA, sufficient information has not been furnished or is not available, normal values are determined pursuant to a ministerial specification in accordance with subsection 29(1) of SIMA.

Export Price

[74] The export price of goods sold to importers in Canada is generally determined in accordance with section 24 of SIMA based on the lesser of the adjusted exporter's sale price for the goods or the adjusted importer's purchase price. These prices are adjusted where necessary by deducting the costs, charges, expenses, duties and taxes resulting from the exportation of the goods as provided for in subparagraphs 24(a)(i) to 24(a)(iii) of SIMA.

[75] Where there are sales between associated persons and/or a compensatory arrangement exists, the export price may be determined based on the importer's resale price of the imported goods in Canada to unrelated purchasers, less deductions for all costs incurred in preparing, shipping and exporting the goods to Canada that are additional to those incurred on the sales of like goods for use in the country of export, all costs included in the resale price that are incurred in reselling the goods (including duties and taxes) or associated with the assembly of the goods in Canada and an amount representative of the average industry profit in Canada, pursuant to paragraphs 25(1)(c) and 25(1)(d) of SIMA. In any cases not provided for under paragraphs 25(1)(c) and 25(1)(d) of SIMA, the export price is determined in such a manner as the Minister specifies, pursuant to paragraph 25(1)(e).

[76] Where, in the opinion of the CBSA, sufficient information has not been furnished or is not available, export prices are determined pursuant to a ministerial specification under subsection 29(1) of SIMA.

Margin of Dumping

[77] The margin of dumping by exporter is equal to the amount by which the total normal value exceeds the total export price of the goods, expressed as a percentage of the total export price. All the subject goods shipped to Canada during the POI are included in the margins of dumping of the goods. Where the total normal value of the goods does not exceed the total export price of the goods, the margin of dumping is zero.

Results of the Dumping Investigation

Austria

[78] The CBSA received a response to the Dumping RFI from one respondent in Austria, Siemens Energy Austria GmbH (SE AT).

Siemens Energy Austria GmbH²⁴

[79] SE AT is a producer and exporter of subject goods and is a privately owned limited liability company located in Austria. All subject goods shipped to Canada by SE AT were produced at its production facility located in Linz, Austria. During the POI, SE AT exported subject goods to Canada directly and all subject goods were sold to their related importer Siemens Energy Canada Limited (SECL).

[80] SE AT provided a response to the Dumping RFI on May 25, 2021, however, due to an insufficient non-confidential version of the confidential information submitted by SE AT, the submission could not be added to the administrative record until an adequate non-confidential version was received. Consequently, SE AT's submission was not added to the administrative record until June 11, 2021. Upon review, it was determined that SE AT's initial response to the RFI was incomplete as certain fundamental information relating to sales and costing information was not provided. SE AT was issued a deficiency letter on June 28, 2021.

[81] A full resubmission of the Dumping RFI was received from SE AT on July 6, 2021. A review of the resubmission revealed that deficiencies still remained which prevented the CBSA from determining normal values and export prices in accordance with the methodologies provided in sections 15 to 28 of SIMA. As such, on August 6, 2021, the CBSA issued a second deficiency letter to SE AT outlining essential information that was still outstanding.

²⁴ Exhibit 79 (PRO) & 80 (NC) – Response to request for information – dumping from Siemens Energy Austria GmbH

[82] A final RFI resubmission was received in response to the second deficiency letter and placed on the administrative record on September 27, 2021, just eight days before the close of record. The RFI resubmission included a substantial amount of new and revised information. Due to the lateness of the information received, the CBSA did not have sufficient time to perform a proper review and analysis of the information and conduct a verification in advance of the close of record. As a result, SE AT's response cannot be relied upon for the purposes of determining normal values and export prices.

[83] Accordingly, for purposes of the final determination the CBSA has determined the margin of dumping for SE AT based on a ministerial specification pursuant to subsection 29(1) of SIMA using the methodology described below.

All Exporters – Austria

[84] For exporters of subject goods originating in or exported from Austria that did not provide a response, did not furnish sufficient information in a timely manner, or provided an incomplete response to the Dumping RFI, the normal values and export prices were determined pursuant to a ministerial specification under subsection 29(1) of SIMA, which is based on a comparative analysis of facts available.

[85] In establishing the methodology for determining normal values and export prices, the CBSA analyzed all the information on the administrative record, including the complaint filed by the domestic industry, the CBSA's estimates at the initiation of the investigation and information submitted by exporters of SPT from the named sources.

[86] The CBSA decided that the normal values determined for the exporters whose submissions were substantially complete for the final determination, rather than the information provided in the complaint or estimated at initiation, would be used to establish the methodology for determining normal values since it reflects exporters' actual trading practices during the POI.

[87] The CBSA would normally first consider whether information from an exporter of SPT from Austria, who provided substantially complete information in a timely fashion, would be appropriate to use as the basis for determining the margin of dumping for all other exporters in Austria. However, as SE AT is the sole exporter who represented 100% of the subject goods exported from Austria, the CBSA instead considered whether information from exporters of SPT from all other named sources, who provided substantially complete information, would be appropriate to use as the basis for determining the margin of dumping for all other exporters in Austria.

[88] The CBSA examined the difference between the normal value and the export price determined for each individual transaction of each of the exporters that provided a substantially complete response, and considered that the highest amount (expressed as a percentage of the export price), was an appropriate basis for determining normal values. This methodology relies on information related to goods that were shipped to Canada during the POI and limits the advantage that an exporter may gain from not providing necessary information requested in a dumping investigation as compared to an exporter that did provide the necessary information.

[89] As a result, based on the facts available, for exporters that did not provide a response, did not provide a response in a timely fashion, or provided an incomplete response to the Dumping RFI, normal values of subject goods originating in or exported from Austria were determined based on the highest amount by which a normal value exceeded the export price, on an individual transaction, during the POI.

[90] Export prices were based on the declared selling prices on import documentation. The CBSA considers this the best available information on which to base the export prices for all other exporters as it reflects actual import data.

[91] Using the above methodology, for the final determination, the margin of dumping for all exporters in Austria is 73.1%, expressed as a percentage of the export price.

Chinese Taipei

[92] The CBSA received a response to the Dumping RFI from one respondent in Chinese Taipei, Shihlin Electric & Engineering Corporation (SEEC).

Shihlin Electric & Engineering Corporation

[93] SEEC was established in 1955 and is a publicly traded corporation listed on the Taiwan Stock Exchange. Headquartered in Taipei, SEEC manufactures transformers in Chinese Taipei and Vietnam. SEEC also manufactures breakers, switchgear, factory automation control products and automotive and motorcycle parts at facilities located in Chinese Taipei and China. SEEC sells its transformers both domestically as well as to other markets around the world.

[94] SEEC manufactured and exported subject goods from Chinese Taipei that were imported into Canada during the POI. While the subject goods were exported directly to SEEC's customers in Canada, some of the transactions involved documentation listing Shihlin Electric USA Company Limited (SEUSA), a wholly-owned subsidiary of SEEC located in Pasadena, California.

[95] Based on the information and supporting documentation provided by SEUSA and SEEC's customers in Canada, the CBSA found that SEUSA was not the importer for SIMA purposes for any of the importations of subject goods from SEEC that occurred during the POI.

[96] SEEC provided a substantially complete response to the CBSA's Dumping RFIs as well as two supplemental RFIs. SEEC's information was verified by way of verification questionnaires issued by the CBSA at the end of September 2021.

[97] Substantially complete responses to the Dumping RFI were also received from SEEC's Canadian customers and SEUSA.

[98] During the PAP, SEEC did not have any sales of like goods in their domestic market. As a result, normal values were determined in accordance with paragraph 19(b) of SIMA, based on the aggregate of cost of production of the subject goods, a reasonable amount for administrative, selling and all other costs, and a reasonable amount for profits. As domestic sales were made on credit terms other than cash discounts, prices were adjusted in accordance with subsection 21(2) of SIMA.

[99] The reasonable amounts for profits were determined in accordance with subparagraph 11(1)(b)(ii) of the SIMR, based on the weighted average profit made on profitable domestic sales of goods of the same general category sold during the PAP.

[100] As all of the subject goods exported by SEEC were imported by unrelated Canadian customers during the POI, export prices for the subject goods were determined in accordance with section 24 of SIMA, based on the lesser of the exporter's selling price and the importer's purchase price, adjusted by deducting the costs, charges and expenses incurred in preparing the goods for shipment to Canada and resulting from the exportation and shipment of the goods. As export sales were also made on credit terms other than cash discounts, prices were adjusted in accordance with subsection 27(2) of SIMA.

[101] The total normal value compared to the total export price results in a margin of dumping of 11.7% for SEEC, expressed as a percentage of the export price.

South Korea

[102] The CBSA received a response to the Dumping RFI from three respondents in South Korea, Hyundai Electric & Energy Systems Co., Ltd. (Hyundai Energy), IEN Hanchang Co., Ltd. (Hanchang), and ILJIN Electric Co., Ltd. (ILJIN KR).

Hyundai Electric & Energy Systems Co., Ltd.

[103] Hyundai Heavy Industry was incorporated in Ulsan, Korea in 1972, and was initially engaged in the construction of large ocean vessels, but has since diversified into other business lines. In April 2017, their Electro Electric Systems division was spun off into a separate corporate entity called Hyundai Energy which is the entity that produces and exports the subject goods.

[104] Hyundai Corporation (Hyundai Corp) was incorporated in 1976 as a general trading house, and over time expanded to handle international trade and distribution services for a wide range of products. Both Hyundai Energy and Hyundai Corp are directly or indirectly controlled by the same person (via family members) i.e. the Chung family, as such, the two companies are considered related for purposes of SIMA.

[105] Hyundai Energy manufactured and exported subject goods imported into Canada from South Korea during the POI. All of the subject goods exported by Hyundai Energy were imported either by the related Canadian importer Hyundai Canada, through Hyundai Corporation, or directly by an associated importer, Remington. The CBSA examined a number of relevant factors to identify the exporter, and found that Hyundai Energy is the exporter for purposes of SIMA.

[106] Hyundai Energy provided a substantially complete response to the CBSA's Dumping RFI as well as two supplemental RFIs. Hyundai Energy's information was verified by way of verification questionnaires issued by the CBSA at the end of September 2021.

[107] Hyundai Energy did not have sales of like goods in their domestic market. As a result, normal values were determined in accordance with paragraph 19(b) of SIMA, based on the aggregate of cost of production, a reasonable amount for administrative, selling and all other costs, and a reasonable amount for profits. As domestic sales were made on credit terms other than cash discounts, prices were also adjusted in accordance with subsection 21(2) of SIMA.

[108] The reasonable amount for profits was determined in accordance with subparagraph 11(1)(b)(ii) of SIMR, based on the weighted average profit made on profitable domestic sales of goods of the same general category sold during the PAP.

Export Prices for Subject Goods Sold to Hyundai Canada

[109] Since Hyundai Energy is related to Hyundai Corp and its importer, Hyundai Canada, a reliability test was performed to determine whether the section 24 export prices between Hyundai Energy and Hyundai Canada were reliable as envisaged by SIMA. This test was conducted by comparing the section 24 export price with the paragraph 25(1)(d) export price. As export sales were also made on credit terms other than cash discounts, prices were also adjusted in accordance with section 27(2) of SIMA.

[110] The reliability test revealed that the export price in accordance with section 24 of SIMA was reliable and, therefore, export price was determined in accordance with section 24.

Export Prices for Subject Goods Sold to Remington

[111] Remington is an exclusive agent for Hyundai Energy that did not provide a response to the Importer RFI. Although Hyundai Energy indicated that it was not related to Remington, Remington has previously been found to be not operating at arm's length with Hyundai Energy's predecessor, Hyundai Heavy Industry.²⁵

²⁵ Certain *Liquid Dielectric Transformers*, Statement of Reasons of the New Final Determination (March 21, 2014), AD/1395 (CBSA) at para 75 ("Although HHI's other importer, Remington, is not related to HHI, confidential information provided by HHI and Remington shows that Remington is not operating at arm's length with 43.HHI. The CBSA has therefore, determined that HHI and Remington are associated and a reliability test was performed to determine whether the section 24 export prices between HHI and Remington were reliable as envisaged by SIMA.") <https://www.cbsa-asfc.gc.ca/sima-lms/i-e/ad1395/ad1395-i13-fd2-eng.html>

[112] As no information was submitted by Remington, export prices could not be determined pursuant to either section 24 or section 25 of SIMA. As such, export prices for subject goods exported by Hyundai Energy and sold to Remington were determined pursuant to a ministerial specification in accordance with subsection 29(1) of SIMA.

[113] In establishing the methodology for determining export prices, the CBSA examined information on the record that was provided by cooperative exporters and customs import documentation. The CBSA examined the difference between the normal value and the export price for each individual transaction for exporters in South Korea, whose submissions were substantially complete for the final determination, in order to obtain an appropriate amount for the export price methodology.

[114] The CBSA considered that the highest amount by which the export price differed from the normal value on an individual transaction (expressed as a percentage) was an appropriate basis for determining export prices where sufficient information had not been furnished. This methodology relies on information related to subject goods that were shipped to Canada during the POI and limits the advantage an importer may gain from not providing necessary information requested in a dumping investigation as compared to an importer that did provide the necessary information.

[115] Therefore, export prices for subject goods exported by Hyundai Energy and sold to Remington were determined based on the normal value, less an amount equal to 42.2% of that normal value.

[116] The total normal value compared to the total export price, results in a margin of dumping of 73.1% for Hyundai Energy, expressed as a percentage of the export price.

IEN Hanchang Co., Ltd.

[117] Hanchang is a producer and exporter of subject goods. Hanchang's head office, along with its main production facility capable of producing subject goods, is located in Busan, South Korea.

[118] During the POI, Hanchang exported one subject good directly to Canada via an unrelated importer and another subject good via an affiliated trading company.

[119] With respect to the affiliated trading company, the CBSA determined that Hanchang, as owner and producer of the goods in the country of export and located at the point of direct shipment, which prepares and ships the goods from its facility directly to Canada is the exporter for SIMA purposes. Hanchang serves the domestic market as a direct distributor, with no intermediaries between the factory and end user. Their exports are facilitated through the affiliated trading company, which provides logistics services in coordinating the exports of goods from Hanchang to the unrelated importer.

[120] Hanchang provided a substantially complete response to the CBSA's Dumping RFI as well as two Supplemental RFIs. Hanchang's information was verified by way of verification questionnaires issued by the CBSA at the end of September 2021.

[121] Hanchang did not have sales of like goods in their domestic market. As a result, normal values were determined in accordance with paragraph 19(b) of SIMA, based on the aggregate of cost of production, a reasonable amount for administrative, selling and all other costs, and a reasonable amount for profits.

[122] Since Hanchang did not have domestic sales of like goods or goods of the same general category, a reasonable amount for profits was determined in accordance with subparagraph 11(1)(b)(iv) of the SIMR, based on the weighted average profit on the sales of goods of the same general category made by producers, other than the exporter, in the country of export.

[123] Export prices were determined in accordance with section 24 of SIMA, based on the lesser of the exporter's selling price and the importer's purchase price, adjusted by deducting the costs, charges and expenses incurred in preparing the goods for shipment to Canada and resulting from the exportation and shipment of the goods. As export sales were also made on credit terms other than cash discounts, prices were adjusted in accordance with subsection 27(2) of SIMA.

[124] The total normal value compared to the total export price results in a zero margin of dumping for Hanchang. As such, the dumping investigation in respect of the goods of this exporter was terminated pursuant to paragraph 41(1)(a) of SIMA.

ILJIN Electric Co., Ltd

[125] ILJIN KR was established in 1968 and has been listed on the Korean Stock Exchange since August 2008. ILJIN KR produces and sells equipment used in power generation, transmission, and transformation of electric power and distribution to global markets. ILJIN KR focuses on the production of transmission and distribution equipment, which includes transformers, as well as extra high voltage cables.

[126] ILJIN KR manufactured and exported subject goods that were imported into Canada from South Korea during the POI. All of the subject goods exported by ILJIN KR were imported by ILJIN Electric USA, Inc. (ILJIN USA), a wholly-owned subsidiary of ILJIN KR located in Houston, Texas. All of the subject goods imported by ILJIN USA were resold to unrelated customers in Canada and were shipped directly from ILJIN KR to ILJIN USA's customer in Canada.

[127] Both ILJIN KR and ILJIN USA provided substantially complete responses to the CBSA's Dumping RFIs as well as supplemental RFIs.

[128] During the PAP, ILJIN KR did not have any sales of like goods in their domestic market. As a result, normal values were determined in accordance with paragraph 19(b) of SIMA, based on the aggregate of cost of production of the subject goods, a reasonable amount for administrative, selling and all other costs, and a reasonable amount for profits. As domestic sales were made on credit terms other than cash discounts, prices were also adjusted in accordance with subsection 21(2) of SIMA.

[129] The reasonable amount for profits was determined in accordance with subparagraph 11(1)(b)(ii) of SIMR, based on the weighted average profit made on profitable domestic sales of goods of the same general category sold during the PAP.

[130] As all of the subject goods from ILJIN KR were imported during the POI by a related party, ILJIN USA, a reliability test was performed to determine whether the export prices determined in accordance with section 24 of SIMA were reliable as envisaged by SIMA. This test was conducted by comparing the section 24 export prices with export prices determined in accordance with paragraph 25(1)(d) of SIMA. As export sales were also made on credit terms other than cash discounts, prices were also adjusted in accordance with subsection 27(2) of SIMA.

[131] The CBSA also deducted an amount from the export prices determined in accordance with section 24 of SIMA to account for lump-sum payments made by the exporter to the related importer at the end of each year of the PAP. The lump-sum payments effectively represented a discount to the export price of subject goods imported by ILJIN USA from ILJIN KR and the deduction was made to arrive at the true price paid by the importer for the subject goods.

[132] The reliability test revealed that the export prices determined in accordance with section 24 of SIMA were reliable and, as a result, export prices were determined in accordance with section 24 of SIMA.

[133] The total normal value compared to the total export price results in a margin of dumping of 16.6% for ILJIN KR, expressed as a percentage of the export price.

All Other Exporters – South Korea

[134] For exporters of subject goods originating in or exported from South Korea that did not provide a response to the Dumping RFI or did not furnish sufficient information, the normal values and export prices were determined pursuant to a ministerial specification under subsection 29(1) of SIMA, which is based on a comparative analysis of facts available.

[135] In establishing the methodology for determining normal values and export prices, the CBSA analyzed all the information on the administrative record, including the complaint filed by the domestic industry, the CBSA's estimates at the initiation of the investigation and information submitted by exporters of SPT from the named sources.

[136] The CBSA decided that the normal values determined for the exporters whose submissions were substantially complete for the final determination, rather than the information provided in the complaint or estimated at initiation, would be used to establish the methodology for determining normal values since it reflects exporters' actual trading practices during the POI. The CBSA first considered whether the information from the exporters of SPT from South Korea who provided substantially complete information was appropriate to use as the basis for determining the margin of dumping for all other exporters in South Korea.

[137] The CBSA examined the difference between the normal value and the export price determined for each individual transaction for South Korea, and considered that the highest amount (expressed as a percentage of the export price), was an appropriate basis for determining normal values. This methodology relies on information related to goods that originated in South Korea and limits the advantage that an exporter may gain from not providing necessary information requested in a dumping investigation as compared to an exporter that did provide the necessary information.

[138] As a result, based on the facts available, for exporters that did not provide a response or provided an incomplete response to the Dumping RFI, normal values of subject goods originating in or exported from South Korea were determined based on the highest amount by which a normal value exceeded the export price, on an individual transaction for the POI.

[139] Export prices were based on the declared selling prices on import documentation. The CBSA considers this the best available information on which to base the export prices for all other exporters as it reflects actual import data.

[140] Using the above methodologies, for the final determination, the margin of dumping for all other exporters in South Korea is 73.1%, expressed as a percentage of the export price.

Summary of Results - Dumping

[141] A summary of the results of the dumping investigation respecting all subject goods released into Canada during the POI is as follows :

Margins of Dumping by Exporter (July 1, 2019 to December 31, 2020)

Origin or Source	Volume of Subject Goods as a Percentage of Total Imports	Margin of Dumping (as % of Export Price)
Austria	4.2%	N/A
Siemens Energy Austria GmbH	4.2%	73.1%
Chinese Taipei	6.3%	N/A
Shihlin Electric & Engineering Corporation	6.3%	11.7%
South Korea	33.3%	N/A
Hyundai Electric & Energy Systems	14.6%	73.1%
IEN Hanchang Co., Ltd.	2.1%	0.0%
ILJIN Electric Co., Ltd.	13.5%	16.6%
All Other Exporters	3.1%	73.1%
All Other Sources	56.3%	N/A
All Sources	100%	N/A

[142] Under paragraph 41(1)(a) of SIMA, the CBSA is required to terminate an investigation in respect of any goods of an exporter if it is satisfied that the goods have not been dumped or the margin of dumping of the goods of that exporter is insignificant, meaning a margin of dumping that is less than 2% of the export price of the goods.

[143] As can be seen from the table above, goods exported to Canada from South Korea by Hanchang were not dumped. As a result, the CBSA terminated the dumping investigation in respect of these goods pursuant to paragraph 41(1)(a) of SIMA.

[144] The remaining goods under investigation have been dumped and the margins of dumping determined for the goods are greater than the threshold of 2% and are therefore not considered insignificant. As a result, pursuant to paragraph 41(1)(b) of SIMA, the CBSA made a final determination of dumping respecting certain SPT originating in or exported from the named sources (excluding goods originating in or exported from South Korea by Hanchang).

[145] A summary of the results of the dumping investigation respecting the subject goods released into Canada during the POI are presented in **Appendix 1**.

DECISIONS

[146] Pursuant to paragraph 41(1)(a) of SIMA, on November 25, 2021, the CBSA terminated the dumping investigation with respect to certain SPT from South Korea by Hanchang.

[147] On the same date, pursuant to paragraph 41(1)(b) of SIMA, the CBSA made a final determination of dumping respecting certain SPT originating in or exported from Austria, Chinese Taipei, and South Korea (excluding goods exported from South Korea by Hanchang).

FUTURE ACTION

[148] The provisional period began on August 27, 2021, and will end on the date the CITT issues its finding. The CITT is expected to issue its decision by December 24, 2021. Provisional anti-dumping duties will continue to apply until this date on imports of the subject goods from Austria, Chinese Taipei, and South Korea (excluding goods exported from South Korea by Hanchang). For further details on the application of provisional duties, refer to the *Statement of Reasons* issued for the preliminary determinations, which is available through the CBSA's website at: www.cbsa-asfc.gc.ca/sima-lmsi/menu-eng.html.

[149] If the CITT finds that the dumped goods have not caused injury and do not threaten to cause injury, all proceedings will be terminated. In this situation, all provisional duty paid or security posted by importers will be returned.

[150] If the CITT finds that the dumped goods have caused injury, the anti-dumping duty payable on the subject goods released by the CBSA during the provisional period will be finalized pursuant to section 55 of SIMA. Imports released by the CBSA after the date of the CITT's finding will be subject to anti-dumping duty equal to the margin of dumping.

[151] The importer in Canada shall pay all applicable duty. If the importers of such goods do not indicate the required SIMA code or do not correctly describe the goods in the customs documents, an administrative monetary penalty could be imposed. The provisions of the *Customs Act* apply with respect to the payment, collection or refund of any duty collected under SIMA. As a result, failure to pay duty within the prescribed time will result in the application of interest.

RETROACTIVE DUTY ON MASSIVE IMPORTATIONS

[152] Under certain circumstances, anti-dumping duty can be imposed retroactively on subject goods imported into Canada. When the CITT conducts its inquiry on material injury to the Canadian industry, it may consider if dumped goods that were imported close to or after the initiation of the investigation constitute massive importations over a relatively short period of time and have caused injury to the Canadian industry. Should the CITT issue a finding that there were recent massive importations of dumped goods that caused injury, imports of subject goods released by the CBSA in the 90 days preceding the day of the preliminary determination could be subject to anti-dumping duty.

PUBLICATION

[153] A notice of the final determination of dumping will be published in the Canada Gazette pursuant to paragraph 41(3)(a) of SIMA.

[154] A notice of the termination of the dumping investigation with respect to certain SPT exported to Canada from South Korea by Hanchang will be published in the Canada Gazette pursuant to paragraph 41(4)(a) of SIMA.

INFORMATION

[155] This *Statement of Reasons* will be posted on the CBSA's website at the address below. For further information, please contact the officers identified as follows:

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

Telephone: Laurie Trempe 343-553-1588

E-mail: simaregistry@cbsa-asfc.gc.ca

Web site: www.cbsa-asfc.gc.ca/sima-lmsi



For Doug Band
Director General
Trade and Anti-dumping Programs Directorate

APPENDIX 1

SUMMARY OF MARGINS OF DUMPING

Origin or Export	Margin of Dumping (% of Export Price)
Austria	
Siemens Energy Austria GmbH	73.1%
Chinese Taipei	
Shihlin Electric & Engineering	11.7%
South Korea	
Hyundai Electric & Energy Systems	73.1%
IEN Hanchang Co., Ltd.	0.0%
ILJIN Electric Co., Ltd.	16.6%
All Other Exporters	73.1%

Note: The margins of dumping reported in the table above were determined by the CBSA for the purposes of the final decisions. These margins and amounts may not reflect the amount of anti-dumping duties to be levied on future importations of dumped goods. In the event of an injury finding by CITT, normal values for future shipments to Canada have been provided to the exporters who provided sufficient information in their response to the CBSA RFIs, as appropriate. These normal values would come into effect the day after an injury finding. Information regarding normal values of the subject goods should be obtained from the exporters. Imports from many other exporters will be subject to an anti-dumping duty rate, as applicable, in accordance with a ministerial specification and in an amount equal to the margin of dumping found for “all other exporters” at the final determinations.

Normally, normal values will not be applied retroactively. However, normal values may be applied retroactively in cases where the parties have not advised the CBSA in a timely manner of substantial changes that affect values for SIMA purposes. Therefore, where substantial changes occur in prices, market conditions, costs associated with production and sales of the goods, the onus is on the concerned parties to advise the CBSA.

Please consult the [SIMA Self-Assessment Guide](#) for more detailed information explaining how to determine the amount of SIMA duties owing.

APPENDIX 2

DUMPING REPRESENTATIONS

Following the October 5, 2021 closing of the record, case briefs were received from the complainants, Hyundai Electric & Energy Systems (Hyundai Energy) and Hyundai Electric America Corporation (HE America), ILJIN Electric Co., Ltd. and ILJIN Electric USA, Inc. (collectively “ILJIN”), Shihlin Electric & Engineering Corp. (SEEC), and Siemens Energy Austria GmbH (SE AT) and Siemens Energy Canada Limited (SECL). The CBSA received reply submissions from Northern Transformers Corporation, PTI Transformers Inc., PTI Transformers L.P., and Transformatours Delta Star Inc. (collectively, the complainants), Hyundai Energy & HE America, ILJIN, SEEC, and SE AT & SECL.

Certain details provided in case briefs and reply submissions were designated as confidential information by the submitting counsel. This has restricted the ability of the CBSA to discuss all issues raised in these submissions.

The CBSA has provided responses below to representations that relate to the final determination of dumping. The CBSA will not address representations pertaining to future enforcement in this *Statement of Reasons*.

The material issues raised by the parties are summarized as follows:

Profit Such as to Permit a Proper Comparison (SEEC)

Case Briefs

Counsel for SEEC submitted that the basis employed by the CBSA when determining an amount for profits for the purposes of the preliminary determination, basing the weighted average profit made on domestic sales of goods of the same general category, using SEEC’s total domestic sales of SPT does not permit a proper comparison. Counsel stated that the CBSA should determine profits based on domestic sales which are comparable to SEEC’s Canadian sales by narrowing the goods selected to a specific type of SPT.²⁶

Reply Submissions

Counsel for the complainants maintained the argument advanced in its case brief that the CBSA should apply a Ministerial Specification to determine SEEC’s normal values and export prices. Counsel also stated that should the CBSA accept SEEC’s data for purposes of the final determination, the CBSA should reject SEEC’s arguments concerning the methodology for calculating an amount for profits as being inconsistent with the provisions of SIMA as well as longstanding CBSA practice.²⁷

²⁶ Exhibit 264 (NC) – Case Brief – Shihlin Electric & Engineering Corp. (SEEC), pages 3-7.

²⁷ Exhibit 275 (NC) – Reply Submission – Northern Transformers Corp., PTI Transformers Inc., PTI Transformers L.P., and Transformatours Delta Star Inc., page 3.

CBSA Response

The CBSA did not agree with the argument put forth by SEEC to limit the group of goods forming the same general category to a specific type of SPT due to the fact that it would be too narrow a selection of goods to use when determining an amount for profit when taking into consideration the numerous factors influencing costs and pricing of SPT.

For the purposes of paragraph 19(b), the CBSA determined a reasonable amount for profits under the hierarchy of subparagraphs 11(1)(b)(i) to 11(1)(b)(vi) of the SIMR, taking into consideration section 13 of the SIMR and sections 15 and 16 of SIMA.

With respect to SEEC, as there were no domestic sales of like goods during the PAP, the CBSA determined a reasonable amount for profits based on domestic sales of goods of the same general category in accordance with subparagraph 11(1)(b)(ii) of the SIMR.

Accuracy and Completeness of Submissions (Complainants)

Case Briefs

Counsel for the complainants made representations regarding the accuracy and completeness of information submitted by Shihlin Electric & Engineering (SEEC), IEN Hanchang Co., Ltd. (Hanchang), Siemens Energy Austria GmbH (SE AT) and Hyundai Electric & Energy Systems (Hyundai Energy), in response to the Dumping RFI, supplemental RFIs and/or Deficiency letters. Counsel submitted that the normal value and export price be determined pursuant to a ministerial specification.²⁸

Reply Submissions

Counsel for SEEC and Hyundai Energy both responded to the complainant's arguments, stating that each company provided all information required by the CBSA in order to calculate normal values and export prices.²⁹

CBSA Response

Based on the CBSA's review of the information submitted, the CBSA found that sufficient information had been furnished by SEEC, Hanchang, and Hyundai Energy, and that the information was reliable. As a result, the CBSA used the information submitted by these three exporters to determine normal values, export prices and margins of dumping for purposes of the final determination.

Based on a review of the information submitted by SE AT, the CBSA found that sufficient information had not been furnished by SE AT in a timely manner. As a result, normal values and export prices were determined pursuant to a ministerial specification in accordance with subsection 29(1) of SIMA for purposes of the final determination.

²⁸ Exhibit 266 (NC) – Case Brief – Northern Transformers Corp., PTI Transformers Inc., PTI Transformers L.P., and Transformatours Delta Star Inc., pages 2-15.

²⁹ Exhibit 277 (NC) – Reply Submission – Shihlin Electric & Engineering Corp., pages 2-3.

Determining Export Prices for Cooperative Exporters under paragraph 25(1)(c) (Complainants)

Case Briefs

Counsel for the complainants submitted that for the purpose of the final determination, export prices for sales between cooperative exporters and cooperative affiliated importers should be determined under the provisions of SIMA 25(1)(c) as opposed to 25(1)(d), as the goods sold by importers to Canadian customer are sold in the same condition as the goods sold by exporter to the affiliated importer.³⁰

Counsel for Hyundai Energy submitted that paragraph 25(1)(d) applies to goods that are imported for the purpose of assembly, among other purposes. Counsel stated that Hyundai Energy sells subject goods that have been assembled and tested prior to issuance of the authorization of the customer in Canada for Hyundai Energy to ship the subject goods to Canada.³¹

Reply Submissions

Counsel for Hyundai Energy restated that paragraph 25(1)(d) applies to sales of subject goods because it applies to sales of goods that are imported for the purpose of assembly.³²

CBSA Response

The CBSA determined that subject goods are disassembled for shipment to Canada and subsequently reassembled and installed at the customer's site following importation. As such, paragraph 25(1)(d) is applicable as it relates to goods that are imported for the purposes of assembly. This approach is consistent with the methodology used within the *Liquid Dielectric Transformers* investigation.

³⁰ Exhibit 266 (NC) – Case Brief – Northern Transformers Corp., PTI Transformers Inc., PTI Transformers L.P., and Transformateurs Delta Star Inc., pages 15-17.

³¹ Exhibit 269 (NC) – Case Brief – Hyundai Electric and Energy Systems, page 10.

³² Exhibit 281 (NC) – Reply Submission – Hyundai Electric & energy Systems, pages 4-6.

Deduction of Net Expenses from Export Prices Determined under Sections 24 and 25 (Complainants)

Case Briefs

Counsel for the complainants submitted that when accounting for non-subject ancillary goods, such as oil and non-subject ancillary services, such as commissioning and installation, where such items are separately identified and charged to the importer or to the Canadian customer, the CBSA should only deduct net expenses from the price of the subject goods.³³

Counsel submitted that an approach called revenue capping is used by the United States Department of Commerce (DOC) and that it has been approved by the United States Court of International Trade. Counsel stated that such an approach was applied by the DOC when dealing with large power transformers.³⁴

Reply Submissions

Counsel for Hyundai Energy and ILJIN submitted that the complainants are incorrect that the CBSA should apply revenue capping, stating that it is not consistent with the wording of SIMA.³⁵

CBSA Response

The CBSA used the information on the record to determine export prices and the resulting margins of dumping in accordance within the provisions of SIMA and the SIMR. Revenue capping is an approach utilized by the DOC, which is not consistent with the provisions of SIMA and SIMR, as such it was not utilized by the CBSA in accounting for non-subject ancillary goods and services.

³³ Exhibit 266 (NC) – Case Brief – Northern Transformers Corp., PTI Transformers Inc., PTI Transformers L.P., and Transformateurs Delta Star Inc., page 18.

³⁴ Exhibit 266 (NC) – Case Brief – Northern Transformers Corp., PTI Transformers Inc., PTI Transformers L.P., and Transformateurs Delta Star Inc., pages 20-21.

³⁵ Exhibit 281 (NC) – Reply Submission – Hyundai Electric & energy Systems, page 7; Exhibit 283 (NC) – Reply Submission – ILJIN Electric Co., Ltd. and ILJIN Electric USA, Inc., pages 1-2..

Determination of Export Prices of Subject Goods Imported by Remington (Hyundai Energy and HE America)

Case Briefs

No evidence that Hyundai Energy and Remington do not deal at arm's length

Counsel for Hyundai Energy submitted that there is no evidence within the current proceeding that Hyundai Energy and Remington do not deal at arm's length. Counsel stated that the new final determination is not evidence that Hyundai Energy and Remington were not dealing at arm's length due to the fact that the finding was specific to a relationship between Hyundai Heavy Industries and Remington. Counsel concluded that a finding that another company was not dealing at arm's length with Remington a decade ago, and in respect of different goods, cannot justify the determination that Hyundai Energy and Remington were not dealing at arm's length during the POI.³⁶

Counsel further submitted that Article 6.6 of the WTO Anti-dumping Agreement requires that the CBSA satisfy itself as to the accuracy of the information supplied by interested parties upon which the CBSA bases its findings.³⁷

Comparing export prices is not necessary to determine export price reliability

Counsel submitted that SIMA does not require or permit the determination of export price reliability by comparing export prices. Counsel stated that it is a matter of CBSA policy that comparing export prices is not the exclusive means of determining export price reliability as per the SIMA Handbook.³⁸

Counsel further submitted that the legality of the CBSA's comparison of export prices to determine section 24 export price reliability is currently before the Canadian International Trade Tribunal in *Hyundai Canada Inc. v. President of the Canada Border Services Agency* EA-2019-008/010 and *Remington Sales Co. v. President of the Canada Border Services Agency* EA-2019-009. Counsel stated that should these decisions be issued before the final determination, the CBSA will be bound to follow the Tribunal's findings regarding the CBSA's reliability test.³⁹

The CBSA must specify an export price, not a margin of dumping

Counsel submitted that if the CBSA determines Remington's export prices under subsection 29(1), they must determine a methodology that specifies an export price, not a margin of dumping and in accordance with *Canada – Welded Pipe*.⁴⁰

³⁶ Exhibit 269 (NC) – Case Brief – Hyundai Electric and Energy Systems, pages 5-6.

³⁷ Exhibit 269 (NC) – Case Brief – Hyundai Electric and Energy Systems, page 6.

³⁸ Exhibit 269 (NC) – Case Brief – Hyundai Electric and Energy Systems, page 7.

³⁹ Exhibit 269 (NC) – Case Brief – Hyundai Electric and Energy Systems, page 8.

⁴⁰ Exhibit 269 (NC) – Case Brief – Hyundai Electric and Energy Systems, page 8.

Reply Submissions

No evidence that Hyundai Energy and Remington do not deal at arm's length

Counsel for the complainants submitted that the CBSA has correctly concluded that Hyundai Energy and Remington are not dealing at arm's length within the present investigation. To support their claim, counsel stated that Hyundai Energy provided no additional evidence to demonstrate that it was operating at arm's length with Remington. Counsel further stated that the CBSA has traditionally relied upon determinations made within prior investigations to inform a present investigation in both dumping and subsidy contexts and provided examples of each to support their claim.⁴¹

Lastly, counsel submitted that there is evidence on the record of the present investigation indicating that Hyundai Energy and Remington are not operating at arm's length via Hyundai Energy's exporter questionnaire response, which indicates that Remington conducted business as Hyundai Heavy Industries (Canada) during the POI, supporting a relationship between Hyundai Energy and Remington/Hyundai Heavy Industries (Canada).⁴²

The CBSA must specify an export price, not a margin of dumping

Counsel for the complainants submitted that the CBSA did use the best information available in applying a ministerial specification to Remington's export prices for the purpose of the preliminary determination, stating that the ministerial specification rate is based on Hyundai Energy's sales to another affiliated Canadian importer that exported to Canada during the POI, making it reasonable to assume Hyundai Energy's transactions and level of dumping on sales to Hyundai Canada HCI would be representative of the dumping occurring in the affiliated transaction between Hyundai Energy and Remington.⁴³

CBSA Response

Over the course of the investigation, both Hyundai Energy and Remington failed to provide evidence that they were dealing at arm's length for the purposes of the final determination. During the *Liquid Dielectric Transformers* investigation, Remington was found to not be operating at arm's length with Hyundai Heavy Industries, Hyundai Energy's predecessor. As a result, for the purposes of the final determination, the CBSA determined that Hyundai Energy and Remington were not operating at arm's length.

⁴¹ Exhibit 275 (NC) – Reply Submission – Northern Transformers Corp., PTI Transformers Inc., PTI Transformers L.P., and Transformateurs Delta Star Inc., pages 8-9.

⁴² Exhibit 275 (NC) – Reply Submission – Northern Transformers Corp., PTI Transformers Inc., PTI Transformers L.P., and Transformateurs Delta Star Inc., page 11.

⁴³ Exhibit 275 (NC) – Reply Submission – Northern Transformers Corp., PTI Transformers Inc., PTI Transformers L.P., and Transformateurs Delta Star Inc., page 12.

Throughout the course of the investigation, Remington chose not to provide any information despite multiple requests from the CBSA. As sufficient information has not been furnished by Remington to determine export prices under sections 24 and 25 of SIMA, export price were determined pursuant to a ministerial specification in accordance with subsection 29(1) of SIMA.

Hyundai Canada's Export Prices are Reliable (Hyundai Energy and HE America)

Case Briefs

Counsel for Hyundai Energy submitted that Hyundai Canada's export prices for subject goods are reliable based on the evidence on the record, provided that the CBSA calculates section 25 export prices. Counsel stated that for the purposes of the preliminary determination, the CBSA incorrectly estimated Hyundai Canada's section 25 export prices by removing amounts for service revenues and third party expenses, resulting in a finding that section 25 export prices are lower than section 24 export prices and were therefore unreliable. Counsel went on to state that the legality of the deduction of service revenues and third party expenses is also at issue within the Tribunal Appeals.⁴⁴

CBSA Response

The CBSA used the information on the record to determine export prices and the resulting margins of dumping in accordance within the provisions of SIMA and the SIMR. When calculating section 25 export prices for Hyundai Canada, deductions for service revenues and third party expenses were made in accordance with paragraph 25(1)(d) of SIMA. Ultimately, export prices were found to be reliable and determined under section 24 of SIMA.

Export Price Methodology for HE America (Hyundai Energy and HE America)

Case Briefs

Counsel for Hyundai Energy submitted that the CBSA should determine export prices for HE America for the purposes of the final determination. Counsel stated that the CBSA excluded HE America from the investigation on the basis that they had not imported subject goods during the POI. Counsel stated that during a disclosure meeting, the CBSA said the investigation was limited to importations during the POI and that it could not examine importations prior to or following that period due to the need to perform a negligibility analysis of importations for the purposes of the preliminary determination. Counsel submitted that the SIMA definition of negligible refers to an analysis of the volume of goods subject to an investigation that are released into Canada and does not refer to a specific period of time.⁴⁵

⁴⁴ Exhibit 269 (NC) – Case Brief – Hyundai Electric and Energy Systems, pages 10-11.

⁴⁵ Exhibit 269 (NC) – Case Brief – Hyundai Electric and Energy Systems, pages 13-16.

Reply Submissions

Counsel for the complainants submitted that the CBSA can decline to examine responses that are irrelevant to the investigation. Counsel stated that in *Concrete Reinforcing Bar*, the CBSA did not consider information provided by Balakovo Steel Works JSC, stating that the investigation focused solely on subject goods released into Canada during the POI and that BSW's information was not relevant to the investigation and therefore was not used.⁴⁶

CBSA Response

The POI for this investigation is July 1, 2019 to December 31, 2020. HE America did not import any subject goods into Canada during the POI, and as such, the calculation of export prices for HE America imports occurring outside the POI were not required in order to determine margins of dumping for the current investigation.

Alternative Ministerial Specification for HE America (Hyundai Energy and HE America)

Case Briefs

Counsel for Hyundai Energy stated that in the event the CBSA does not grant HE America an export price methodology for the purposes of the final determination, HE America requests that the CBSA determine a ministerial specification of the export price applicable to HE America that reflects its participation and cooperation within the investigation.⁴⁷

CBSA Response

As discussed in the relevant “all other exporters” sections of this document, the CBSA decided that the normal values and export prices determined for the exporters whose submissions were complete and reliable for the final determination, rather than the information provided in the complaint or estimated at initiation, would be used to establish the methodology for determining normal values since it reflects exporters' actual trading practices during the POI.

The CBSA examined the difference between the normal value and the export price for each individual transaction of each of the exporters that provided a complete and reliable response, and considered that the highest amount (expressed as a percentage of the export price), was an appropriate basis for determining normal values. This methodology relies on information related to goods that were shipped to Canada during the POI. The CBSA finds that this methodology sufficiently limits the advantage that an exporter may gain from not providing necessary information requested in a dumping investigation as compared to an exporter that did provide the necessary information.

⁴⁶ Exhibit 275 (NC) – Reply Submission – Northern Transformers Corp., PTI Transformers Inc., PTI Transformers L.P., and Transformateurs Delta Star Inc., page 16.

⁴⁷ Exhibit 269 (NC) – Case Brief – Hyundai Electric and Energy Systems, pages 17-18.

Initiating an Investigation against Austria (SE AT and SECL)

Case Briefs

Counsel for SEAT and SECL made case arguments that the CBSA had erroneously initiated an investigation regarding subject goods originating in or exported from Austria.⁴⁸

CBSA Response

Subsection 31(1) of SIMA states that “The President shall cause an investigation to be initiated respecting the dumping or subsidizing of any goods and whether there is a reasonable indication that such dumping or subsidizing has caused injury or retardation or is threatening to cause injury... if the President is of the opinion that there is evidence (a) that the goods have been dumped or subsidized; (b) that discloses a reasonable indication that the dumping and subsidizing has caused injury or retardation or is threatening to cause injury.”

In this case, there was evidence before the CBSA that a number of subject goods exported from Austria and imported into Canada during the POI were potentially dumped. Given the nature of the subject goods (i.e., capital goods) there were only a limited number of imports that occurred during the POI for the CBSA to analyze prior to the initiation of the investigation. Based on the information available to the CBSA at the time of initiation, there was reasonable indication that dumping was occurring on multiple transactions and had caused injury or was threatening to cause injury to the domestic industry, therefore, an investigation pursuant to subsection 31(1) was warranted.

⁴⁸ Exhibit 270 (PRO) & 271 (NC) - Case brief filed on behalf of Siemens Energy Austria GmbH ("SE AT") and Siemens Energy Canada Limited ("SECL"), pages 3-7.