Australian Government
Department of Industry, Innovation and Science
Anti-Dumping Commission

Consideration report number: 405

Application for a dumping duty notice

Submitted by: Keppel Prince Engineering Pty Ltd; and
Ottoway Fabrication Pty Ltd

In relation to certain wind towers exported to Australia from the Socialist Republic of Vietnam

June 2017

Customs Act 1901 Part XVB

Contents

Abbreviation

Abbreviation	Full reference
ABF	Australian Border Force
ABS	Australian Bureau of Statistics
the Act	the *Customs Act 1901*
ADN	Anti-Dumping Notice
the applicants	Keppel Prince Engineering Pty Ltd and Ottoway Fabrication Pty Ltd
AUD	Australian dollars
China	the People's Republic of China
the Commission	Anti-Dumping Commission
the Commissioner	Commissioner of the Anti-Dumping Commission
CTMS	cost to make and sell
EXW	ex-works
FIS	free into store
FOB	free on board
the goods	wind towers and sections thereof (as described at section 2.3) or 'the goods the subject of the application'
Haywards	A.C.N. 009 483 694 trading as Haywards Steel Fabrication & Construction Crisp Bros. Structural Steel & Metal Work
injury analysis period	from 1 January 2013
investigation period	1 January 2015 to 31 December 2016
Korea	the Republic of Korea
KPE	Keppel Prince Engineering Pty Ltd
Material Injury Direction	*Ministerial Direction on Material Injury 2012*
NIP	non-injurious price
OCOT	ordinary course of trade
OEM	original equipment manufacturer
OF	Ottoway Fabrication Pty Ltd
the Parliamentary Secretary	the Assistant Minister for Industry, Innovation and Science and Parliamentary Secretary to the Minister for Industry, Innovation and Science
REP 221	*Anti-Dumping Commission Report Number 221*, Dumping of Wind Towers Exported from the People's Republic of China and the Republic of Korea
RET	renewable energy target
SG&A	selling, general and administrative
TBR	tower base ring, also known as an embed
USD	United States Dollars
USP	unsuppressed selling price
Vietnam	the Socialist Republic of Vietnam

1. Findings and recommendations

This report provides the result of the consideration by the Anti-Dumping Commission (the Commission) of an application lodged under subsection 269TB(1) of the *Customs Act 1901* (the Act)[1] by Keppel Prince Engineering Pty Ltd ('KPE') and Ottoway Fabrication Pty Ltd ('OF'), (collectively 'the applicants') for the publication of a dumping duty notice in respect of certain wind towers ('wind towers or sections thereof' or 'the goods') exported to Australia from the Socialist Republic of Vietnam (Vietnam).

The applicants allege that the Australian industry for wind towers has suffered material injury caused by wind towers exported to Australia from Vietnam at dumped prices.

The legislative framework that underpins the making of an application and the Commission's consideration of an application is contained in Divisions 1 and 2 of Part XVB.

1.1. Findings

In accordance with subsection 269TC(1), the Commission has examined the application and is satisfied that:

- the application complies with the requirements of subsection 269TB(4) (as set out in section 2.2 of this report);
- there is an Australian industry in respect of like goods (as set out in section 2.4 of this report); and
- there appear to be reasonable grounds for the publication of a dumping duty notice in respect of the goods (as set out in chapters 3, 4 and 5 of this report).

1.2. Recommendations

Based on the above findings, the Commission recommends that the Commissioner of the Anti-Dumping Commission (the Commissioner) decide not to reject the application and initiate an investigation to determine whether a dumping duty notice should be published.

The Commission further recommends that:

- exports to Australia during the investigation period[2] 1 January 2015 to 31 December 2016[3] be examined to determine whether dumping and material injury has occurred; and
- details of the Australian market from 1 January 2013 be examined for injury analysis purposes.[4]

[1] All legislative references in this report are to the *Customs Act 1901* unless otherwise specified.

[2] As defined in subsection 269T(1).

[3] In their application, KPE and OF suggested a two year investigation period due to the long lead time from quotation to export through to erection of the goods. The applicants presented evidence to the Commission of the lead time from award of the tender through to construction, delivery and invoicing of the goods. This is necessary to allow the Commission to properly assess the causal link between dumping and claimed injury over the investigation period.

[4] The purpose of the injury analysis period is to allow the Commission to identify and examine trends in the Australian market which in turn assists the Commission in its examination of whether material injury has occurred over the investigation period.

If the Commissioner agrees with these recommendations, he must give public notice of the decision (**Non-Confidential Attachment 1**) in accordance with the requirements set out in subsection 269TC(4).

2. The application and the Australian industry

2.1. Lodgement of the application

2.1.1. Legislative framework

The procedures for lodging an application are set out in section 269TB.

The procedures and timeframes for the Commissioner's consideration of the application are set out in section 269TC.

2.1.2. Application timeframe

Table 1 below summarises the timeframes in relation to this application.

Event	Date	Details
Application lodged and receipted by the Commissioner under subsections 269TB(1) and (5)	10 April 2017	The Commission received an application from KPE and OF alleging that the Australian industry has suffered material injury caused by wind towers exported to Australia from Vietnam at dumped prices.
	27 April 2017	The Commission notified KPE and OF that the application contained critical and important deficiencies which if left unaddressed, create doubt as to the reasonableness of the grounds for publication of a dumping duty notice.
The applicants provided further information in support of the application under subsection 269TC(2A)	1-12 May 2017	Further information and data was provided by KPE and OF in support of the application and without having been requested to do so, as provided for in subsection 269TC(2A). The application is taken to include that further information and data, which meant that the application is taken to have been lodged and receipted on 12 May 2017, when the final additional information was lodged and received. Accordingly, the 20 day period for consideration of the application was restarted.
Consideration decision due under subsection 269TC(1)	1 June 2017	The Commissioner shall decide whether to reject the application within 20 days after the applicants provided further information.

Table 1: Application timeframe

2.2. Compliance with subsection 269TB(4)

2.2.1. Finding

Based on information submitted by the applicants, the Commission considers that the application complies with subsection 269TB(4).

2.2.2. Legislative framework

Subsection 269TC(1) requires that the Commissioner reject an application for a dumping duty notice if, among other things, the Commissioner is not satisfied that the application complies with subsection 269TB(4).

2.2.3. The Commission's assessment

Table 2 below summarises the Commission's assessment of the application's compliance with subsection 269TB(4).

Requirement for the application	Details
Lodged in writing under subsection 269TB(4)(a)	The applicants lodged confidential and non-confidential versions of the application in writing. The non-confidential version of the application can be found on the electronic public record on the Commission's website at www.adcommission.gov.au.
Lodged in an approved form under subsection 269TB(4)(b)	The application is in the approved form (Form B108) for the purpose of making an application under subsection 269TB(1).
Contains such information as the form requires under subsection 269TB(4)(c)	The applicants provided: • a completed declaration; • answers to all questions and completed versions of all appendices that were required by the application; and • sufficient detail in the non-confidential version of the application to enable a reasonable understanding of the substance of the information submitted in confidence.
Signed in the manner indicated in the form under subsection 269TB(4)(d)	The application was signed in the manner indicated in Form B108 by a representative of the applicants.
Supported by a sufficient part of the Australian industry under subsection 269TB(4)(e) and determined in accordance with subsection 269TB(6)	As set out in section 2.4, the Commission is satisfied that there is an Australian industry, KPE and OF, producing like goods. The other producer or manufacturer of like goods in Australia is A.C.N. 009 483 694 trading as Haywards Steel Fabrication & Construction Crisp Bros (Haywards). On the basis of the applicants' submissions, the Commission understands that Haywards did not produce like goods during the investigation period. However, the Commission understands that Haywards has previously produced like goods and retains the capacity to do so. Haywards provided a letter in support of KPE and OF's application. The Commission is satisfied that the level of support for the application complies with the requirements of subsections 269TB(6)(a) and (b).
Lodged in the manner approved under section 269SMS for the purposes subsection 269TB(4)(f)	The application was lodged in a manner approved in the Commissioner's instrument made under section 269SMS, being by email to the Commission's nominated email address in that instrument, which is: clientsupport@adcommission.gov.au. The application was therefore lodged in a manner approved under subsection 269SMS(2).

Table 2: Compliance with subsection 269TB(4)

2.3. The goods the subject of the application

Table 3 below outlines the goods as described in the application and their corresponding tariff classification.

Full description of the goods, as subject of the application
The goods the subject of this application are: *Certain utility scale wind towers, whether or not tapered, and sections thereof (whether exported or assembled or unassembled), and whether or not including an embed being a tower foundation section.*
Further information
The applicants provided further information at section A-3 of the application, as follows: Wind towers are designed to support the nacelle (an enclosure for an engine) and rotor blades for use in wind turbines that have electrical power generation capacities equal to or in excess of 1.00 megawatt (MW) and with a minimum height of 50 metres measured from the base of the tower to the bottom of the nacelle (i.e. whether the top of the tower and nacelle are joined) when fully assembled. A wind tower section consists of, at a minimum, multiple steel plates rolled into cylindrical or conical shapes and welded together (or otherwise attached) to form a steel shell, regardless of coating, end finish, painting, treatment or method of manufacture, and with or without flanges, doors, or internal components (e.g. flooring/decking, ladders, lifts, electrical junction boxes, electrical cabling, conduit, cable harness for narcelle generator, interior lighting, tool and storage lockers) attached to the wind tower section. Several wind tower sections are normally required to form a completed wind tower. An “embed”, or TBR (tower base ring), is the term used to describe the foundation section of the wind tower. This section is manufactured the same as a tower section only it is a lot shorter in height, usually comprising one or two steel plates rolled into barrels and joined with flanges attached. This section is usually cast into the ground a part of the towers foundation structure. Wind towers and sections thereof (whether exported assembled or unassembled) are included within the scope of the goods the subject of this application whether or not they are joined with non-subject merchandise, such as nacelles or rotor blades, and whether or not they have internal or external components attached to the subject goods, or include an embed, being a tower foundation section. Goods excluded from the application are: • Narcelles and rotor blades, regardless of whether they are attached to the wind tower. • Any internal or external components which are not attached to the wind towers or sections thereof. Wind towers for different wind farm projects may or may not require a foundation section (embed) depending on the tower specifications. Further information about the physical and technical properties of utility scale wind towers can be found in the application.

Tariff classification (*Schedule 3 of the Customs Tariff Act 1995*)				
Tariff code	***Stat Code***	***Unit***	***Description***	***Duty rate***
7308			*Structures (Excluding prefabricated buildings of 9406 and parts of structures (for example, bridges and bridge-sections, lock-gates, towers, lattice masts, roofs, roofing frameworks, doors and windows and their frames and thresholds for doors, shutters, balustrades, pillars and columns), or iron or steel; plates, rods, angles shapes, sections, tubes and the like, prepared for use in structures, or iron or steel:*	
7308.20.00			- *Towers and lattice masts*	
	03	T	*Tubular, whether or not tapered*	
	04	T	*Other*	5% DCS: 4% DCT: 5%
7308.90.00			- *Other*	
			Columns, pillars, posts and beams, girders, bracing gantries, brackets, struts, ties and similar structural units:	
			.Rolled formed structures:	
	52		*...Hot rolled*	
	53		*..Plated or coated with zinc or aluminium-zinc alloys, of a thickness less than 1.2 mm*	
	54		*..Plated or coated with zinc or with aluminium-zinc alloys, of a thickness of 1.2 mm or more*	
	55		*..Other*	
	56		*.Other*	
	63		*Sectional components, prepared for use in towers and lattice mats*	
	65		*Other*	
8502			*Electric Generating Sets and Rotary Converters:*	
8502.31			--Wind-powered:	5% DCS: 4% DCT: 5%
8502.31.10	31	No	--AC generating sets of an output exceeding 500kVA	

Previous tariff classification
During the investigation period, the Commission notes that: • statistical code 02 pertaining to tariff sub-heading 7308.20.00 was replaced with statistical codes 03 and 04; and • statistical code 61 pertaining to tariff sub-heading 7308.90.00 was replaced with four statistical codes. Two of these (statistical codes 63 and 65) are relevant to the goods.[5] Certain statistical codes were not included in the application, however, the Commission considers the inclusion of all the statistical codes referred to above are required on the basis of its analysis of the Australian Border Force (ABF) import data.
Previous investigations
Investigation 221 was conducted into wind towers exported to Australia from the People's Republic of China (China) and the Republic of Korea (Korea). A dumping duty notice in respect of the goods exported from China and Korea was published on 16 April 2014. Anti-Dumping Notice No. 2014/33 provides further details of the findings.
Other administrations
The US Department of Commerce initiated an investigation into the alleged dumping and subsidisation of wind tower imports from China and Vietnam which resulted in the imposition of anti-dumping duties for Chinese and Vietnamese exporters on 18 December 2012. On 29 March 2017 the US Department of Commerce announced that it was amending its final determination on wind towers with respect to the CS Wind Group's dumping margin and cash deposit rate. The revised dumping margin and cash deposit rate was amended to 0.00 per cent.[6]

Table 3 – The goods as described in the application

2.4. Like goods and the Australian industry

2.4.1. Finding

The Commission is satisfied that there is an Australian industry producing like goods to the goods the subject of the application, on the basis that:

- OF and KPE[7] produce goods that have characteristics that closely resemble the goods the subject of the application; and
- at least one substantial process in the manufacture of like goods is carried out in Australia.

2.4.2. Legislative framework

Subsection 269TC(1) requires that the Commissioner reject an application for a dumping duty notice if, among other things, the Commissioner is not satisfied that there is, or is likely to be established, an Australian industry in respect of like goods.

Like goods are defined under subsection 269T(1). Subsections 269T(2), 269T(3), 269T(4), and 269T(4A) are used to determine whether the like goods are produced in Australia and whether there is an Australian industry.

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[5] These changes was detailed in Australian Customs and Border Protection Notice No. 2015/19. This may be accessed at: https://www.border.gov.au/Customsnotices/Documents/ACN_2015-19.pdf

[6] Further information is available at https://www.federalregister.gov/documents/2017/03/29/2017-06254/utility-scale-wind-towers-from-the-socialist-republic-of-vietnam-notice-of-court-decision-not-in

[7] Haywards were previously found to produce like goods in Investigation 221, however on the basis of the application, the Commission understands that Hayward did not produce the goods during the investigation period.

2.4.3. Locally produced like goods

Table 4 below summarises the Commission's assessment of whether the locally produced goods are identical to, or have characteristics that closely resemble, the goods the subject of the application and are therefore like goods.

Factor	The Applicants' claims	The Commission's assessment
Physical likeness	Although wind towers are made to the purchasers' specifications on a project-by-project basis, all wind towers are large tubular steel towers that support wind turbine nacelles. Wind turbines convert the mechanical energy of wind to electrical energy and are comprised of three main components: the wind tower, nacelle and rotor. Both imported and locally produced wind towers share basic physical characteristics. Imported and Australian manufactured wind towers are tubular steel towers with components such as doors, ladders, flooring, cables and wiring, and lights typically attached to the inner diameter of the welded steel plates. The physical likeness of Australian and imported wind towers is shown in recent projects where the Australian industry has manufactured and supplied: • wind towers with and without embeds for the whole project; • wind towers and embeds where imported towers and embeds were also used; • embeds to fit the imported wind towers; • wind tower sections to be incorporated into imported wind tower sections to form a complete wind tower.	Based on information provided by the applicants, the Commission is satisfied that the locally produced like goods are physically alike to the imported goods as the primary characteristics are similar. Moreover, although every OEM has particular specifications, both imported and domestically produced goods are required to meet those specifications for a particular project. These specifications include the height, shape, and sectional components required to meet the tender specifications for the goods.

Factor	The Applicants' claims	The Commission's assessment
Commercial likeness	The Australian Industry and the imported wind towers compete in the same market on each project. Typically, the original equipment manufacturer (OEM) will call for tenders to supply wind towers for a project setting the same specifications for all suppliers.	The Commission reviewed pricing data from the ABF import database in conjunction with information provided in the application and is satisfied that price competition exists in the market between imported goods and the locally produced like goods, which suggests low product differentiation with respect to a project tendered upon. The information provided demonstrates that imported and locally produced goods competed and were supplied to the same customers on projects such as the Ararat project and stages 1 and 2 of the Hornsdale project. In this context, the Commission is satisfied that there is a close commercial likeness between the imported goods and the locally produced goods.
Functional likeness	Although every OEM has particular specifications it requires both overseas and domestic Australian manufacturers to meet for a particular wind project's wind towers, all wind towers are nevertheless used exclusively as part of wind turbines for supporting and elevating the nacelle and blades for the generation of electricity. There are no differences between one OEM's wind towers and another's in this regard. Wind towers for recent projects have comprised three or four section towers with or without an embed. Wind towers manufactured and sold by the Australian industry perform the same function as the imported wind towers in supporting and elevating the nacelle and blades for the generation of electricity.	The Commission is satisfied that the imported and locally produced goods are functionally alike as they have a similar range of end-uses. This is based on the fact that imported and Australian wind towers have been used on the same projects and an examination of company websites and product brochures.

Factor	The Applicants' claims	The Commission's assessment
Production likeness	All wind towers are made in similar manufacturing facilities using similar production processes. Wind towers manufactured by the Australian industry and the imported wind towers are produced by similar production methods utilising carbon steel welded into sections, before transportation to the wind project site for final assembly into wind towers. The production process of CS Wind Vietnam, a manufacturer of wind towers in Vietnam is similar to that of KPE and OF and uses similar equipment and materials. Packing and loading of the finished goods are also similar.	Based on company websites and product brochures, the Commission considers that locally produced like goods and the goods exported to Australia from Vietnam: • are manufactured in a similar manner; and • have the same or similar raw material inputs (e.g. carbon steel). The Commission therefore considers that there is a production likeness between the imported goods and the locally produced like goods.
Commission's assessment		
Based on the analysis above, the Commission considers that locally produced wind towers have characteristics that closely resemble the goods the subject of the application and therefore are like goods.		

Table 4 – Like goods assessment

2.4.4. Manufacture in Australia

Table 5 below summarises the Commission's assessment of whether at least one substantial process of manufacture is carried out in Australia and whether the like goods are therefore considered to have been manufactured in Australia as per subsection 269T(2).

The Applicants' claims
The key components of the applicants' manufacturing processes may be summarised as follows. • Processing of steel plate to specific sizes to fit individual strake dimensions (although, some operations outsource this process to other service providers). • Rolling of the processed plate into individual cylindrical steel cans or strakes meeting the precise specification diameter and curvature needs. • Welding according to specification to join edges and seams to form a tower section. This is followed by the precise fitting up of steel flanges which must meet the required specification flange tilt and flatness tolerances. • Surface treatment and then painting of steel surfaces. • Internal fit out of mechanical parts. Galvanised or aluminium platforms are either bolted or welded in, along with ladders, cable trays and safety fall arrest devices. All electrical main power cables, junction boxes and electrical lighting are installed. • Delivery preparation. Tower sections are washed, internal cables and attachments tied down, transport saddles fitted at each end of the tower section to help protect the finished painted surface, along with brace bars to protect the towers during overland transport or shipping. End cover tarpaulins are fitted to prevent dust encroaching inside the tower sections during delivery and storage at site. A full description of each applicants' manufacturing process is provided at section A.36 of their application.

The Commission's assessment
Based on the description of the applicants' manufacturing processes, the Commission is satisfied that at least one substantial process of manufacture of like goods is carried out in Australia.

Table 5 – Manufacture of like goods in Australia

2.5. Australian industry information

Table 6 below summarises the Commission's assessment of whether the applicants have provided sufficient information in the application to analyse the performance of the Australian industry.

Have the relevant appendices to the application been completed?		
A1	Australian production	Yes
A2	Australian market	Yes
A3	Sales turnover	Yes
A4	Domestic sales	Yes
A5	Sales of other production	Yes
A6.1	Cost to make and sell ('CTMS' and profit) – Domestic sales	Yes
A6.2	CTMS (and profit) – Export sales	Yes
A7	Other injury factors	Yes
General administration and accounting information for KPE		
History	Since 2001, KPE has been Australia's largest producer of wind towers.	
Ownership	KPE is the Australian subsidiary of Keppel Engineering (Singapore), which is part of Keppel Infrastructure (Singapore). The Keppel Groups of Companies includes Keppel Offshore & Marine, Keppel Infrastructure, Keppel Telecommunications & Transportation and Keppel Capital Holdings.	
Operations	KPE's Dart Road division is responsible for the production and sale of the goods subject to the application. The division also undertakes other fabrication activities not related to wind towers.	
Financial year	KPE's accounting period is 1 January to 31 December.	
Audited accounts	KPE provided audited accounts for 2013-2016 with the application.	

General administration and accounting information for OF	
History	OF is an engineering and steel fabrication business which was formed in 1995 as a result of a merger of two South Australian engineering companies. It commenced manufacturing wind towers in 2013.
Ownership	OF is a wholly owned subsidiary of E&A Limited. OF is part of the Heavy Mechanical and Electrical Engineering segment of E&A Limited.
Operations	The company provides a range of fabrication services in addition to producing wind towers.
Financial year	OF's accounting period is 1 July to 30 June.
Audited accounts	OF's financial statements are not audited. OF's financial results are reported as part of the Heavy Mechanical and Electrical Engineering segment results in E&A Limited annual reports. Copies of E&A Limited's annual reports for 2013-2016 were provided by OF.

Production and sales information	Cost to make and sell information	Other injury factors
Confidential Appendices A-2 and A-4 provided by KPE and OF contain the required data.	Confidential Appendix A-6 was provided by each applicant and contains the required data.	Confidential Appendix A-7 to the application contains the required data.
The Commission's assessment		
Based on information in the application, the Commission is satisfied that there is sufficient data on which to analyse the performance of the Australian industry between 1 January 2013 and 31 December 2016.		

Table 6 – Australian industry information

2.6. Market size

As part of the application, KPE and OF submitted their own production data and market intelligence regarding the quantum, timing and expected weight of import volumes (based on research on the various wind farm projects in Australia) to estimate the size of the Australian wind tower market.[8]

The details of the various wind tower projects, their size and the successful supplier is included at Non-Confidential Attachment 4 to KPE and OF's application.

The Commission compared the applicants' estimates of import volumes to data sourced from the ABF import database which the Commission filtered based on the following methodology:

- data was extracted from the ABF import database based on the relevant tariff classifications;
- the data was filtered based on the goods description to exclude imports that appeared not to be the goods;
- the data was matched, using the goods description, supplier and importer identity and importation dates, against known wind farm project milestones; and
- the data was again matched against the known quantities and expected weights of the towers for the relevant projects.

The Commission notes that the applicants' estimates of wind tower import volumes from Vietnam are broadly similar to the Commission's estimates. Given that the majority of wind tower imports appear to be from Vietnam, for the purposes of this report, the Commission considers that the applicants' estimates for countries other than Vietnam are reasonable for estimating the size of the Australian market for the injury analysis period. The Commission will endeavour to more accurately estimate the Australian market size for wind towers as part of the investigation.

The Commission's assessment of the size of the Australian market for wind towers is at **Confidential Appendix 1**.

Figure 1 below charts the size and composition of the Australian wind towers market. It demonstrates the fluctuation in production, particularly in 2015.

[8] Refer Application – Non-Confidential Attachment 1 – Australian Wind Tower Market.

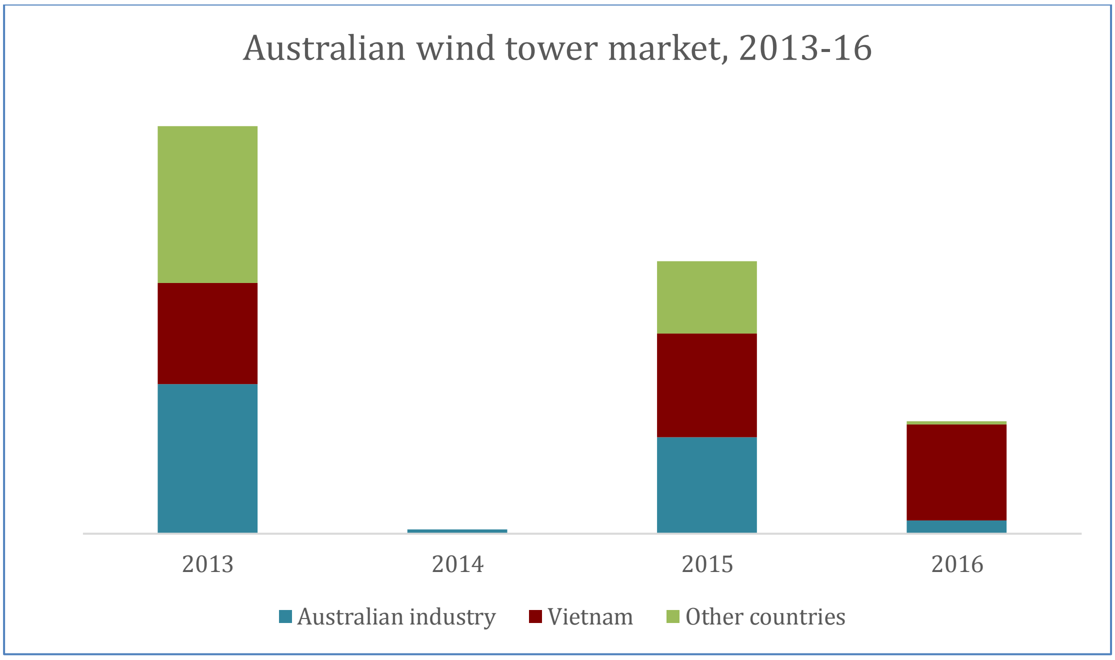

Figure 1 – Australian market size for wind towers

3. Reasonable grounds – dumping

3.1. Findings

Having regard to the matters contained in the application and to other information considered relevant, pursuant to subsection 269TC(1)(c), the Commission considers that there appear to be reasonable grounds to support the Australian industry's claims that, during the investigation period:

- the goods have been exported to Australia from Vietnam at dumped prices;
- the estimated dumping margin for the goods exported to Australia from Vietnam is greater than 2 per cent and therefore is not negligible; and
- the estimated volume of the goods exported to Australia from Vietnam that appear to have been dumped is greater than 3 per cent of the total import volume of the goods and therefore is not negligible.

3.2. Legislative framework

Subsection 269TC(1) requires that the Commissioner reject an application for a dumping duty notice if, among other things, the Commissioner is not satisfied that there appear to be reasonable grounds for the publication of a dumping duty notice.

Under section 269TG, one of the matters that the Assistant Minister for Industry, Innovation and Science and Parliamentary Secretary to the Minister for Industry, Innovation and Science (Parliamentary Secretary)[9] must be satisfied of in order to publish a dumping duty notice is that the export price of goods that have been exported to Australia is less than the normal value of those goods, i.e. that dumping has taken place (to an extent that is not negligible). This issue is considered in the following sections.

[9] On 19 July 2016, the Prime Minister appointed the Parliamentary Secretary to the Minister for Industry, Innovation and Science as the Assistant Minister for Industry, Innovation and Science. For the purposes of this investigation the Minister is the Parliamentary Secretary to the Minister for Industry, Innovation and Science.

3.3. Export price

3.3.1. Legislative framework

Export price is determined by applying the requirements in section 269TAB, taking into account whether the purchase or sale of goods was an arms length transaction under section 269TAA.

3.3.2. The applicants' estimate of export price

In the absence of publically available prices for wind towers imported from Vietnam, each applicant has calculated a deductive export price under subsection 269TAB(1)(b) to estimate the export price of wind towers exported to Australia from Vietnam.

KPE calculated deductive export prices for both a tower and an embed in respect of the Ararat wind farm project. OF calculated a deductive export price for a tower at stage 1 and stage 2 of the Hornsdale wind farm project.

Table 7 below summarises the approach taken by the applicants to estimate export prices and the evidence relied upon.

Basis of estimate	Details
Deductive export price, calculated under subsection 269TAB(1)(b) observing the prescribed deductions under subsection 269TAB(2)	KPE and OF calculated separate deductive export prices for wind towers from Vietnam. Both applicants adopted the same methodology but provided separate calculations. KPE used the Ararat project as a basis for calculating an export price for both a tower and embed. OF calculated the export price for a tower for both stages 1 and stages 2 of the Hornsdale project. The starting point for this calculation was the amount quoted by the Australian industry less an estimate of the amount by which Australian industry had been undercut. From this price the Australian industry deducted storage and lifting costs, general customs duty, import clearance and handling, overseas freight and overseas insurance to arrive at an FOB export price.[10] No profit or general selling, general and administrative (SG&A) expenses pertaining to the importer were included in the applicants' calculations.

Table 7 – Applicants' export price estimates

3.3.3. The Commission's assessment of export price

The Commission examined the data and supporting evidence provided by the applicants. To verify the reliability of the applicants' export price estimates, the Commission compared the data in the application to data it obtained from the ABF import database, following the methodology outlined in section 2.6.

The export price estimated by KPE varied by less than 1 per cent from the Commission's weighted average FOB export price export price based on ABF import data. As a result, the Commission considers that KPE's export price estimate is reasonable and reliable for the purposes of this report.

However, there was a significant variance between OF's export price estimate and the Commission's weighted average FOB export price estimate based on ABF import

[10] The export price and normal value were both calculated at the FOB level to allow for a fair comparison.

data. Given the materiality of the variance and noting that certain deductions applied in OF's deductive export price calculation were based on its own expenses, which may not be relevant to imports from Vietnam, the Commission considers that its export price estimate is more reasonable and reliable for the purposes of this report.

The Commission has therefore re-calculated OF's estimated export price, having regard to all relevant information in accordance with subsection 269TAB(3). The Commission's export price estimate was significantly higher than OF's estimate. As a result, this had the impact of reducing the dumping margin calculated by OF by a significant amount. Further details of the resulting impact on the dumping margin estimated by OF are provided at section 3.5.2.

An assessment of export prices is at **Confidential Appendix 2**.

3.4. Normal value

3.4.1. Legislative framework

Normal value is determined by applying the requirements in section 269TAC taking into account whether:

- the purchase or sale of the goods was an arms length transaction under section 269TAA;
- the goods were sold in the ordinary course of trade (OCOT) under section 269TAAD;
- there has been an absence or low volume of sales of like goods in the country of export; and
- whether the situation in the market of the country of export is such that sales in that country are not suitable for determining normal value under subsection 269TAC(1).

3.4.2. The applicants' estimate of normal value

The applicants submit that there is a domestic market for wind towers in Vietnam.

The applicants submit that they do not have access to actual domestic selling prices and that there is no available published data on prices of wind towers in Vietnam. The applicants further submit that, even if this data was available, it would not be suitable for the purpose of determining a normal value given that wind towers are made to purchasers' specifications on a project by project basis.[11]

In view of this, the applicants have constructed a normal value for wind towers used for stages 1 and 2 of the Hornsdale project and wind towers and embeds used on the Ararat project, based on the timing of the equivalent export sales. The basis for the normal value estimates are the applicants' own costs, observing the specifications for the relevant projects, and taking into account necessary adjustments to reflect market conditions in Vietnam.

Table 8 below summarises the approach taken by the applicants to estimate normal values and the evidence relied upon.

[11] This is consistent with the Commission's experience in respect of Investigation 221, which concerned the dumping of wind towers exported from China and Korea.

<table>
<tr><th>Basis of estimate</th><th>Details</th></tr>
<tr><td>The normal value was calculated in accordance with subsection 269TAC(2)(c), using the cost of production of the exported goods plus amounts for SG&A expenses and profit.

Adjustments were made to the normal value in accordance with subsection 269TAC(9) to ensure a fair comparison of normal values with export prices.</td><td>Cost of production
The cost of production comprised of the following components:
Steel costs based on the amount of steel required for the relevant projects, and a quotation from a trader for steel plate of the required grade, 355 MPa, imported to Australia from China.[12] The steel costs were adjusted to reflect a price payable in Vietnam (e.g. by removing import costs), and did not include dumping duty.[13]
Flange and internal costs based on the applicants' purchase price or quoted price adjusted to remove import costs to Australia.
Paint and consumables based on the applicants' costs discounted to reflect lower costs in Vietnam.
Gas costs based on the applicants' costs uplifted to account for the higher cost of gas in Vietnam than in Australia.[14]
Electricity costs based on the applicants' costs uplifted for a similar amount as for gas on the basis that a 'market situation' exists for electricity exists in Vietnam.[15]
Labour costs based on the applicants' costs discounted to account for the lower costs of labour in Vietnam.
Other manufacturing costs based on the applicants' own costs for loading and packing of the wind towers plus set up costs.
SG&A and profit
Amounts for SG&A expenses and profit were based on the consolidated accounts of CS Wind Corporation, the Korean-based parent of CS Wind Vietnam, on account of the applicants being unable to source statements specific to CS Wind Vietnam.

Adjustments
Adjustments for braces for ocean freight, freight to port, and port loading charges were made by the applicants to the constructed ex-works normal value to ensure a fair comparison of normal values with export prices calculated at FOB.</td></tr>
</table>

Table 8 – Applicants' normal value methodology

[12] The applicants used a quotation in respect of Chinese steel on the basis of its understanding that a USA investigation into wind towers exported from Vietnam determined that CS Wind imported its steel plate from China.

[13] Certain plate steel imports to Australia from China are subject to dumping duties.

[14] This was supported by an article reporting on the International Gas Union's *Wholesale Gas Price Survey 2016*.

[15] A market situation was claimed on the basis that Vietnam Electricity, which is responsible for providing Vietnam's power, "is a state-run firm that determines electricity prices in Vietnam" and that statements by Vietnam Electricity imply that price increases have been restrained due to its obligations as a state-run company.

3.4.3. The Commission's assessment of normal value

Steel cost estimates

The applicants submitted that the relevant grade of steel plate used in the goods exported to Australia from Vietnam was S355 MPa. In each applicants' constructed normal value calculation, steel plate costs were the major input cost, representing approximately 45 per cent of the cost to make the goods.

Given that the estimates relied on a quotation for the relevant steel grade imported to Australia, the Commission attempted to test the applicants' estimates of steel costs against imports of equivalent plate steel using the ABF import database. However, there were limitations in the goods descriptions so that imports of the same steel grade during the relevant period were not able to be obtained.

The Commission also compared the estimates against a range of published plate steel data in the Asian region. The Commission observed that the estimates provided by the applicants were significantly above these published prices, however the published prices were typically for a lower grade of steel.

The Commission understands that there are a number of factors that influence the pricing for steel plate used in wind tower manufacture, including:

- pricing ranges for different grades of plate – published plate steel data aggregates a number of grades; and
- whether the steel supplier is an approved supplier for the OEM.

The Commission considers that the applicants can only provide such information as is reasonably available to them to evidence their claims. The applicants have supported estimates with information that is reasonably available to them and, where assumptions have been made, have explained the basis for those assumptions. Where appropriate, the applicants have used data from independent sources and made adjustments to costs to best reflect their understanding of the market conditions in Vietnam for the steel used in stage 1 and 2 of the Hornsdale project and the Ararat project.

The Commission considers that an Australian entity may not reasonably be expected to possess detailed pricing information from an overseas country.

In view of this and the additional pricing information provided by the applicants regarding structural grade plate steel as well as the limitations of published steel data, the Commission considers that the evidence provided establishes reasonable grounds for estimating the normal value in Vietnam under subsection 269TAC(2)(c).

Other costs of production

The Commission analysed the various costs of production including flanges, paint and consumables, gas, labour and manufacturing costs. The applicants have supported their estimates with information that is reasonably available to them and, where assumptions have been made, have explained the basis for those assumptions. Where appropriate, the applicants have used data from independent sources and made adjustments to costs to best reflect their understanding of the market conditions in Vietnam.

Market situation for electricity in Vietnam

The Commission notes that the application includes a claim that there is a 'market situation' in relation to electricity in Vietnam due to government control over electricity pricing. The applicants' claim that electricity used in the production of wind towers is not subject to competitive market realities. The applicants provided a news article to support their claims, however the Commission considers that the applicants have not adequately demonstrated how, and the extent to which, electricity costs are distorted by government control and the consequential impact this may have on the normal value. In addition, the Commission notes that the normal value information provided by the applicants indicates that electricity costs represent a small percentage of the overall cost of manufacturing the goods.

The Commission considers that there do not appear to be reasonable grounds to support the applicants' claim that a market situation exists in respect of electricity costs in Vietnam. If further information is provided to substantiate the applicants' claim during the investigation, the Commission will consider this issue.

For the purposes of this report, the Commission has removed the upward adjustment to electricity costs applied by the applicants in their normal value calculations, which has the impact of reducing the normal value and dumping margin.

The Commission will consider whether electricity costs along with other costs are competitive market costs in the course of the investigation.

Cost to sell and profit estimates

In constructing the normal value, each applicant included an amount for SG&A expenses (including finance costs) and profit based on CS Wind Corporation's financial accounts. CS Wind Corporation is the Korean-based parent of CS Wind Vietnam.

The Commission notes that CS Wind Corporation's financial accounts contain some data which is not relevant to Vietnam and that it would be preferable to use figures based on CS Wind Vietnam's accounts. However, it considers that the information used by the applicants is reasonable on the basis that CS Wind Vietnam's financial accounts are not readily available to the applicants.

Adjustments to normal value

Adjustments may be made to a constructed normal value in accordance with subsection 269TAC(9) to ensure a fair comparison of normal values with export prices. Such adjustments are made to costs and do not ordinarily include an amount of profit.

However, both applicants increased the value of the adjustments they made to the normal value, for items such as freight to port and port loading charges,[16] by the profit rate observed in relation to CS Wind Corporation. The Commission does not consider this necessary and as such, the Commission adjusted both applicants' normal value calculations to remove an amount for profit that had been added. This had the effect of lowering the normal value and dumping margins slightly.

An assessment of normal values is at **Confidential Appendix 3**.

3.5. Dumping margins

3.5.1. Legislative framework

Dumping margins are determined in accordance with the requirements of section 269TACB. Dumping margins are expressed as a percentage of the export price.

Dumping margins and dumping volumes cannot be negligible, otherwise the investigation must be terminated. Whether the dumping margins and dumping volumes are negligible is assessed under section 269TDA.

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[16] The basis for these costs were quotes obtained by the Australian industry.

3.5.2. Dumping margin estimates

Table 9 below summarises the dumping margins estimated by the applicants and the dumping margins estimated by the Commission (which is based on revised estimates of export prices as outlined at section 3.3.3 and normal values as outlined at section 3.4.3). Table 9 also indicates that the Commission is satisfied that the dumping margins and volume of dumped goods are above negligible levels.

Applicant	The Applicants' estimate	The Commission's estimate[17]	Volume
KPE	28.6 – 37.1 per cent with a weighted margin of **29.4** per cent. KPE calculated this dumping margin using its deductive export price and constructed normal value calculations in respect of the Ararat project.	27.5 – 36.4 per cent with a weighted margin of **28.9** per cent.	Based on information from the ABF import database, the estimated volume of goods from Vietnam that appear to have been dumped is greater than 3 per cent of the total import volume of the goods.
OF	36.4 – 43.7 per cent depending on project with a weighted margin of **40.1** per cent. OF calculated this dumping margin using its deductive export price and constructed normal value calculations in respect of stages 1 and 2 of the Hornsdale project.	9.3-10.6 per cent depending on project with a weighted margin of **10.0** per cent. The Commission has replaced OF's export price estimate with the FOB export price estimate it calculated from the ABF import database.	

Table 9 - Dumping margin estimates

The Commission calculated a dumping margin for both the Ararat project and stages 1 and 2 of the Hornsdale project by weighting its estimated dumping margin by the value of these projects. The Commission's estimate of this dumping margin is **15.7 per cent**.

[17] The Commission compared the weighted average of export prices for the Ararat and Hornsdale projects with the weighted average of corresponding normal values in accordance with subsection 269TACB(2)(c). The Commission's assessment of dumping forms **Confidential Appendix 4**.

4. Reasonable grounds – injury to the Australian industry

4.1. Findings

Pursuant to subsection 269TC(1)(c), having regard to the matters contained in the application, and to other information considered relevant, the Commission considers that there appear to be reasonable grounds to support the claims that the Australian industry has experienced injury in the form of:

- loss of sales volume;
- loss of market share;
- loss of sales revenue;
- price depression;
- price suppression;
- reduced profit;
- reduced profitability;
- reduced capacity utilisation;
- constrained capital investment; and
- reduced return on investment.

4.2. Legislative framework

Under section 269TG, one of the matters that the Parliamentary Secretary must be satisfied of, in order to publish a dumping duty notice, is that the Australian industry has experienced material injury. This chapter analyses the economic condition of the Australian industry and provides an assessment as to whether the Australian industry has experienced injury.

4.3. The Applicants' claims

4.3.1. Background

The applicants claim that the Australian industry has been injured through:

- loss of sales volume;
- loss of market share;
- loss of sales revenue;
- price depression;
- price suppression;
- reduced profit;
- reduced profitability;
- reduced capacity utilisation;
- constrained capital investment; and
- reduced return on investment.

4.3.2. Commencement of injury

The applicants claim that injury from dumped imports[18] from Vietnam commenced in 2013, the date when 70 of the 90 towers required for the Snowtown 2 project were awarded to CS Wind Vietnam.

[18] The Commission is unable to draw any conclusions on allegations of dumping prior to the investigation period, as per subsection 269T(2AE).

The applicants consider material injury from dumped imports of wind towers from Vietnam commenced in 2015 when prices from CS Wind Vietnam undercut the Australian industry's prices on available tenders including the Ararat project and stages 1 and 2 of the Hornsdale project.

4.4. Approach to injury analysis

4.4.1. Legislative framework

The matters that may be considered in determining whether the Australian industry has suffered material injury are set out in section 269TAE.

The Commission has also had regard to the *Ministerial Direction on Material Injury 2012* (Material Injury Direction).[19]

4.4.2. Evidence provided by the Australian industry

As part of its application KPE and OF provided:

- production, cost and sales data for wind towers on a project by project basis for the period 1 January 2013 to 31 December 2016 in Appendices A-1 to A-6*;* and
- other financial data in Appendix A-7 on an annual basis for financial years 1 January 2013 to 31 December 2016 for the purpose of assessing other injury factors.

4.4.3. The Commission's approach

The Commission understands that wind towers are made to the purchasers' specifications on a project-by-project basis and that no two wind tower projects are identical.

A tender for wind towers may call for ex-works price offers, or pricing delivered to site. Local currency is used for wind tower pricing. However, at times tenders call for offers based on a mix of free-issue material components supplied by the OEM to be combined with the production components of the wind tower manufacturer.[20] Given the uniqueness of each tender and the variability in what may be supplied, the Commission does not consider it appropriate to examine and assess injury indicators by comparing costs and selling prices over an injury period. As such, the Commission has modified its approach to injury analysis for the goods. Accordingly, the injury analysis detailed in this section primarily based on information in respect of specific tenders, but also considers general financial information submitted by the applicants.

For the purposes of the conducting the injury analysis, the Commission has analysed the applicants' data and injury claims from 1 January 2013 to 31 December 2016 (referred to as the injury analysis period).

The Commission's analysis of injury is at **Confidential Appendix 4**.

4.5. Volume effects

The applicants claim that they have experienced injury through volume effects, including loss of sales volume and reduced market share.

[19] Available at www.adcommission.gov.au

[20] These components may include steel plate; flanges; flange bolts; paint; internal components; main electrical cables and allied components; and lifts.

4.5.1. Sales volume

In the application, KPE and OF submitted that they had lost sales volume due to dumped imports from Vietnam.

Ararat project

KPE bid for the supply of 75 wind towers for the Ararat wind farm project. KPE claims that CS Wind Vietnam supplied 40 wind towers to Ararat wind farm project while KPE supplied 35 wind towers.

KPE claims that the un-dumped price for the wind towers supplied by CS Wind Vietnam is higher than the price KPE had initially offered for the supply of all 75 towers.

KPE claims that it would have been successfully in its bid to supply all 75 wind towers to the Ararat wind farm project had it not been for the dumped wind towers supplied by CS Wind Vietnam.

Hornsdale project

Both KPE and OF bid for the supply of 99 wind towers for the Hornsdale wind farm project, however, the applicants were not successful in being awarded a contract.

The applicants claim that CS Wind Vietnam was successful in its bid to supply all 99 wind towers for the Hornsdale project.

The applicants claim that they would have been successful in their bids to supply the 99 towers to the Hornsdale project had it not been for the dumped towers supplied by CS Wind Vietnam.

4.5.2. Commission's assessment

The Commission reviewed KPE's and OF's bids relating to the Ararat and Hornsdale projects and import data obtained from the ABF import database.

The Commission found that CS Wind of Vietnam supplied 40 wind towers (out of 75) for the Ararat wind farm project and all 99 towers for the Hornsdale wind farm project. The Commission therefore considers that KPE and OF have lost sales volume in relation to the Ararat and Hornsdale projects.

Based on this, the Commission considers that there appear to be reasonable grounds to support the applicants' claim that the Australian industry experienced injury in the form of lost sales volume.

4.5.3. Market share

Figure 2 below shows that the Australian industry gained market share (but only since there were very small lost sales volumes in 2014) but lost market share to imported wind towers from Vietnam, particularly in 2015 and 2016.

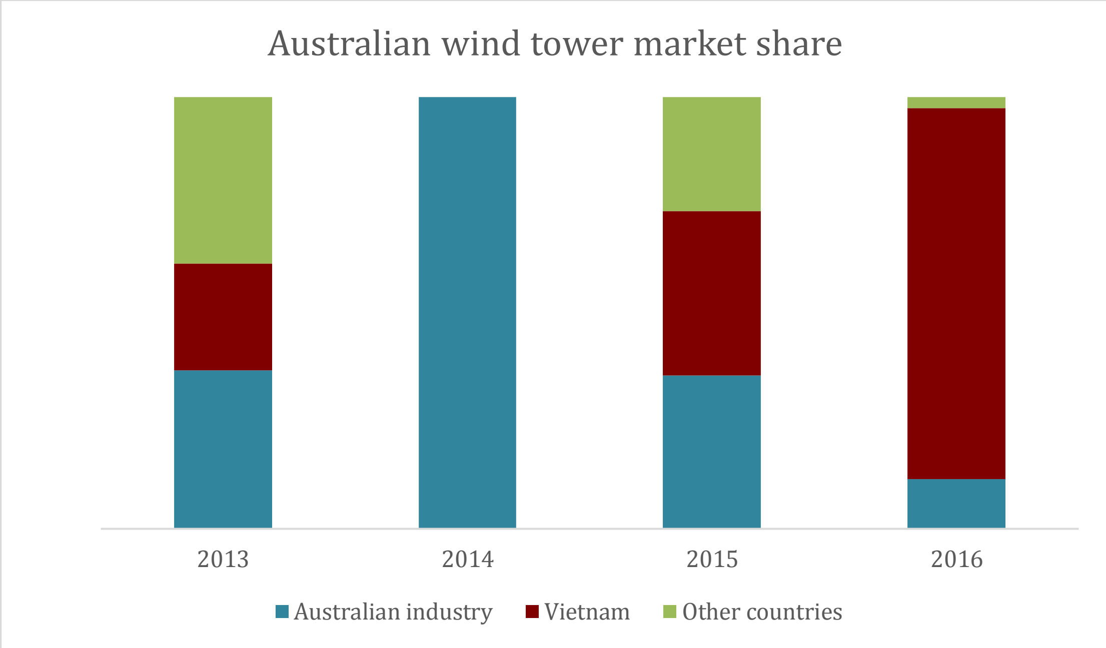

Figure 2: Australian wind tower market share (volume of towers)[21]

The Commission notes that, Figure 2 demonstrates that the goods were predominantly imported from Vietnam during the investigation period and that the amount of imports from Vietnam increased over the injury analysis period.

4.5.4. Conclusion – volume effects

The analysis above supports the applicants' claims that there appear to be reasonable grounds that the Australian industry has experienced injury in the form of lost sales volumes and loss of market share during the investigation period.

4.6. Price effects

4.6.1. Price depression and price suppression

Price depression occurs when a company, for some reason, lowers its prices. Price suppression occurs when price increases, which otherwise would have occurred, have been prevented. An indicator of price suppression may be the margin between prices and costs.

KPE and OF contends that it has experienced injury in the form of price depression and price suppression during the investigation period.

An analysis of correspondence between the Australian industry and the OEMs shows that the applicants reduced their prices during the tender process for the Ararat project and stages 1 and 2 of the Hornsdale project. The fact that CS Wind was the successful bidder for all the towers for the Hornsdale project and the successful bidder for a majority of towers as well as the embeds for the Ararat project demonstrates that the Australian industry's goods were in direct competition with CS Wind's goods during the tender process.

4.6.2. Conclusion – price effects

On the basis of the analysis of the bid, contract and invoice information presented by the applicants and supporting financial data, the Commission considers that there

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[21] Figure 2 is based on Australian industry data, which was provided at Non-Confidential Attachment 4 of the application.

appear to be reasonable grounds to support the applicants' claims that the Australian industry has suffered injury in the form of price depression and price suppression during the investigation period.

4.7. Profit and profitability effects

4.7.1. Loss of profit and reduced profitability

KPE and OF claim that due to lost sales volumes to dumped goods from Vietnam, production volumes have declined leading to higher unit fixed and SG&A expenses.

KPE and OF claim that as a consequence of volume and price effects from dumped imports from Vietnam, it has experienced injury through loss of profits and reduced profitability.

An analysis of financial information provided shows that both OF and KPE made losses over the investigation period.

4.7.2. Conclusion – profit effects

Based on the above analysis, there appear to be reasonable grounds to support the applicants' claim that the Australian industry experienced injury in the form of loss of profits and reduced profitability during the investigation period.

4.8. Other injury factors

The applicants completed Confidential Appendix A-7 for the injury analysis period. In relation to other injury factors, the applicants identified the following economic indicators in which it suffered injury:

- loss of sales revenues;
- reduced capacity utilisation;
- constrained capital investment; and
- reduced return on investment.

4.8.1. Loss of sales revenue

As part of the application, the applicants provided a quantified estimate of revenue foregone.

KPE submits that it has lost revenue through the loss of sales volumes of 40 towers and a number of embeds from the Ararat project due to the dumped imports from Vietnam. It also submits that it lost revenue on the 35 towers it supplied to Ararat due to bids from CS Wind. KPE also submitted it had lost further revenues on nine wind towers it supplied to the Kiata project[22] that saw lost revenue from lowered prices due to the pricing offered for dumped imports from Vietnam.

OF submits that it has lost sales revenue through the loss of sales volumes of 64 towers from stages 1 and 2 of Hornsdale project due to the dumped imports from Vietnam.

4.8.2. Reduced capacity utilisation

KPE submits that the loss of 40 towers and a number of embeds from the Ararat project has resulted in underutilisation of it capacity.

[22] A small wind tower project located 50km north west of Horsham Victoria.

OF has submitted that the loss of 64 Towers from stages 1 and 2 of the Hornsdale project has resulted in underutilisation of its capacity.[23]

Figure 3 below shows the capacity utilisation in production of like goods by the applicants, which demonstrates a reduction in capacity utilisation for OF.

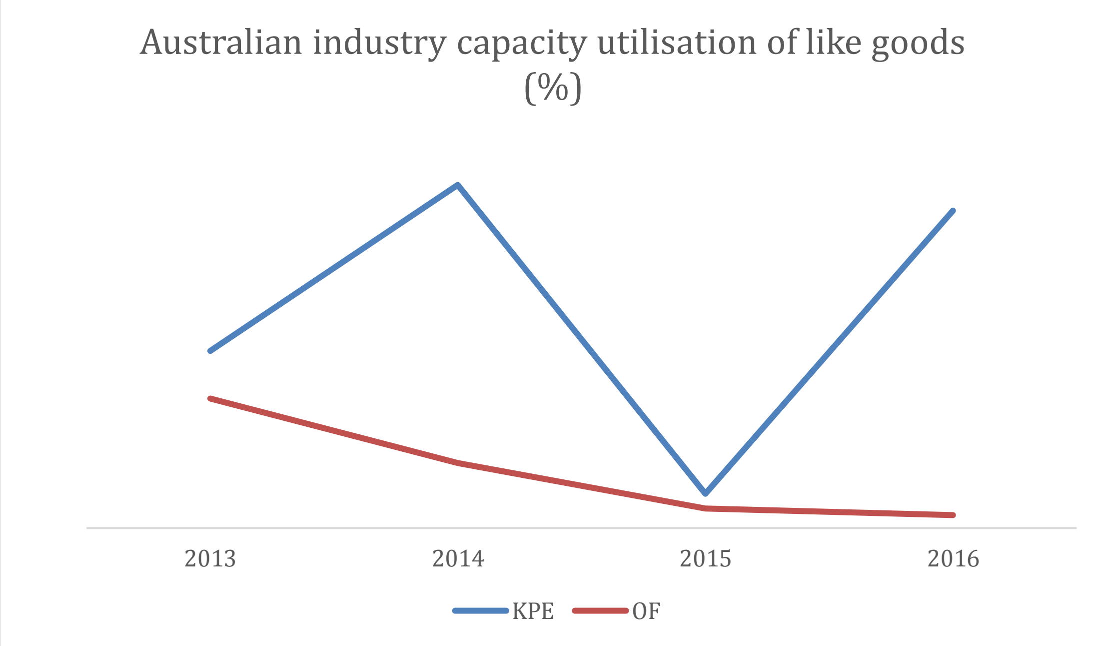

Figure 3: The applicants' capacity utilisation ratios for the production of like goods

4.8.3. Constraint on capital investment

KPE submits that the resolution of the RET in 2015 provided it with the opportunity to increase the capacity of its division that produces wind towers.

OF submitted that it made significant initial investments in plant and it is unable to invest further to improve its competitive position.

4.8.4. Reduced return on investment

Financial information submitted by the applicants indicates that return on investment has been negative for both KPE and OF during the injury analysis period.

4.8.5. Conclusion – other injury factors

Based on the above, the Commission considers that there appears to be reasonable grounds to consider that KPE and OF experienced injury in the forms of:

- loss of sales revenue;
- reduced capacity utilisation;
- constrained capital investment; and
- reduced return on investment.

KPE and OF's performance in relation to the other injury factors will be further examined during the course of the investigation.

[23] While this tender was lost during the investigation period, much of the production is likely to have occurred outside of the investigation period. As such, stage 3 of the Hornsdale project was not included in the OF's claims regarding capacity utilisation.

4.9. Conclusion – injury

Based on the findings of this chapter, the Commission considers that there appear to be reasonable grounds to support the claims that the Australian industry has experienced injury in the form of:

- loss of sales volume;
- loss of market share;
- price depression;
- price suppression;
- loss of profits;
- reduced profitability;
- reduced sales revenue;
- reduced return on investment;
- constrained capital investment; and
- reduced capacity utilisation.

5. Reasonable grounds – causation factors

5.1. Findings

Having regard to the matters contained in the application, and to other information considered relevant, the Commission considers that there appear to be reasonable grounds to support the claims that the Australian industry has suffered injury caused by dumping, and that the injury is material.

5.2. Cause of injury to the Australian industry

5.2.1. Legislative framework

Under section 269TG, one of the matters that the Parliamentary Secretary must be satisfied of in order to publish a dumping duty notice is that the material injury suffered by the Australian industry was caused by dumping. This issue is considered in this chapter.

Matters that may be considered in determining whether the Australian industry has suffered material injury caused by dumped or subsidised goods are set out in section 269TAE.

5.3. The Applicants' claims

Table 10 below summarises the causation claims of the applicants.

Injury caused by dumping
KPE - The dumped exports by CS Wind have had an effect on KPE's margins as it has had to reduce its prices to secure contracts. The loss of tenders has also affected KPE's margins through reduced production rates and underutilisation of assets and capabilities that impacted on overheads and profitability for all projects. **OF** - OF commenced manufacturing in 2013. It was unable to secure contracts on projects in 2015-16, when it was outbid by CS Wind at prices that it considers were dumped. The dumped exports by CS Wind Vietnam have had an effect through reduced profitability, production rates and underutilisation of assets and capabilities that impacted on overheads and profitability for all projects. To support these claims, the applicants provided evidence of contracts for which they bid and financial information.
Injury caused by other factors
The applicants identify that the primary driver of renewable energy demand and thus wind energy growth in Australia has been the Commonwealth Renewable Energy scheme, which requires electricity retailers to source an increasing proportion of their electricity from accredited renewable sources, via the Renewable Energy Target (RET). The applicants acknowledge that uncertainty over the RET has impacted demand for wind tower projects during the injury analysis period.

Table 10 – Applicants' causation claims

5.3.1. The Commission's approach to causation claims

Consistent with the approach taken for analysing injury, the Commission has analysed the applicants' claims, in relation to the causal link between material injury and alleged dumped imports, by examining each tender in the first instance, followed by an overall assessment as to whether injury caused by dumping is material.

In conducting the assessment, the Commission relied on:

- data from the ABF import database;
- tender and quotation information;
- financial information of the applicants;
- observations from past cases; and
- market intelligence provided by the applicants.

5.3.2. Size of dumping margin

Under subsection 269TAE(1)(aa), in assessing whether an Australian industry has (among other things) suffered material injury caused by dumping, the Parliamentary Secretary may have regard to the size of the dumping margin in respect of the goods exported to Australia. As explained in section 3.5.2 of this report, the Commission estimates that the dumping margin for the investigation period is 15.7 per cent. The Commission is satisfied that the dumping margin in and of itself, is likely to have enabled importers of the goods from Vietnam to have a competitive advantage on price compared to the Australian industry.

5.3.3. Volume effects

As discussed in sections 4.5.2 and 4.5.3, the Commission considers that there appear to be reasonable grounds to assert that the applicants have lost sales volumes and market share for wind towers in relation to the investigation period.

The applicants submit that dumped prices contributed to the Australian industry being unsuccessful in winning tenders which resulted in lost sales volumes and reduced market share. The applicants claim to have lost the following tenders between 2015 and 2016 to dumped imports from Vietnam:

- 2015 – 40 towers and 75 embeds in relation to the Ararat project;
- 2015 – 32 towers in relation to stage 1 of the Hornsdale project;
- 2016 – 32 towers in relation to stage 2 of the Hornsdale project; and
- 2016 – 35 towers in relation to stage 3 of the Hornsdale project.[24]

The applicants submit that they would have been awarded the wind towers if the wind towers from Vietnam were not dumped.

The Commission notes that the impact of the RET does not appear to have caused the volume injury in the investigation period in relation to the Ararat project and stage 1 and 2 of the Hornsdale project but will examine this issue in further detail during the investigation.

As a result, the Commission considers that there appear to be reasonable grounds to assert that the allegedly dumped imports of wind towers from Vietnam have caused the Australian industry to lose sales volumes and market share during the investigation period.

5.3.4. Price effects

The applicants claimed to have suffered price undercutting and price depression in 2015 and 2016 when they had to benchmark and reduce their bids against the dumped import prices of bids from Vietnam.

The applicants provided documentation on individual tenders that detail revised offers to the nominated projects and the source of the price pressures.

[24] While this tender was lost during the investigation period, the exports and invoicing of these exports fell outside of the investigation period. As such, stage 3 of the Hornsdale project was not considered in the Commission's causation analysis.

Price undercutting

Price undercutting occurs when imported product is sold at a price below that of the Australian industry.

The Commission analysed the tendered prices from Australian industry and the corresponding prices from Vietnam for the Ararat and stages 1 and 2 of the Hornsdale project.

That analysis shows that the prices from Vietnam undercut the prices of the Australian industry in the range of 4-9 per cent depending on the project.

The Commission then compared Australian industry bids against un-dumped prices. The Commission found that Australian industry bids would be more competitive. When compared to an un-dumped prices, Australian industry's prices are 6-25 per cent cheaper depending on the project.

On this basis, the Commission considers that had the wind towers from Vietnam been offered at un-dumped prices, the Australian industry would have been more competitive in tendering for the Ararat project and stages 1 and 2 of the Hornsdale project.

Based on the above analysis, there appears to be reasonable grounds to support the applicants' claims that the Australian industry has experienced price undercutting by imports of wind towers from Vietnam.

Price depression and price suppression

KPE submits that it reduced its prices on the Ararat project and the Kiata project in response to the dumped prices from Vietnam. It further submits that a decline in margins on projects affected by the dumped imports from Vietnam demonstrate that KPE has suffered price suppression, as shown for the Ararat project.

The Commission analysed these claims against bid information provided by KPE on the Ararat project. Based on this analysis the Commission considers that there appears to be reasonable grounds to consider that the Australian industry has experienced price suppression and price depression.

5.3.5. Profit effects

The Commission notes that, during the investigation period, there were 139 towers and 75 embeds available for tender as a result of the Ararat project and stages 1 and 2 of the Hornsdale project. KPE successfully tendered for 35 towers on the Ararat project but claimed it had to reduce its bid prices in response to the alleged dumped imports from Vietnam.

The Commission analysed the tendered prices from the Australian industry. Based on this information, the Commission estimates that the potential combined revenue lost by the Australian industry in respect of the Ararat project and stages 1 and 2 of the Hornsdale project is approximately 70 million. This figure represents the volume lost across these two projects is 104 towers and 75 embeds. The Commission notes that, based on the application data, the Australian industry had the capacity to supply the entire volume across the two projects. The Commission considers that any lost tenders will have affected the Australian industry's margins through reduced production rates and under-utilisation of assets and capabilities, which affects overheads and profitability for all projects.

The Commission also notes that profit is not independent of other injury measures. All else equal, a decrease in the Australian industry volumes and prices as a result of alleged dumped imports will cause a decrease in profits and will decrease overall and unit profitability.

The Commission therefore considers that there appears to be reasonable grounds to assert that the estimated dumping margins, volume effects, price effects and price undercutting of the goods from Vietnam contributed to the Australian industry's negative profit and profitability in the investigation period.

The Commission's price and profitability analysis is at **Confidential Appendix 6.**

5.3.6. Comparison of export prices and non-injurious price

The Commission generally derives the NIP by first establishing a price at which the Australian industry might reasonably sell its product in a market unaffected by dumping. This price is referred to as the unsuppressed selling price (USP).

The Commission considers that a USP cannot be established in relation to wind towers produced by the Australian industry. Each wind tower is a unique product with many variables and differences in technical specifications, delivery terms and payment terms and inclusions of free items that affect the pricing.

The range of pricing that could apply to wind towers means it is unrealistic to establish a USP that could be used to derive a NIP that would apply to future imports of wind towers.

In view of this, the Commission has not calculated a NIP during the consideration phase.

5.3.7. Other possible factors causing injury

The Commission considers that the data available indicates that dumped imports from Vietnam are not the sole cause of its material injury. The Commission will further examine other possible factors of injury in detail as the investigation progresses including the impact of uncertainty regarding the RET and competition between the Australian industry (noting that dumping need not be the sole cause of injury as per the Material Injury Direction).

5.4. Conclusion – material injury caused by dumping

The Commission has examined the application and is satisfied that, based on the:

- substantial volume of imports of the goods from Vietnam;
- size of the estimated dumping margin;
- preliminary assessment of price undercutting; and
- volume, price and profit effects outlined above,

there appear to be reasonable grounds to support the applicants' claim that dumping of wind towers exported to Australia from Vietnam has caused material injury to the Australian industry.

Accordingly, the Commission recommends that the Commissioner decide not to reject the application and initiate an investigation. If the Commissioner agrees with these recommendations, the Commissioner must give public notice of the decision (**Non-Confidential Appendix 1**) in accordance with the requirements set out in subsection 269TC(4).

Appendices and Attachments

Appendices	Confidentiality	Title
Appendix 1	Non-Confidential	Market size assessment
Appendix 2	Confidential	Export price calculations
Appendix 3	Confidential	Normal value calculations
Appendix 4	Confidential	Dumping margin calculations
Appendix 5	Confidential	Injury assessment
Appendix 6	Confidential	Price and profitability assessment

Attachments	Confidentiality	Title
Attachment 1	Non-confidential	Public notice