



ANTI-DUMPING NOTICE NO. 2013/68

Wind Towers

Exported from the People's Republic of China and the Republic of Korea

Initiation of an Investigation into Alleged Dumping

Customs Act 1901 – Part XVB

The Anti-Dumping Commissioner (Commissioner) has initiated an investigation following an application lodged by A.C.N. 009 483 694 Pty Ltd (Haywards) and Keppel Prince Engineering Pty Ltd (KPE), manufacturers of wind towers (“the goods”) in Australia. The application seeks the publication of a dumping duty notice in respect of wind towers exported to Australia from the People's Republic of China (China) and the Republic of Korea (Korea).

The application alleges that the goods have been exported to Australia at prices less than their normal value and that the dumping has caused material injury to the Australian industry through:

- Loss of sales volume;
- Loss of market share;
- Price depression;
- Price suppression;
- Reduced profits; and
- Reduced profitability.

The non-confidential version of the application, which contains the basis of the alleged dumping, is available on the public record.

A notice under subsection 269TC(4) of the *Customs Act 1901* (the Act) advising initiation of this investigation was published in *The Australian* newspaper on 28 August 2013.

The Goods

The goods the subject of the application are wind towers. The applicants describe the goods as:

certain utility scale wind towers, whether or not tapered, and sections thereof (whether exported assembled or unassembled), and whether or not including an embed being a tower foundation section.

Further the applicants detailed that 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. where 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 or external components (e.g., flooring/decking, ladders, lifts, electrical junction boxes, electrical cabling, conduit, cable harness for nacelle generator, interior lighting, tool and storage lockers) attached to the wind tower section.

Goods specifically excluded from the scope are nacelles and rotor blades, regardless of whether they are attached to the wind tower. Also excluded are any internal or external components which are not attached to the wind towers or sections thereof.

The goods may be classified to 7308.20.00. This applies to complete towers, unassembled or assembled and applies to a basic tower that includes doors, ladders, landings and embed or tower foundation.

Steel tower sections, including sections with doors etc, are classified to 7308.90.00, assembled or disassembled, providing there aren't enough in a shipment to be judged to be a complete tower.

Combinations of towers and tower sections may vary on a case by case basis for assessment of tariff classification. Classification may vary when there is more of one thing than another, for example a tower section and lift or a tower section with lift, electrical junction boxes and other equipment.

An assembled complete wind powered generator is a composite machine consisting of two or more machines fitted together to form a whole; wind engine, generator, gearbox, yaw controls etc. fitted in a steel tower and nacelle, classification is to subheading 8502.31

There are no tariff concession orders (TCOs) for towers under 7308. There are some TCOs under 8502 for wind turbine equipment, but none that specifically includes towers.

A customs duty rate of 4% applies to wind towers imported from China and Korea under tariff headings 7308.

Investigation Process

The investigation period is 1 January 2012 to 30 June 2013. The Anti-Dumping Commission (the Commission) will examine exports to Australia of the goods during that period to determine whether dumping has occurred. The Commission will examine details of the Australian market from 1 January 2008 for injury analysis purposes.

Where the Minister for Home Affairs (Minister) is satisfied, as to goods of any kind, that:

- (a) the amount of the export price of the goods that have already been exported to Australia is less than the amount of the normal value of those goods, and the amount of the export price of like goods that may be exported to Australia in the future may be less than the normal value of the goods; and
- (b) because of that, material injury to an Australian industry producing like goods has been or is being caused or is threatened, or the establishment of an Australian industry producing like goods has been or may be materially hindered;

the Minister may, by public notice, impose interim dumping duties.

Lodgement of Submissions

Interested parties, as defined by subsection 269T(1) of the Act, are invited to lodge submissions concerning the publication of the dumping duty notice sought in the application, no later than the close of business on **7 October 2013**, addressed to:

The Director
Operations 1
Anti-Dumping Commission
5 Constitution Avenue
Canberra ACT 2600

Or by email Operations1@adcommission.gov.au, or by fax to + 61 2 6275 6990.

Interested parties wishing to participate in the investigation must ensure that submissions are lodged by the due date. Interested parties should note that the Commissioner is not obliged to have regard to a submission received by the Commission after the date above if to do so would, in the Commissioner's opinion, prevent the timely placement of the statement of essential facts on the public record.

Interested parties may reply to matters raised by other parties during the course of the investigation and in response to the statement of essential facts.

The Commissioner must maintain a public record of each inquiry. The public record must contain, among other things, a copy of all submissions from interested parties. Letters and electronic mail are generally regarded as submissions if they contain information relevant to the inquiry.

Interested parties claiming that information contained in their submission is confidential, or that the publication of the information would adversely affect their business or commercial interests, must:

- (i) provide a summary containing sufficient detail to allow a reasonable understanding of the substance of the information that does not breach that confidentiality or adversely affect those interests, or
- (ii) satisfy the Commissioner that there is no way such a summary can be given to allow a reasonable understanding of the substance of the information.

Submissions containing confidential information must be clearly marked "In-Confidence".

Interested parties must also lodge a non-confidential version or a summary of their submission in accordance with the requirement above, which will be placed on the public record. Parties must provide two copies of each version.

Public Record

Documents included in the public record are available at www.adcommission.gov.au. Alternatively, the public record may be examined at the Commission office by contacting the Case Manager on the details provided below.

Provisional Measures

A preliminary affirmative determination may be made no earlier than 60 days after the date of initiation provided that there appears to be sufficient grounds for the publication of a dumping duty notice. In accordance with section 269TD of the Act, provisional

measures, in the form of securities in respect of interim dumping duty that may become payable on the goods may be imposed where a preliminary affirmative determination has been made.

Statement of Essential Facts

The dates specified in this notice for lodging submissions must be observed to enable the Commission to report to the Minister within the legislative timeframe. A statement of essential facts will be placed on the public record by 16 December 2013, or by such later date as the Minister may allow in accordance with section 269ZHI of the Act. The statement will set out the essential facts on which the Commissioner proposes to base a recommendation to the Minister. That statement will invite interested parties to respond to the issues raised within 20 days of the statement being placed on the public record.

Submissions received in response to the statement of essential facts will be taken into account in completing the report and recommendation to the Minister. However submissions received after the 20 day response period may not be taken into account where to do so would in the Commission's opinion, prevent the timely preparation of the report.

Report to the Minister

A recommendation to the Minister will be made in a report on or before 30 January 2014 (or such later date as the Minister may allow), unless the Commissioner terminates the investigation before the report is due.

The Minister must make a declaration within 30 days of receiving the report, or where due to special circumstances, such longer period as the Minister considers appropriate.

Review Panel

Certain parties will have the right to seek review with the Anti-Dumping Review Panel in accordance with Division 9 of Part XVB of the Act of either a decision by the Commissioner to terminate the investigation, or a decision of the Minister after considering the Commissioner's report.

Anti-Dumping Commission Contact

Enquiries about this notice may be directed to the case manager on +61 2 6245 5434, fax number +61 2 6275 6990 or Operations1@adcommission.gov.au.

Dale Seymour
Commissioner
Anti-Dumping Commission

28 August 2013