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BY EMAIL

Dear Ms Robilliard

Importer's submission by General Electric International Inc *(GE)* regarding ADC Case No 405 Investigation into the alleged dumping of certain wind towers exported from the Socialist Republic of Vietnam

We refer to the application by Keppel Prince Engineering Pty Ltd (***KPE***) and Ottoway Fabrication Pty Ltd (***OF***) (together, the ***Applicants***) under s 269TB(1) of the *Customs Act 1901* (Cth) (***Customs Act***) for the publication of dumping duty notices in respect of wind towers[1] exported to Australia from the Socialist Republic of Vietnam (the ***Application***) and to the Anti-Dumping Commission's (***Commission***) Consideration Report (CON 405) published on 8 June 2017 (the ***Consideration Report***).

In this submission, GE addresses a number of important issues raised in the Application and the Consideration Report based on its experience as one of the world's leading wind turbine suppliers, and as an importer, vendor and end user of wind towers in Australia. The structure of this submission is as follows:

- GE's background in the Australian wind energy industry (Section 1).
- GE's tender and sourcing processes for wind towers (Section 2).
- GE's sourcing of wind towers for relevant Australian projects (Section 3).
- Noting that GE does not represent CS Wind Vietnam Co Ltd (***CS Wind***) and cannot comment on the allegations of dumping during the period 1 January 2015 to 31 December 2016 (the ***Investigation Period***), GE's views on the suitability of the constructed normal value as set out in the Consideration Report (Section 4).
- the grounds in support of GE's strong view that the Australian industry has not sustained material injury to the wind tower manufacturing sector as a result of any alleged dumping (Sections 5 and 6).

[1] Classified as tariff subheadings 7308, 7308.20.00 (statistical code 03, 04), 7308.90.00 (statistical code 52, 53, 54, 55, 56, 63, 65), 8502, 8502.31, 8502.31.10 (statistical code 31) of Schedule 3 to the *Customs Tariff Act 1995* (Cth).

1 GE's position in the Australian wind energy sector

GE is a major player in the global wind energy sector, with operations in every region across the world. Through its renewable energy business in Australia, GE is the importer/vendor of certain wind towers which are then integrated within wind farms it constructs in consortium with others. During the Investigation Period, wind projects in Australia represented less than 2% of GE's global wind business by volume.

GE entered the Australian market in 2011 when it was awarded the Mumbida Wind Farm, and was subsequently awarded the Boco Rock Wind Farm project (***Boco Rock***) in 2013. GE was awarded the Ararat Wind Farm project (***Ararat***) in 2015. In January 2017, GE was part of a successful consortium for the Silverton Wind Farm project (***Silverton***).

Ararat was the only wind farm that was awarded to GE during the Investigation Period. However, GE submits that Silverton should be considered by the Commission for the purposes of analysing whether material injury was caused to the Applicants, despite the fact that this project was awarded to GE outside of the Investigation Period.[2]

2 GE Tender and Supply Process

GE's Australian sales team, in conjunction with GE's regional commercial teams, bids for supply of wind energy generation equipment and services in response to enquiries and tender requests from wind farm developers in Australia. In this context, GE engages in:

(a) submitting tenders to either act as the supplier of wind turbines to Australian wind farm projects, or to act in consortium to supply wind turbines and construct the wind farm; and

(b) sourcing componentry for the wind turbines, including wind towers, from wind tower manufacturers.

Tendering as described in (a) above is managed by GE's Australian sales team in conjunction with GE's regional commercial teams (***GE Sales***), while sourcing of wind towers as described in (b) occurs outside of Australia and is undertaken by GE's Global Sourcing team (***GE Sourcing***).

In the event of a successful bid, GE Sourcing's role includes:

(i) wind tower design;

(ii) sourcing of the towers through GE approved and qualified suppliers;

(iii) quality management of supplier production; and

(iv) logistics and transport of wind towers from the supplier factory to the wind farm or the port of import.

2.1 GE's relationship with wind tower suppliers

GE has a sophisticated and established supply chain that operates on a global scale. GE Sourcing coordinates supply for Australian projects and wind tower supply volumes are allocated to its suppliers up to [redacted] in advance. GE only operates with GE Qualified Suppliers and the qualification process can take [redacted] to complete. Both CS Wind and KPE are GE Qualified Suppliers. **[confidential information relating to GE's global supply chain and sourcing strategies]**

[2] GE notes that that Boco Rock did not involve the export of wind towers from Vietnam.

GE made the decision to qualify KPE as part of its sourcing for Ararat. In that project, KPE was awarded 47% of the wind towers, and CS Wind was awarded 53%. Further information regarding the selection process for Ararat is set out at 3.1 below. Since Ararat, GE has approached KPE for a Request for Quotation for upcoming wind farm projects. Further information regarding this process is set out at section 3.3 below.

GE works with CS Wind as a supplier for its wind towers around the world. CS Wind is the world's leading supplier of wind towers, with manufacturing taking place in Vietnam, China, Canada, and the UK. GE imported wind towers manufactured in Vietnam from CS Wind for Ararat (53%), and will import wind towers for Silverton (100%). Further information regarding the selection process for Silverton is set out at 3.2 below.

2.2 Submitting a tender for a wind farm project

When GE participates in a tender for a wind farm project, GE Sales factors in a particular price range for the various components of a wind turbine, including wind towers. Once the scope and site-specific requirements are agreed with the wind farm developer, GE's engineers develop a tower package which includes tower design and specifications. This price range for the particular tower specification is based on a cost build-up that is informed by input on component costs from GE Sourcing.

GE Sales and GE Sourcing look for opportunities to work with local wind tower suppliers where possible, in order to share project benefits with the community and to broaden GE's supplier base. However, the decision to source locally in Australia is typically factored in at the tendering stage as, in GE's experience, sourcing locally can have a longer lead time and a higher price (for the reasons set out section 2.3 and 3.1 below). Australian suppliers are held to the same standard as any other supplier and must meet each of the supplier evaluation criteria as set out below.

2.3 Supplier evaluation

GE Sourcing makes supply determinations based on strategic decisions including in relation to securing volume with certain suppliers as part of forecasting of global demand. In particular, GE's sourcing decisions are based on:

- the ability of the supplier to meet the required deadlines;
- the quality standards of the towers produced by the supplier; and
- the price as evaluated against GE's internal modelling.

Each of these considerations are detailed below.

(a) **Timing**

GE has a strong reputation for delivering on time. Further, GE faces severe commercial consequences for each day of delay, including significant liquidated damages, loss of reputation and potential losses on future projects.

Therefore, a supplier's ability to fulfil delivery dates and timing commitments is crucial. Due to strong competition between wind farm developers, short timeframes can often play an important role in successfully tendering for projects. In such circumstances, on-time delivery can weigh more heavily in the sourcing process than pricing considerations. Examples of where suppliers may not be eligible for a project include where:

- delay is likely to occur, because a supplier has not been pre-qualified;
- a supplier is unable to meet the volume requirements within the specified timeframe; or

- GE has experienced delays due to quality rectification issues with a supplier in the past.

(b) **Quality**

GE offers wind towers to customers from its specific GE range, and designs bespoke wind towers which include relevant adaptations for site- or project-specific requirements. A new supplier qualification is a mandatory process that is undertaken by GE (and other major turbine manufacturers) before a Purchase Order can be issued to a new wind tower supplier for commercial supply of products. GE has provided as Appendix 1A-C a copy of its Supplier Qualification Processes to assist the Commission's understanding of the qualification processes undertaken.

It is important to note that this process is concerned with qualifying a prospective supplier's capacity to supply product that conforms with mandatory technical and quality parameters and does not relate to a consideration of cost or price-related aspects of supply. GE has a specific qualification process for manufacture of GE designed wind towers. Therefore, for any given project, GE uses a pool of pre-qualified suppliers and only selects from these suppliers to quote. When GE sees long-term potential in a new supplier, GE undertakes a [redacted] process of ensuring that the supplier is adequately qualified to produce GE designed towers. Given GE has a global network of suppliers who price according to volume, rather than to specific projects, GE only qualifies local manufacturers that supply to a single country if a decision has been made early in the tendering stage to involve a local supplier, as set out in section 2.2 above. Once a supplier has been qualified, however, GE is able to request quotations for any future local projects for which that supplier is eligible. **[commercially sensitive details regarding GE supplier evaluation processes]**

The new supplier qualification processes, by design, typically identifies issues of non-conformance or deviation from requirements in the suppliers manufacturing processes or sampled product. GE notes that there was [redacted] undertaken in the context of the Ararat project (see section 3.1). **[commercially sensitive details of non-conformance identified in GE's evaluation of wind tower suppliers]**

For each project where a new tower design is used or where there are site-specific requirements or a unique combination of tower components, GE quality engineers are required to undertake a 'First Piece Qualification' process of testing an initial wind tower before a GE qualified supplier produces the full volume of wind towers. This requirement ensures that the supplier's towers are consistent with GE's specifications. First Piece Qualification is a robust and intensive process, which takes [redacted] and is dependent on the availability of a GE quality engineer (of which there is only one in the Australia-Pacific region). This process can limit GE Sourcing's ability to extend offers to tender in situations where there are timing concerns, or where a GE quality engineer may not be readily available to carry out the inspections. **[commercially sensitive details regarding GE supplier evaluation processes]**

(c) **Cost/pricing**

Given GE requires long-term volume supply, it qualifies its suppliers strategically based on a prospective consideration of the volume the particular supplier can produce, and global forecasting of wind farm projects taking into account GE's

future demand for wind towers. GE has framework agreements in place with certain suppliers, including CS Wind, on the basis of price for volume. For this reason, under a framework agreement, the price is agnostic to the destination of the wind towers as supply is based on a global GE negotiated price rather than an export destination. All design specifications being equal, the price that CS Wind would quote GE for to supply wind towers to Australia in comparison with supply to Vietnam would be the same. The only difference would be the cost to GE for transport logistics.

GE has an in-depth understanding of pricing globally for wind tower suppliers and sub-tier suppliers of componentry to the wind tower suppliers. GE evaluates pricing on the basis of its internal 'should cost' modelling. GE has regard to prevailing market costs for key raw materials as adjusted to account for fixed and variable manufacturing costs in the market of manufacture. It is important to note that GE does not rely upon comparison of price offers for the purposes of evaluating relative price competitiveness.

GE has observed that Australian suppliers have an abnormally high cost base associated with manufacture of wind towers, even by comparison with other countries with such as Germany. This view is based on critical evaluation of cost/price information supplied in the context of project quotes against prevailing market costs, and its understanding of cost optimisation practices reasonably available to international wind tower manufacturers.

However, as GE grows its global base of qualified suppliers for wind towers, it works with its suppliers to assist where costs appear well above the should cost model. GE asks suppliers to identify the input pricing and their sub-tier suppliers in order to assist in identifying cost related inefficiencies. GE then seeks to work directly with suppliers to explore available solutions to optimise raw material sourcing, supply chain optimisation and other production-related cost-efficiencies. [redacted]. **[confidential information regarding GE's engagement with suppliers in relation to the evaluation of cost/price]**

3 GE's Sourcing of Wind Towers In Australia

3.1 Ararat wind farm

Ararat was the only wind farm awarded to GE during the Investigation Period, as a result of the ACT government auction for a 20 year feed-in tariff for a fixed price of $87/MWh which contributed to the financial viability of the project. GE was pleased to award 47% of supply of wind towers to KPE for Ararat.

KPE was successful in quoting for a portion of the total volume of the wind towers for several reasons. As an unfamiliar supplier, GE allocated a select number of towers from the total demand to enable KPE to engage in the qualification process. It is important to note that the Australian industry can only 'compete' for wind tower demand in circumstances that it has been qualified as a viable supplier. GE also took into account that KPE's factory was proximate to Ararat, allowing for logistics cost savings.

The Ararat project had a long lead time for delivery, which meant that KPE could be awarded a high proportion of the towers for this project. However, GE did not consider it was viable to award KPE the full volume of wind towers as it did not consider that KPE would be able to produce the full amount in the required lead time, given capacity and

would be able to produce the full amount in the required lead time, given capacity and timing constraints.

While [redacted] In consultation with the project developer, and project sponsors, GE decided to involve local industry in the Ararat wind farm in order to provide community benefits and increase support for wind farm developments and renewable energy generally. [redacted] **[confidential information regarding GE's commercial strategy in relation to the Ararat project]**

All other factors being equal between suppliers, GE does not split the volume of wind towers for a single project between two suppliers unless it considers that a single supplier would not be able to provide the total volume in the relevant lead time. This was the case with Ararat. Generally, GE prefers to award tower contracts to only one supplier, as it is more resource-efficient from GE's perspective and also generally results in more consistent quality across towers.

As set out above, as KPE lacked familiarity with a range of tower designs, including proprietary product lines favoured by specific project developers, GE conducted a complete qualification of its capacity to deliver to specific capacity, capability and quality requirements. While GE benefited from a productive relationship with KPE during delivery on Ararat, there were some issues with KPE's qualification for supply of the wind towers at Ararat, as set out below:

(a) **Manufacturing Process Plan (*MPP*)** [redacted]

(b) [redacted] **deadline** [redacted]

(c) **Standard Deviation Requests** (***SDRs*** [redacted]

(d) **Critical testing** [redacted]

[confidential information regarding GE's evaluation of suppliers in relation to the Ararat project]

In addition to the specific issues summarised above, GE notes that [redacted] Fortunately, delays in readiness of the Ararat site mitigated the significant commercial penalties that may have otherwise been incurred by GE as a result of [redacted] [**commercially sensitive information regarding GE's engagement with suppliers in relation to the Ararat project and specific information regarding supplier performance]**

In GE's view, [redacted] **[commercially sensitive information regarding GE's relationship with wind tower suppliers]**

3.2 Silverton wind farm

As noted above, Silverton was not awarded to GE during the Investigation Period. However, GE considers its sourcing decisions in relation to Silverton relevant to the Commission's investigation in respect of allegations of injury to the Australian industry. Silverton is also relevant from an injury perspective as the planning for the project commenced within the injury analysis period and was then postponed, as set out at 5.2 below.

GE did not engage with local suppliers such as KPE for Silverton for several project-specific factors, which led GE to engage CS Wind as the sole supply of towers for that project. First, the project requirements specified by the project sponsors placed significant emphasis on a prospective developer's capacity to demonstrate the ability to deliver the project in accordance with very strict project deadlines. Second, there was a short lead time on tower delivery due to delayed preparation of design drawings. Third, Silverton was the first project globally where GE used a new line of wind tower groups/kits. At the time, GE also had limited quality engineers available to carry out First Piece Qualification, which meant that supply could not be split between suppliers.

As a result of these factors, the engagement of a wind tower supplier such as CS Wind that had a demonstrable depth of experience manufacturing GE towers and who could be relied upon to deliver supply requirements in accordance with strict lead-times was critical to the success of GE's bid for the project and its ability to deliver on specific project commitments. [redacted] GE's long standing global supply relationship with CS Wind enabled CS Wind's technical personnel to submit quotes to GE based on marked up preliminary design drawing (so called 'red line drawings') with GE's assistance to produce the wind towers within the required time period. **[confidential information regarding GE's supplier evaluation and associated commercial strategy]**

As set out above, the two most relevant factors for GE when considering suppliers is quality and ability to deliver on time. Given the issues specific to this project, [redacted] **[confidential information regarding GE sourcing decisions]**

3.3 GE's Subsequent Interactions with KPE

GE values its relationships with Australian wind tower manufacturers, and continues to look for opportunities to work with the local industry including KPE. GE has subsequently sought quotes from KPE for supply of wind towers on other recent projects which were awarded to GE after the Investigation Period. As part of this process, GE conducted a [redacted]

As explained above, GE's process of cost evaluation is based on expected cost ranges for the tower group/kits under procurement. These cost ranges are developed from GEs own modelling of reasonable market costs for heads of cost involved in the manufacture of the tower group. **[confidential details of GE's engagement with domestic wind tower manufacturers]**

GE's analysis of recent price/cost proposals supplied [redacted] in relation to GE towers has confirmed that the 'cost-gap' between Australian industry price offers and the corresponding 'should cost' range estimated by GE [redacted] **[confidential information regarding GE's internal processes undertaken in the context of evaluating supplier cost/price proposals]**

4 Preliminary Observations on Normal Value

As a leading global supplier of wind turbines, GE has had experience with the domestic market for wind towers in Vietnam. While the Vietnamese domestic market is smaller than the Australian market in terms of total installed base, GE is aware of sales of wind towers made in commercially significant quantities by CS Wind Vietnam in relation to wind projects in the Vietnamese market during the investigation period. GE urges the Commission to ensure that domestic sales are appropriately investigated in accordance with s 269TAC(1) of the Act for the purposes of calculating normal values.

With regard to the Applicants' estimate of normal value, GE refers to its comments above at 3.3 [redacted] GE submits that the use of the Applicants' constructed normal values is inappropriate on the basis that its pricing for [redacted] is inflated by comparison to GE's detailed knowledge of component pricing (see 2.3(a) above). GE also understands that the Applicants' labour costs, and lead-times associated with its production lines, [redacted] GE submits that the Commission should investigate carefully these cost differences and ensure that these are appropriately reflected in the Commission's

assessment of normal values for the purposes of its dumping assessment. **[GE views based on commercially sensitive information]**

5 Any injury is not 'material'

5.1 Framework for analysing injury

Under s 269TG, anti-dumping duties may only be imposed when the occurrence of dumping is established, and that dumping causes, or threatens to cause, material injury to an Australian industry. In this section, GE sets out key developments that have impacted demand for wind towers during the injury analysis period. GE then makes submissions in relation to the alleged injury factors outlined in the Application.

5.2 Australian wind tower industry during the injury analysis period

The Australian wind tower industry has been impacted significantly by the political uncertainty around incentives to the renewables sector, most notably by the Renewable Energy Target (***RET***). This uncertainty had a particular impact on wind tower procurement during the injury analysis period, which was marked by a reduction in wind farm projects (from 5 in 2013 to 1 in 2014).

The political uncertainty with regard to the future of renewable energy in Australia commenced in the lead up to the September 2013 election, with the change of government ultimately leading to the repeal of the carbon tax in July 2014 and review of the RET. Throughout 2014 and 2015, there was reduced governmental support for renewable energy bodies such as ARENA and the Clean Energy Finance Corporation, and dramatic cuts to the RET target were threatened. The RET's future was only secured as part of a bipartisan deal to reduce the RET from 41,000 gigawatt hours to 33,000 gigawatt hours, reached in May 2015. The only other driver of wind energy projects during this time were the two reverse wind power auctions run by the ACT Government in 2014 and 2015.

This political uncertainty has been reflected in GE's experience of the Australian wind energy sector. Its construction of Boco Rock (developed together with Continental Wind Partners) was enabled by one of the last bankable Power Purchase Agreements (***PPAs***) offered for wind power prior to the reduction of the RET, commencing in June 2013. Many projects in which GE was involved, including Silverton, were effectively put on hold or cancelled pending further political developments from mid-2013 onward.

Ararat was the first project in Australia to achieve financial close following the bipartisan reaffirmation of the RET, and was GE's only wind contract awarded during the Investigation Period. Ararat was in part able to proceed on the basis that 40% of offtake was stapled to the ACT Government, coupled with development partners taking on merchant risk on the balance of the output. This was as a result of Ararat's successful bid at the first reverse wind power auction run by the ACT Government. While Ararat closed after the bipartisan deal on the RET had been reached (but prior to the legislation passing), GE emphasises that Ararat would not have been developed but for the ACT Government's intervention.

With the passing of the RET legislation in June 2015, there has been a delayed but significant increase in the construction of wind farm projects. The recent increase has also been triggered by the ACT Government's target to source 100% renewable energy by 2020, introduced in 2016. On the whole, 2016 saw 4 new projects committed. However, from 2016-2017, there has been a significant increase with an estimated 15 new wind farms to be delivered in 2017, and 10 new wind farms in 2018.

GE's view is that the significant recent growth in demand for wind energy in Australia has in fact increased competition and had a depressive effect on developer and supplier pricing. As a result of the renewed investor confidence in the RET, global suppliers and developers have been targeting the Australian market aggressively. This has had the effect of increased competition on PPAs. The prices for renewable energy PPAs have plummeted recently to record lows as the direct result of improvements in technology and increased global competition in the Australian wind market leading to compressed margins for Original Equipment Manufacturers (***OEMs***).

GE recommends that the Commission seek further information on the market dynamics for wind towers during the injury analysis period from investors and developers such as Macquarie Capital, RES Australia, AGL Energy, Engie, as well as the Clean Energy Council.

5.3 Expansion of global market for wind towers

In terms of wind energy operation size, Australia is less than 1% of the global market by installed base.[3] By comparison with Australia and the Pacific Region, the global market for wind energy has expanded rapidly from 2013 (see graphs below). GE considers that this global expansion has greatly benefited exporters of wind towers, such as CS Wind, to the detriment of local suppliers of wind towers. Increased activity globally has meant that global suppliers have increased volume and scale of production, and due to more continuous working relationships with OEMs such as GE, manufacturers like CS Wind do not need to be specifically re-audited for quality as quality is continually monitored throughout the year.

Increased capacity and scale enables quicker turnaround times, greater fulfilment on timing, and more continuous quality across units.

By way of example, GE understand that CS Wind's overall production capacity was 2,285 sections per year in 2015, which increased to 3,297 sections per year in 2016. KPE's production capacity is understood to have recently increased to 500 sections per year. GE understands that another Australian supplier, Haywards, has a production capacity estimated at 300 sections per year.

Increased scale also enables global suppliers such as CS Wind to store a greater number of sections per week. By way of example, CS Wind Vietnam can store 180 sections at any given time.

As an additional point, GE submits that the small size of Australian market, against a global expansion in the area of wind energy more generally, weighs against a motivation for exporters to sell wind towers at dumped prices in Australia.

Figure 1: Global Annual Installed Wind Capacity (2001-2016)

[3] Global Wind Energy Council, *Global Wind Report: Annual Market Update* (2016), 15.

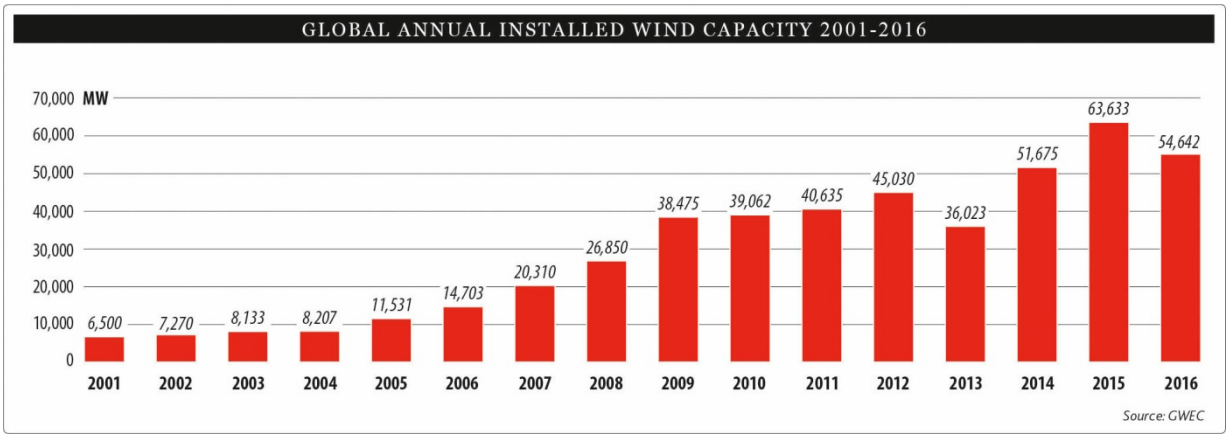
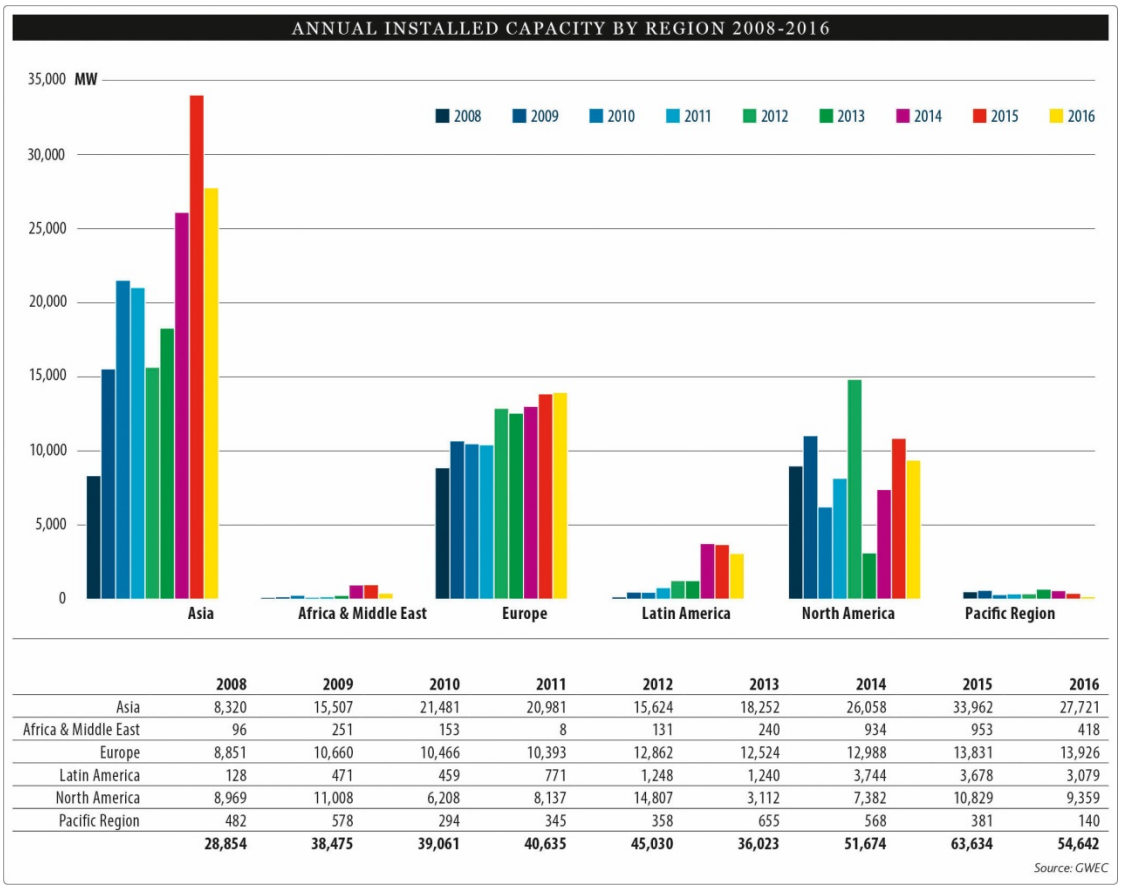


Figure 2: Pacific region wind industry by comparison to other regions (2008-2016)



	2008	2009	2010	2011	2012	2013	2014	2015	2016
Asia	8,320	15,507	21,481	20,981	15,624	18,252	26,058	33,962	27,721
Africa & Middle East	96	251	153	8	131	240	934	953	418
Europe	8,851	10,660	10,466	10,393	12,862	12,524	12,988	13,831	13,926
Latin America	128	471	459	771	1,248	1,240	3,744	3,678	3,079
North America	8,969	11,008	6,208	8,137	14,807	3,112	7,382	10,829	9,359
Pacific Region	482	578	294	345	358	655	568	381	140
	28,854	**38,475**	**39,061**	**40,635**	**45,030**	**36,023**	**51,674**	**63,634**	**54,642**

Source: GWEC

5.4 Applicants' alleged injury

GE considers that the Applicants' claims regarding material injury rely upon a mischaracterisation of factors associated with its commercial performance that fail to account adequately for the significant impact of external forces and factors in the Australian wind energy market during the injury analysis period, and the position of Australian wind tower manufacturers within the market more generally.

To support its position, GE has set out submissions on each of the alleged injury factors that have been identified by the Applicants. These submissions are based on GE's experience in the Australian wind market, including its experience working with KPE, and are relevant to the determination of material injury under s 269TAE(1).

(a) Loss of sales volume, loss of market share and loss of sales revenue

GE submits that KPE's summary of the fact pattern in relation to Ararat does not accurately reflect the commercial interactions that took place in the context of that project.[4] GE has provided detail in relation to Ararat above at 3.1.

KPE claims that its inability to secure more than 35 of the available 75 towers is indicative of 'lost' sales. GE submits that this claim is a commercially unrealistic image of the allocation of supply, [redacted] KPE successfully 'won' allocated units as part of GE's supplier qualification processes, motivated partly by GE's objective of working with domestic suppliers to share the benefit of Australian projects wherever commercially viable to do so and in keeping with project-specific objectives. [**mutually sensitive information regarding GE's commercial interaction with Australian wind tower suppliers]**

KPE's suggestion that it has lost 'market share' in the context of GE's award of units in relation to Ararat is similarly misconceived. KPE indicates that, but for competition with imported towers offered by CS Wind at allegedly dumped prices, it would otherwise have been able to secure significantly more of the available 'share' of the wind tower units under procurement. [redacted] The factors that influence GE's selection of suppliers are explained in detail in section 2.3. While the cost and price proposition offered by prospective suppliers is an important consideration, it is not the determinative factor in supplier selection and allocation. GE submits that this is particularly the case in the context of Ararat, in which KPE was qualified and selected for supply of a significant number of total available units on consideration of qualitative aspects of its capacity and capability to supply, [redacted] **[commercially sensitive information regarding GE's sourcing decisions in the context of the Ararat project]**

It follows from the above that the claims regarding 'lost' sales revenue are not made out in the context of the Ararat procurement process. While it is acknowledged that any supplier would prefer to secure a greater proportion of supply, GE submits it is not reasonable to infer any form of entitlement or expectation in relation to sales of units in a competitive procurement process.

Further, GE notes that the Australian manufacturers do not have the capacity to satisfy all demand for wind towers in the Australian market, and that imported goods will always be required to fill the gap. In this light, GE encourages the Commission to conduct a thorough analysis of the Applicants' manufacturing capacity relative to demand for wind towers in the Australian market.

(b) **Price depression and price suppression**

As set out at 2.3(c), GE evaluates the pricing quotes of individual suppliers [redacted] **[confidential information regarding GE sourcing processes]**

[4] Application, 39; Consideration Report, 23.

Price depression suggests a form of downward price pressure caused by aggressive pricing behaviour. This is misplaced in the context of the wind tower market. GE submits that significant pressure is placed on project developers to leverage cost efficiencies at all stages of the supply chain. This pressure is passed on, to a certain extent, to wind tower suppliers. GE manages this process by monitoring market prices for raw materials and associated manufacturing costs to develop accurate estimations of cost-efficient ranges to produce specific GE towers.

Similarly, the concept of price suppression typically suggests that price competition or price-related forces constrain a manufacturer's ability to increase prices commensurate to increases in manufacturing costs. This concept is difficult to reconcile with the nature of wind energy markets generally and wind tower manufacture specifically, in circumstances where manufacturers are motivated to proactively optimise value chains to reduce costs by leveraging scale, investing in production efficiency and optimising supply chain associated with sourcing raw material.

GE submits that it is not reasonable or informed for manufacturers who have not yet engaged in actively exploring options to reduce cost base, and who do not have the advantages of scale and experience that come with operating in different markets across the world, to claim 'injury' in the form of price suppression.

(c) **Reduced profit and profitability**

GE acknowledges that the Australian industry has an abnormally high cost base associated with the manufacture of wind towers (referred to above at section 2.3(c)). The impact of these cost gaps has been exacerbated by fluctuations in the Australian wind energy market (discussed in detail in section 5.2) that has resulted in an evaporation of demand. The Applicants have secured fewer projects during the injury analysis period and the associated reduction in supply volume would have detrimentally impacted the profit and profitability achieved on their sales. GE does not dispute the claim that such issues are material to the Applicants.

However, as is discussed in more detail at (d) below, GE's view is that these issues are not indicators of 'injury' within the meaning of s 269TAE(1) and that they should not be characterised as such in this investigation.

(d) **Reduced capacity utilisation and constrained capital investment and reduced return on investment**

GE acknowledges that these factors are concerns for all participants in wind energy markets globally and are not isolated to the Australian market, or to the Applicants' experience operating in this market. Further, from its experience operating in wind energy markets globally, GE submits that each of these factors are more prevalent in markets like Australia with a smaller total capacity demand or with fluctuations in demand for new projects.

In summary, capacity utilisation for wind tower manufacturers is dependent on a supplier's capacity to maintain a sufficient volume of contracts for the supply of units. Logically, this 'pipeline' of demand is also required to offset the cost of capital invested into the development and improvement of manufacturing facilities and supply chain.

As identified in the Application and above at 5.2,[5] new project demand in the Australian market has fluctuated during the injury analysis period. GE has observed an evaporation of demand as a result of uncertainty in Australia's renewable energy policy, leading to cancelled and postponed projects which have significantly impacted the 'pipeline' of projects available to project developers (such as GE) and, by extension, contracts for units available to wind tower manufacturers.

It is a reality that capacity utilisation will suffer in periods of reduced demand, unless alternative sources of demand can be identified and effectively accessed. GE submits that this is a primary factor that has motivated many global developers and wind tower manufacturers to shift focus from Australia to alternative international markets that have experienced significant growth in demand during the period in which the Australian market contracted. The Australian industry, in continuing to focus solely on the Australian market during this period have not been able to mitigate the impact of reduced demand and capacity utilisation will suffer as a result. GE considers that it is illogical to characterise this fact pattern as an indicator of 'injury' associated with competition with import sources, dumped or otherwise.

Similarly, it is difficult to divorce the impact of reduced demand caused by external market forces and claimed 'injury' associated with constraints on capital investment and reduced return on capital investment. There is significant commercial risk associated with capital investment, particularly in the highly competitive dynamics of wind energy markets. There is no guarantee that investments in operational processes or capabilities will ensure a greater number of projects or tower units secured in the future (that is, to achieve a revenue return commensurate with or in excess to the value of capital invested). Notwithstanding this fact, GE considers that re-investment is essential to ensure that the 'skills gaps' in capacity relative to benchmark market costs, quality, reliability, technical capability that form the basis of a supplier's overall supply proposition.

Whilst GE is sympathetic to the Applicants' situation, and is willing to work with local suppliers to identify avenues to mitigate the impact of these issues, it does not consider that it is reasonable or appropriate for the Applicants to seek to use the Australian anti-dumping system to provide a cushion from external market forces or minimise the commercial risks associated with supply chain re-investment and operational improvements.

On the basis of the above, GE submits that there has been no material injury suffered by the Australian industry within the meaning of s 269TAE(1) of the Customs Act.

6 No causation

Even if it the Commission finds that there has been material injury caused to the Australian industry, (which is not accepted by GE), it needs to be shown that the subsidised or dumped imports are the cause of the injury. A causation finding is expressly required by the terms of the Act. The causation requirements in sections 269TG(1) and (2) of the Act reflect Australia’s implementation of Article VI(6)(a) of the GATT:

> No contracting party shall levy any anti-dumping or countervailing duty on the importation of any product of the territory of another contracting party unless it determines that the

[5] Application, 21-23.

> effect of the dumping or subsidization, as the case may be, is such as to cause or threaten material injury to an established domestic industry, or is such as to retard materially the establishment of a domestic industry.

For any injury to be 'material', that injury must be 'greater than that likely to occur in the normal ebb and flow of business', and must not be 'immaterial, insubstantial or insignificant'.[6] GE submits that, having regard to the Australian wind tower industry as a whole, and having regard to the injury alleged to have been caused to the Applicants, there can be no finding that the Australian industry has suffered material injury caused by competition with dumped imports.

6.1 Cost gaps reflective of structural pricing issues

GE submits that any injury allegedly caused to the Australian industry would have occurred in the 'normal ebb and flow of business' particular to global wind energy markets in general and wind tower manufacture in particular, coupled with the significant uncertainty over investment in renewable energy in Australia during the injury analysis period.

GE considers that these significant cost differences are the result of fundamental inefficiencies in the value chain associated with the manufacture of wind towers in Australia. [redacted] **[GE view based on confidential information]**

GE acknowledges that cost-gaps apparent in the cost/price proposition offered by Australian manufacturers of wind towers impede their ability to present a competitive supply package by comparison to other suppliers who are able to present proposals that are consistent with the cost ranges that are acceptable to GE in relation the specification of particular tower groups/kits. However, the quantum of cost variance relative to market costs is a symptom of inefficiencies embedded throughout the business models of the Australian industry and cannot be explained by pricing behaviour and competition with prices offers of imported goods, dumped or otherwise.

6.2 Non-attribution - Other injury factors

The Ministerial Direction on Material Injury makes clear that injury caused by other factors must not be attributed to dumping or subsidisation.[7] Section 269TAE(2A) of the Act expressly states that the Minister must consider whether any injury to an industry is caused or threatened by a factor other than the dumping of those goods, such as:

- the volume and prices of imported like goods that are not dumped;
- contractions in demand or changes in patterns of consumption;
- restrictive trade practices of, and competition between, foreign and Australian producers of like goods;
- developments in technology; or
- the export performance and productivity of the Australian industry.

This provision echoes the principles of Article 3.5 of the WTO Anti-Dumping Agreement (ADA) which states that 'the authorities shall also examine any known factors other than

[6] Australian Customs Dumping Notice No 2012/24 dated 1 June 2012; Ministerial Direction on Material Injury 2012, dated 27 April 2012.

[7] Ministerial Direction on Material Injury 2012, dated 27 April 2012.

the dumped imports which at the same time are injuring the domestic industry, and the injuries caused by these other factors must not be attributed to the dumped imports'.

In addition to the macroeconomic factors discussed above in section 5.4, the Commission has also noted that it will further examine other possible factors of injury including:

- the impact of uncertainty regarding the RET; and
- competition between the Australian industry.[8]

As discussed above at section 5.2, GE believes that uncertainty associated with Australia's renewable energy policies has had a material impact on the structure and dynamics of the Australian wind energy market during the period under consideration. GE's experience globally is that policy certainty is fundamental to the sustainable growth of demand within wind energy markets. There is a direct and powerful correlation between specific commercial incentives provided within settled regulatory models and the overall increase in certainty regarding the role of wind energy within the Australian energy capacity mix and the risk appetite and commercial interest of wind project investors, sponsors and partners.

The direct causal link between these major forces in the market and each of the injury factors identified by the Applicants, and the materiality of these factors, must be adequately recognised and appropriately excluded from the Commission's causation analysis.

(a) **Focus on Australian wind tower market has negatively impacted the Australian industry's ability to compete**

As highlighted throughout this submission, and accepted by the Applicants themselves, the Australian market has been volatile from 2013 – 2016. As noted above in section 5.3, the Australian market for wind towers is also relatively small on a global scale, and Australian demand for wind towers has been constrained while overseas markets have significantly expanded.

GE considers that new development of manufacturing capacity in any given market requires a reasonably guaranteed pipeline of units annually for a new manufacturing facility to be commercially viable. Similarly, wind project developers will naturally direct focus on winning work in growth markets in which there is a greater demand for new wind capacity. Exposure to consistent demand is essential for wind project developers to ensure that they can invest in building technical capabilities in developing and implementing a range of projects, developing proficiency in quality control and technical expertise and building efficient global supply chains to optimise cost base associated with procurement of goods.

Sellers of wind turbines in Australia typically rely upon imported componentry due to a lack of available component manufacture in the local market. Lower demand for domestic production means that manufacturers are sourcing reduced volumes of raw materials and components less frequently, which impedes a manufacturer's ability to create and exploit efficiency in their supply chains.

Additionally, without a consistent demand, manufacturing and quality personnel are less familiar with managing high volume production and technical control processes. As set out in section 2.3(a) above, GE will only consider a supplier if it

[8] Consideration Report, 31.

is confident in a supplier's ability to produce the required volume in a the required time period.

As a result of these factors, Australian manufacturers have had limited exposure to global markets during a critical period of peak demand for wind farms across the US, Europe, Asia and the Americas, including in relation to advancements across the value chain for wind towers that have occurred during this period. In contrast, the large international tower manufacturers such as CS Wind have actively sought to engage with multiple global 'growth' markets by developing strong relationships with project developers (including GE and others) – this has enabled them to build highly efficient economies of scale, invest and use new technology, and more effectively leverage efficiency in their supply chain for raw materials to reduce their manufacturing cost base, while simultaneously developing significant experience in producing specific wind tower models.

GE considers that the Australian industries' exclusion from overseas markets has negatively impacted the development of their business model by limiting their manufacturing experience in terms of the total number of units produced in any given year and experience in producing specific types of towers. The factors above, in composite, significantly impact the ability of Australian manufacturers to control the cost to manufacture and sell wind towers in Australia and, consequently, to offer competitive prices relative to towers manufactured by international suppliers who benefit from the advantages of global scale.

These factors have impacted, and without such global exposure will continue to impact, the Applicants' experience in the market in relation to supplier qualification processes, quality, volume production capability, supply chain management and cost efficiency. See sections 2.3(b) and 3.1 for further detail on GE's specific experiences with KPE.

(b) **The Applicants' business model is most competitive when located close to site**

The Applicants' focus on the Australian market has had the effect of limiting their access to consistent levels of demand that are essential for building economies of scale across the manufacturing value chain including, but not limited to, capturing efficiencies in production cycles, tooling, technical and quality control and experience in manufacturing and delivering a broad spectrum of specific tower requirements.

As set out above, GE considers that these factors critically impede the Applicants' ability to present commercially competitive supply offering in comparison to more operationally efficient export-oriented international suppliers.

GE considers that Australian manufacturing facilities have a potential comparative advantage of geographic proximity in certain circumstances. Namely, this exists where facilities are located close to Australian project sites, resulting in the costs associated with overseas freight of finished goods otherwise incurred by competing export-oriented suppliers being avoided, while also potentially the cost associated with domestic transport from the factory to the project site. These natural advantages can lead to a more competitive total delivered cost of finished towers where short distances are involved. However, in some situations, trucking costs and distances within Australia may in fact exceed those of exported goods that are shipped to the port nearest the project site.

For example, as noted above at 3.1, GE's decision to engage KPE for qualification of specific tower group/kit was, in part, influenced by the potential comparative advantage enjoyed by KPE as a result of geographic proximity of its Portland manufacturing facility to the Ararat project site.

However, while outside the scope of the Investigation Period, the specific circumstances outlined above at 3.2 in relation to Silverton meant that CS Wind was the only viable supplier from the project. An additional consideration in support of CS Wind was that the in-land shipping cost of Vietnamese wind towers shipped to the port was less than the cost of transporting Australian towers from Portland to Silverton.

GE submits that it is important for the Commission to recognise that the capacity and capability of suppliers will always be assessed in the context of specific project requirements and the dynamics of competition associated with new project development. This includes notions of proximity, as well as suppliers' capacity to provide required volumes of towers (as set out at section 5.4(a) above). As is illustrated by the fact pattern of Silverton, the particular nuances of certain planned projects may create an environment in which experienced qualified suppliers possess a comparative advantage associated with their capacity to supply that is often unrelated from direct cost or price related aspects. Conversely, GE seeks to engage with Australian suppliers in future projects where the specific requirements are such that a local supply is likely to offer a competitive solution.

7 Conclusion

From GE's understanding of the market for wind towers in Australia, in the event that dumping is found to have occurred, no material injury has been caused to the Australian industry and there is no evidence of causation. In GE's view, any price and volume effects may be explained by other factors that are not attributable to import competition and these require careful consideration during the investigation.

GE is concerned to ensure that dumping duties are not imposed without basis and to the detriment of increased competition in the Australian wind towers market, particularly in circumstances where Australian manufacturers do not have the capacity to meet upcoming volume requirements. In the event that dumping duties are imposed, it is likely that customers will face higher prices for renewable energy across Australia, reduced project returns for developers of wind farms, and reputational loss for Australia in terms of its sovereign risk.

GE would be happy to assist the Commission with further queries in the course of its investigation.

Yours sincerely,

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