



**INVESTIGATION 221**

**ALLEGED DUMPING OF WIND TOWERS  
EXPORTED FROM THE PEOPLE'S REPUBLIC OF CHINA AND  
THE REPUBLIC OF KOREA**

**VISIT REPORT - IMPORTER**

**GOLDWIND AUSTRALIA PTY LTD**

THIS REPORT AND THE VIEWS OR RECOMMENDATIONS CONTAINED THEREIN  
WILL BE REVIEWED BY THE CASE MANAGEMENT TEAM AND MAY NOT REFLECT  
THE FINAL POSITION OF THE ANTI-DUMPING COMMISSION

**October 2013**

# PUBLIC RECORD

## CONTENTS

|   |           |
|---|-----------|
| CONTENTS.....                                       | 2         |
| ABBREVIATIONS.....                                  | 3         |
| <b>1 BACKGROUND AND PURPOSE.....</b>                | <b>4</b>  |
| 1.1 BACKGROUND.....                                 | 4         |
| 1.2 PURPOSE OF VISIT .....                          | 4         |
| 1.3 MEETING DETAILS .....                           | 5         |
| 1.4 INVESTIGATION PROCESS AND TIMEFRAMES .....      | 5         |
| 1.5 ANTI-DUMPING IN GENERAL .....                   | 6         |
| 1.6 VISIT REPORT .....                              | 7         |
| <b>2 THE GOODS.....</b>                             | <b>8</b>  |
| 2.1 DESCRIPTION .....                               | 8         |
| 2.2 TARIFF CLASSIFICATION.....                      | 8         |
| <b>3 COMPANY DETAILS .....</b>                      | <b>10</b> |
| 3.1 COMMERCIAL OPERATIONS .....                     | 10        |
| 3.2 ACCOUNTING STRUCTURE .....                      | 11        |
| 3.3 RELATIONSHIP WITH SUPPLIERS AND CUSTOMERS ..... | 11        |
| 3.4 LIKE GOODS.....                                 | 13        |
| <b>4 AUSTRALIAN MARKET.....</b>                     | <b>15</b> |
| 4.1 MARKET SIZE AND ANALYSIS .....                  | 15        |
| 4.2 GENERAL .....                                   | 15        |
| 4.3 DISTRIBUTION AND SELLING .....                  | 16        |
| <b>5 IMPORTS.....</b>                               | <b>18</b> |
| 5.1 VOLUME OF TRADE.....                            | 18        |
| 5.2 FORWARD ORDERS .....                            | 18        |
| 5.3 PURCHASE ORDER.....                             | 18        |
| 5.4 PRICING BETWEEN GWA AND [REDACTED] .....        | 19        |
| 5.5 DATE OF SALE BETWEEN GWA AND [REDACTED] .....   | 19        |
| 5.6 VERIFICATION OF IMPORTS .....                   | 20        |
| 5.7 EXPORT PRICES FOR SELECTED SHIPMENTS .....      | 22        |
| <b>6 WHO IS THE IMPORTER AND EXPORTER .....</b>     | <b>23</b> |
| 6.1 WHO IS THE IMPORTER?.....                       | 23        |
| 6.2 WHO IS THE EXPORTER? .....                      | 23        |
| <b>7 ARMS LENGTH.....</b>                           | <b>24</b> |
| <b>8 CAUSATION.....</b>                             | <b>25</b> |
| <b>9 UNSUPPRESSED SELLING PRICE .....</b>           | <b>26</b> |
| <b>10 RECOMMENDATIONS.....</b>                      | <b>27</b> |
| <b>11 APPENDICES AND ATTACHMENTS.....</b>           | <b>28</b> |

## PUBLIC RECORD

### ABBREVIATIONS

|              |   |
|--------------|---|
| \$           | Australian dollars  |
| ADN          | Australian Dumping Notice   |
| The Act      | <i>Customs Act 1901</i>   |
| ADN          | Anti-Dumping Notice   |
| CFR          | Cost and freight  |
| COGS         | Cost of goods sold  |
| Commission   | Anti-Dumping Commission   |
| CTM          | Cost to make  |
| CTMS         | Cost to make & sell   |
| CTS          | Cost to sell  |
| EBIT         | Earnings before interest and tax  |
| EDITA        | Earnings before interest, tax, depreciation and amortisation  |
| FOB          | Free On Board   |
| GAAP         | Generally accepted accounting principles  |
| NIP          | Non-injurious Price   |
| PAD          | Preliminary Affirmative Determination   |
| SEF          | Statement of Essential Facts  |
| the goods    | the goods the subject of the application (also referred to as the goods under consideration or GUC) |
| the Minister | the Minister for Industry   |
| USP          | Unsuppressed Selling Price  |

## **1 BACKGROUND AND PURPOSE**

### **1.1 Background**

On 6 August 2013, A.C.N. 009 483 694 Pty Ltd (Haywards) and Keppel Prince Engineering Pty Ltd (KPE) lodged an application requesting that the Minister responsible for anti-dumping (the Minister), at that the time the Minister for Home Affairs, publish a dumping duty notice in relation to wind towers exported to Australia from China and Korea.

The applicants alleged that the Australian industry has suffered material injury caused by wind towers exported to Australia from the nominated countries at dumped prices.

The applicants claimed that material injury in respect of wind towers commenced impacting profits and profitability in 2010. The application identified the injurious effects as:

- loss of sales volume;
- loss of market share;
- price depression;
- price suppression;
- reduced profits; and
- reduced profitability.

The Commissioner of Anti-Dumping (the Commissioner), after having regard to the Anti-Dumping Commission's (the Commission) consideration report (CON 221), decided not to reject the application for the publication of a dumping duty notice.

Public notification of initiation of the investigation was made on 29 August 2013 in *The Australian* newspaper and Anti-Dumping Notice (ADN) 2013/68.

### **1.2 Purpose of visit**

We explained that the purpose of the visit was to:

- confirm that Goldwind Australia Pty Ltd (GWA) is the importer of wind towers attributed to it within the commercial database and obtain information to assist in establishing the identity of the exporter(s) of the wind towers;
- verify information on imports of wind towers to assist in the determination of export prices;
- establish whether the purchases of wind towers were arms-length transactions;
- establish post-exportation costs;
- identify sales and customers and verify sales volume, selling prices and selling costs;
- obtain general information about the Australian market for wind towers;

## PUBLIC RECORD

- collect information on the Gullen Range wind farm (GRWF) and to a lesser extent the Mortons Lane wind farm (MLWF); and
- provide the GWA with an opportunity to discuss any issues it believed relevant to the investigation.

### 1.3 Meeting details

|                |   |
|----------------|---|
| Company        | Goldwind Australia Pty Ltd<br>Level 23, 201 Elizabeth Street<br>Sydney, NSW, 2000 |
| Dates of visit | 8 October 2013  |

The following were present at various stages of the meetings.

|                |  |
|----------------|--|
| Goldwind       | John Titchen – Managing Director<br>John Gardner – Vice President – Program Delivery<br>Victoria Conde – General Counsel<br>David Liu – Supply Manager |
| Jones Day      | Nick Taylor - Partner  |
| the Commission | Rod Jones – Manager - Operations 1<br>Cathy Cole – Supervisor – Operations 1   |

### 1.4 Investigation process and timeframes

We advised the company of the investigation process and timeframes as follows.

- The investigation was initiated on 29 August 2013.
- The investigation period is 1 January 2012 to 30 June 2013.
- The injury analysis period is from 1 January 2008 for the purpose of analysing the condition of the Australian industry.
- Responses to the exporter questionnaire (REQ) are due 7 October but may be later due to finding right contacts. The Commission will visit and verify exporter information to assess dumping and seek views on market and injury. The Commission will use all available information where exporter does not cooperate.
- Responses to the importer/end questionnaire are also due 7 October. Some of these may also be later.
- A preliminary affirmative determination (PAD) may be made no earlier than day 60 of the investigation (27 October 2013) and provisional measures may be imposed at the time of the PAD or at any time after the PAD has been made.

The Commission will not make a PAD until (and if) it becomes satisfied that there

## PUBLIC RECORD

appears to be, or that it appears there will be, sufficient grounds for the publication of a dumping duty notice and/or a countervailing duty notice.

This was distinguished from the 'reasonable grounds' threshold for initiation of the investigation.

- The Statement of Essential Facts (SEF) for the investigation is due to be placed on the public record by 16 December 2013, or such later date as the Minister allows under s.269ZHI of *the Customs Act 1901* (the Act).

The SEF will set out the material findings of fact on which the Commission intends to base its recommendations to the Minister, and will invite interested parties to respond, within 20 days, to the issues raised therein. It is essential that submissions are provided in a timely manner and with a public record version to enable them to be considered.

- ADC advised that information contained in submissions, with a public record version, received up to 2 weeks prior to the SEF shall be considered.
- Following receipt and consideration of submissions made in response to the SEF, the Commission will provide its final report and recommendations to the Minister.

This final report is due no later than 30 January 2014, unless an extension to the SEF is approved by the Minister.

- The Ministers decision is due 30 days after the final report.

### 1.5 Anti-dumping in general

As this is the first time for Goldwind to be involved in an anti-dumping investigation we discussed the following:

- There are three essential links for imposition of measures:
  1. the Australian industry must be suffering or there be a threat of material injury; and
  2. the goods must be dumped; and
  3. the dumped goods must be cause of material injury.
- Dumping is assessed on goods by comparison of the export price to the normal value.
- The export price is generally ex-works (EW) or free on board (FOB) and deductions may be made to get an imported price back to EW or FOB.
- The normal value is usually assessed on domestic sales in the ordinary course of trade at the same period as the export sales, that is, if export sales are based on the date of contract then normal values are based on the same dates.
- Where no suitable normal values may be done on domestic sales, the Commission may construct normal values based on costs plus, where appropriate, an amount for profit. The Commission may also consider 3<sup>rd</sup> country sales as a suitable comparison.

## **PUBLIC RECORD**

- Where dumping, injury and a causal link are found duties may be imposed.
- Dumping duty can be as a percentage of the export price or a fixed amount. The form of duty, if applicable, will need to be discussed further given the uniqueness of each tower project in price and scope. Industry should make a submission on this.
- Duties may be imposed up to the full level of dumping or up to a level required to remove injurious effects (the non-injurious price (NIP)). The NIP is based on the unsuppressed selling price (USP).
- Where the Commissioner is satisfied that grounds for duties exist the Commissioner may publish a PAD imposing securities whilst the investigation continues. These securities may be converted to Interim dumping duties (IDD)
- IDDs are imposed after an investigation is concluded and the Minister accepts the Commission's recommendation to impose measures.
- Importers can apply every six months for a final assessment of the IDD that may see none, some or all the duty refunded.
- The Commissioner may terminate an investigation before conclusion where the Commissioner is satisfied of any of: no dumping, material injury or causal link.
- Decisions by the Commissioner to terminate and by the Minister to impose measures can be appealed to the Anti-Dumping Review Panel (ADRP).
- In any appeal to the ADRP only information before the Commissioner/Minister may be taken into account.
- Refer to the Anti-Dumping Commission (ADC) website [www.adcommission.gov.au](http://www.adcommission.gov.au) for information on anti-dumping investigation procedures.
- Refer to the Electronic Public Record (EPR) for information on the wind towers investigation.

### **1.6 Visit report**

We explained to the company that we would prepare a report of our visit (this report) and provide it to the company to review its factual accuracy, and to identify those parts of the report it considers to be confidential.

We explained that, in consultation with the company, we would prepare a non-confidential version of the report, and place this on the investigation's Public Record.

Enough information should be given to give other parties a view of what is discussed without revealing sensitive information.

The Commission require visit reports to be finalised and on the public record as soon as possible to give other parties an opportunity to see claims and issues and respond accordingly. The same request is made to all parties, including exporters, industry, importers and end users.

We noted that the Australian system is an open system and very different to the US anti-dumping system.

## **2 THE GOODS**

### **2.1 Description**

The goods the subject of the investigation, (the goods), 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 description of the goods was not discussed with GWA at the visit.

GWA stated that it does not agree with the definition provided by the Applicants. It is GWA's view that the cost of electrical and cable fit-out is also an integral part of determining the cost of a wind tower.

### **2.2 Tariff classification**

The goods may be classified to 7308.20.00 in Schedule 3 to the Customs Tariff Act 1995. 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

## **PUBLIC RECORD**

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. The customs duty rate for wind towers imported under tariff headings 7308 from China is 4% and Korea is 5%.

### 3 COMPANY DETAILS

#### 3.1 Commercial Operations

Goldwind Australia (GWA) explained that it is a seller of wind turbine generators (WTG) supplied from [redacted] [redacted]-[supplier details] and a constructor of wind farms. GWA purchases wind towers which are manufactured to Goldwind's design from suitably qualified tower manufacturers. GWA's head office is in Sydney and currently employs [redacted] people.

GWA's main purpose is to [redacted]

[redacted] [summary of market strategy].

Since entering the Australian market in late 2009 GWA has supplied Goldwind WTGs to the Mortons Lane Wind Farm (MLWF) and the Gullen Range Wind Farm (GRWF). Market entry has required Goldwind to comply with local grids, local standards, arrange financing and building a team of experienced personnel.

Gullen Range Wind Farm (Holding) Pty Ltd is the current owner of the GRWF. GWA is providing the project management as well as supplying turbines to the GRWF.

GWA's wind tower purchases to date are summarised in the table below:

| Year | Wind Farm    | Towers | Supplier                  | Country   |
|------|--------------|--------|---------------------------|-----------|
| 2012 | Mortons Lane | 13     | Keppel Prince Engineering | Australia |
| 2013 | Gullen Range | 17     | Keppel Prince Engineering | Australia |
| 2013 | Gullen Range | 56     | [redacted]                | China     |

##### 3.1.1 Ownership and corporate structure

Xinjiang Goldwind Science and Technology Co (GWS&T) is the ultimate parent company of GWA.

GWS&T, which was established in 2001, is the world's largest manufacturer of permanent magnet direct drive technology wind turbines. GWS&T and its subsidiaries (Goldwind) are involved in the manufacture and sale of WTGs and wind power components and the development and operation of wind farms throughout the world. Goldwind has approximately 20% of the China turbine market.

GWA provided us with a diagram of the Goldwind corporate structure, refer **confidential attachment 1**. The diagram shows the relationship between the offshore and Australian entities.

## **3.2 Accounting structure**

The financial year for Goldwind entities runs from 1 January to 31 December.

The latest available audited accounts are for the year ended 31 December 2012. GWA noted that the shipments under investigation occur within the 2013 financial year and that there are no audited accounts to cover that period.

## **3.3 Relationship with suppliers and customers**

GWA stated that Goldwind does not have a stake in any wind tower manufacturers, either in Australia or overseas.

### **3.3.1 Relationship with Australian manufacturers**

GWA advised of its intention to work with Australian manufacturers of wind towers. To support this claim GWA stated that it sought prices from KPE and [REDACTED], [company name] another Australian wind tower supplier<sup>1</sup> (AWTS2) for the MLWF and GRWF projects. Furthermore GWA contracted KPE to supply all of the 1.5MW wind towers to all of its projects to date.

### **Mortons Lane Wind Farm**

For the MLWF project GWA was the buyer and KPE was the supplier of 13 locally manufactured GW82/1500 towers.

GWA advised that prior to selecting KPE as the supplier GWA undertook an analysis of wind tower pricing for KPE, AWTS2 and three suppliers in China. A copy of this analysis is at **confidential attachment 2**.

To further support its claim above of intention to work with Australian manufacturers GWA provided us with copies of the following:

- Final offer letter from KPE to provide the towers for MLWF, which was accepted by GWA, and corresponding cover email from KPE, refer **confidential attachment 3**;
- Email chain between KPE and GWA regarding the negotiations on tower price, refer **confidential attachment 4**; and
- Documents relating to the tower cost analysis for MLWF on tower sourcing from China versus Australia confidential attachment 2.

---

<sup>1</sup> GWA noted that this offer and correspondence was from 2011 which reflects the intent at that time, which was for the contract to have been executed in 2011.

## PUBLIC RECORD

### Gullen Range Wind Farm

For the GRWF project GWA is the buyer of 17 x GW 82/1500 towers manufactured locally by KPE and 56 x GW100/2500 towers manufactured in China by Shanghai Taisheng Wind Power (TSP) and supplied through [REDACTED].

GWA advised that prior to selecting KPE as the supplier GWA undertook an analysis of wind tower pricing for KPE, AWTM2 and three suppliers in China. A copy of this analysis is at **confidential attachment 5**.

GWA further advised that during the supply negotiation phase of the GRWF project KPE visited the TSP factory in China. GWA fostered a relationship between TSP and KPE with the intention that the parties could collaborate to maximise local content in a cost effective manner and ensure that the 2.5MW towers were fully Australian Standards compliant. GWA noted that although KPE was not supplier of the of 56 GW100/2500 KW towers, GWA entered into a subcontract with KPE for the tower electrical and cable fit-out at a-price of [REDACTED] per tower. A copy of the subcontract is at **confidential attachment 6**. In addition, GWA engaged KPE to undertake quality assurance inspections at TSP's factory for the 2.5MW towers.

#### 3.3.2 Relationship with TSP

GWA advised that Goldwind does not have any stake in TSP and TSP does not own any stake in Goldwind.

Following the visit GWA advised us that as TSP is listed on the Shenzhen stock exchange (stock code: 300129) a copy of its ownership structure is publicly available through its listing. GWA provided us with a copy of the TSP company ownership structure that was obtained from TSP's Shenzhen Stock Exchange listing via Bloomberg, refer **attachment 7**. This document shows that there is no corporate entity relation with the Goldwind group.

GWA also provided us with a copy of the TSP's 2013 Financial Report for the six months ended 30 June 2013, refer **attachment 8**. The document is in Chinese and GWA directed our attention to the following:

- page 25 contains a list of TSP's key shareholders (which reflects that it is closely held by TSP's board and management team and does not show Goldwind as a shareholder);
- page 67 contains a list of TSP's subsidiaries (none of which are Goldwind related); and
- page 94 reflects that Goldwind is listed as TSP's third largest customer (after CGN and Vestas).

As the document referred to above is in Chinese, GWA provided us with a translation of the relevant tables, refer **attachment 9**.

For completeness, GWA also provided us a copy of the GWS&T interim results for the six months ended 30 June 2013 which was an announcement that was placed on the Hong Kong Stock Exchange, refer **attachment 10**. Page 52 is a list of GWS&T's major subsidiaries and does not list TSP or any related TSP entity.

## PUBLIC RECORD

### 3.3.3 Relationship with other Chinese manufacturers

GWA provided us with a Chinese document listing Goldwind's pre-qualified tower suppliers, refer **confidential attachment 11**. The document includes a table of [redacted] suppliers rated on [redacted] levels based on Goldwind's assessment outcomes, namely [redacted] [rating categories]. As this document was in Chinese, GWA also provided us with a translation of the two introduction pages and of the relevant section of the table [redacted] tower suppliers, refer **confidential attachment 12**.

We could observe from the translated document that TSP is one of [redacted] of Goldwind's "approved" tower suppliers and is [redacted] "approved" for export projects.

We note that for the period of this investigation TSP has been GWA's only supplier of imported wind towers.

### 3.4 Like goods

GWA does not manufacture wind towers. GWA sources wind towers that are designed and built to match its proprietary turbine designs.

For the MLWF GWA sourced 13 x GW82/1500 wind towers from KPE and for the GRWF GWA sourced 17 x GW82/1500 wind towers from KPE and 56 x GW100/2500 towers from TSP.

GWA provided us with a copies of their internal documents regarding their supply arrangements (SA), namely the [redacted] [name of document 1], refer **confidential attachment 13** and [redacted] [name of document 2] , refer **confidential attachment 14**. [redacted] [summary of second document.]

These SA documents outline the agreement between the supplier [redacted] and the buyer GWA for the GRWF project in relation to the following technical solutions:

[redacted]

Exhibit [redacted] to the [redacted] [name of document 1] (refer **confidential attachment 13**) includes [redacted] [commercially sensitive information].

## PUBLIC RECORD

[commercially sensitive information].

GWA advised that the scope of supply for imported goods is not the same as for locally produced goods. Imported goods are not in a complete form ready for installation at the wind farm as they require further works, such as the supply and installation of AS compliant electrical fixtures (including lighting).

GWA's view is that cost of electrical and cable-fit out is also an integral part of determining the cost of a wind tower. Notwithstanding that view, given the fact that GWA sought and analysed pricing of towers from KPE and AWTS2 for the GW100/2500 turbines we consider that:

- the primary physical characteristics of imported and locally produced goods are similar:
- the imported and locally produced goods are commercially alike as they are considered in the tender process sold to common users;
- the imported and locally produced goods are functionally alike as they have a similar range of end-uses: and
- the imported and locally produced goods are manufactured in a similar manner.

With regard to the information provided we are satisfied that the Australian industry produces like goods to the wind towers imported by Goldwind from China.

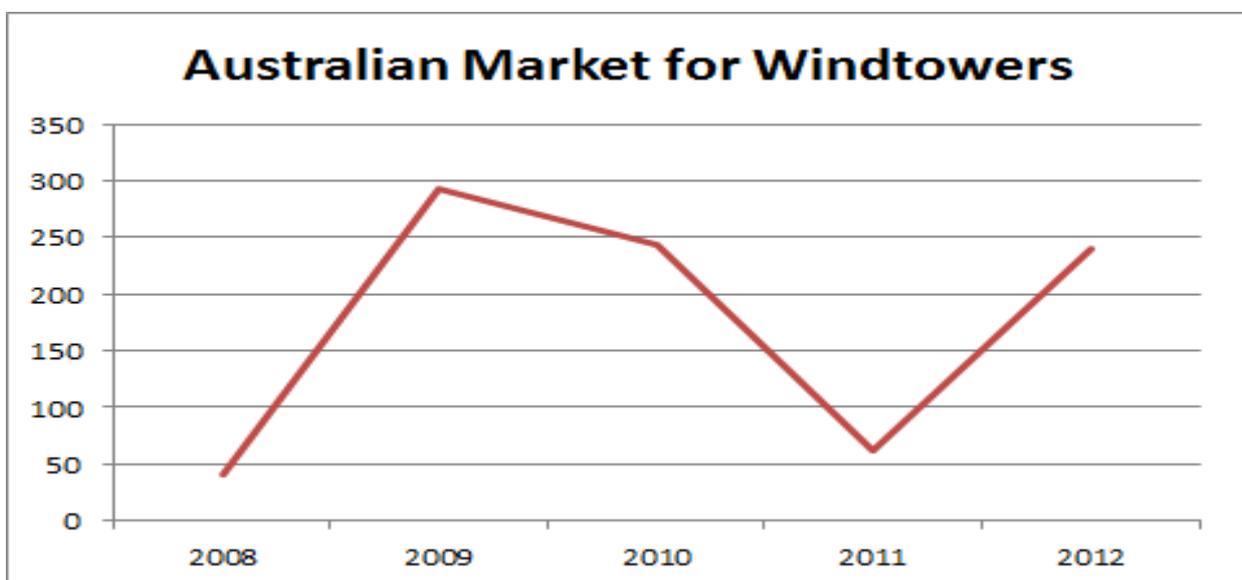
## **4 AUSTRALIAN MARKET**

### **4.1 Market size and analysis**

In Consideration Report 221 the Commission considered that the date the contract was awarded should be regarded as the effective date of sale as it reflects when a sale was won or lost by the Australian industry. The Commission noted that there will be a time lag between the awarding of the contract and the physical supply of towers, whether the towers are imported or supplied by the Australian industry.

The following graph depicts the Commission's estimate of the Australian market based on the date of contract for supply for the wind towers using information provided in the application.

The Commission estimates that in calendar year 2012, the size of the Australian market for wind towers was approximately 240 towers.



The Consideration Report assessment of the size of the Australian market was not discussed at the visit. This assessment will be reviewed when information is provided by other industry members, importers, exporters and other interested parties.

### **4.2 General**

GWA explained that the Australian market for wind power, which is driven by government policy, is very tough with about five competitors and very few customers. There have been no new wind farm power purchase agreements (PPAs) signed in 2013 (in the public domain).

KPE was involved with the development of the Australian wind tower market. During the early years (2001 to 2007) there was, on average, more wind power projects developed than the number of wind power projects developed in the period surrounding the investigation period, however market activity has fluctuated including some very lean periods. [REDACTED]

## PUBLIC RECORD

[REDACTED]  
[GWA's independently formed views of current and future market based on GWA's analysis of the market.]

### 4.2.1 Mortons Land Wind Farm

MLWF is located in western Victoria and was the first project for Goldwind in Australia. The wind farm consists of 13 GW82/1500 turbines with towers supplied by KPE.

### 4.2.2 Gullen Range Wind Farm

GRWF is GWA's second wind farm project in Australia.

The GRWF consists of 73 turbines located in NSW on a ridge line extending north to south near the towns of Crookwell and Goulburn. 17 x GW82/1500 towers were manufactured locally by KPE and 56 x GW100/2500 towers were imported from China.

As mentioned in section 3.4 GWA provided us with copies of the SA documents that outline the details of the agreement between the overseas supplier [REDACTED] and the buyer GWA.

## 4.3 Distribution and selling

GWA is currently [REDACTED]  
[summary of GWA market strategy].  
Since establishing in Australia in 2009, GWA has imported and supplied a total of [REDACTED] x GW100/2500 wind towers for GRWF.

### 4.3.1 Delivery logistics

GWA advised that it has a logistics agreement for the GRWF with Deugro Projects (Aust) P/L (Deugro). Deugro is the local office for an International logistics company (Deutsche Grosstransportgesellschaft mbh) that specialises in the freight forwarding of over dimensional and heavy cargoes.

GWA provided us with a copy of the logistics agreement for the [REDACTED]  
[REDACTED], [summary of contract] refer **confidential attachment 15**. The contract specifies that Deugro is responsible for [REDACTED]  
[summary of responsibilities].

Schedule 4 to the agreement is a contract sum breakdown schedule. The breakdown lists itemises charges for ocean freight, import customs clearance, inbound wharfage and port charges, portside handling, site delivery, unloading at site and container return.

For the categories of ocean freight and site delivery the contract provides a further breakdown for different classes of goods. Ocean freight for the GW100/2500 towers is [REDACTED].

## PUBLIC RECORD

Using the GWA budget exchange rate (E/R) the Commission calculated a freight cost of [REDACTED] for the lot and [REDACTED] per tower.

Below is a summary for site delivery charges relating to the imported GW100/2500 wind towers.

| Charge Type           | Currency   | Quantity | Unit of measure | Unit cost [REDACTED] | Total Sum [REDACTED] |
|-----------------------|------------|----------|-----------------|----------------------|----------------------|
| Towers – Base section | [REDACTED] | 56       | Each            | [REDACTED]           | [REDACTED]           |
| Towers – Mid section  | [REDACTED] | 56       | Each            | [REDACTED]           | [REDACTED]           |
| Towers – Top section  | [REDACTED] | 56       | Each            | [REDACTED]           | [REDACTED]           |
| <b>TOTAL</b>          |            |          |                 |                      |                      |

GWA provided us with copies of Deugro invoices and supporting payment documentation for the unloading at site (week [REDACTED]) and trucking to site (week [REDACTED]) of imported wind towers and WTGs, **refer confidential attachment 16**. We were able to match the invoice and payment amounts and are satisfied that the site delivery payments from GWA to Deugro match the charges as listed in the logistics agreement.

## 5 IMPORTS

### 5.1 Volume of trade

During the investigation period of 1 January 2012 to 30 June 2013 GWA imported ■ x GW100/2500 towers for the GRWF.

Prior to the visit we examined Customs and Border protection import database (CRE) for all imports by GWA, during the investigation period, but we were unable to identify the transactions that included towers or the number of towers from the data entered into the 'Description of Goods' field.

At the visit GWA provided us with the commercial invoices (**confidential attachment 17**) and following the visit GWA provided us with the Customs entries (**confidential attachment 18**) for all shipments.

GWA also provided us with a selection bills of ladings (refer **confidential attachment 19**).

Following an inspection of the documents provided we were able to match the number of towers imported by GWA to the CRE data, during the investigation period.

### 5.2 Forward orders

Since 1 July GWA has imported ■ x GW100/2500 wind towers. GWA does not have any outstanding orders for wind towers.

### 5.3 Purchase Order

The SA (refer **confidential attachment 13 and 14**) state that in terms of the imported towers ■ is responsible for-

[commercially sensitive information]. GWA is responsible

-[commercially sensitive information].

A copy of the purchase order (PO) for the GRWF is attached ■ (refer **confidential attachment 13 and 14**). The PO is dated 13 November 2012 and

[commercially sensitive information].

The PO specifies that 56 x GW100/2500 towers are to be imported and 17 x GW82/1500 towers are to be procured locally and that the supplier is to provide all manufacturing drawings and documentation in English language. The hub height for the for the GW100/2500 towers is ■ m.

In relation to the supply of 56 x GW100/2500 towers the PO specifies the towers to be ■ m hub height, complete according to drawing ■

## PUBLIC RECORD

[reference document] and scope as per [redacted]  
[redacted] [name of] document.

GWA also provided us with a copy of the GRWF employer's requirements refer **confidential attachment 20**. [redacted]

[redacted] According to this document the towers must be [redacted]  
[redacted] [Each tower fit out is prepared to Goldwind's specifications. Accordingly the description in the confidential contract goes to the intellectual property that Goldwind has in the design of the towers and this information should be kept confidential.]

GWA provided us copies of the contract structure diagrams (refer **confidential attachment 21**).

### 5.4 Pricing between GWA and [redacted]

As mentioned in section 3.4 above the price for 56 x GW100/2500 towers was [redacted]  
[redacted] GWA noted that the scope of work [redacted]  
[redacted] [commercially sensitive information].

In email correspondence following the visit, refer **confidential attachment 22**, GWA advised that [redacted]  
[redacted] [commercially sensitive information] PO incorporates the management fees for services generally provided after the importation of the goods.

We have reviewed the [redacted] POs and noted the total for the overall contract is [redacted].

Referring to the [redacted] PO we noted that the total price per tower for 56 x GW100/2500 towers is [redacted] equating to a price of [redacted] per tower. We also noted that these figures match the total contract value and unit price in the "Tower Payment Plan based on Shipping Schedule" provided by GWA (**confidential attachment 23**).

### 5.5 Date of Sale between GWA and [redacted]

GWA advised that the date of sale is the contract date as per the SA between GWA and [redacted] (**confidential attachment 13 and confidential attachment 14**).

The Commission considers at this stage that the purchase order dates best reflects the date of sales for the wind towers.

**PUBLIC RECORD**

**5.6 Verification of imports**

**5.6.1 Supplier invoice details**

**Commercial invoices**

At the visit GWA provided us with commercial invoices for shipments from March 2013 to July 2013 and following the visit we were provided with invoices for September 2013 (refer **confidential attachment 17**).

We have reviewed the “commercial invoices” and note that these are the invoices that are forwarded by [REDACTED] to GWA at the time the goods were shipped from China

The invoice lists the price per unit for complete WTGs (GW82/1500 and GW100/2500) and embeds. GWA stated that in relation to the GW100/2500 WTG the commercial invoice price was a “package price” for the WTG and wind tower set.

Below is a summary of the number of GW100/2500 wind tower units and the unit prices for the combined WGT and GW100/2500 wind tower imported by GWA for the GRWF:

| Invoice No   | Invoice date | Wind towers (units) | Generator and tower ([REDACTED]/unit) |
|--------------|--------------|---------------------|---------------------------------------|
| [REDACTED]   |              |                     |                                       |
| <b>TOTAL</b> |              | <b>56</b>           |                                       |

We were able to match dates and units on the commercial invoices with the monthly shipping quantities on the “Tower Payment Plan based on Shipping Schedule” for the period March 2013 to July 2013 refer **confidential attachment 23**.

GWA also provided us with a copy its payment tracking sheet [REDACTED] refer **confidential attachment 24**.

## PUBLIC RECORD

The payment tracking sheet reflects the total value of the goods received by GWA from [REDACTED]. The value of these goods comprises:

[REDACTED]

[Information relating to breakdown of goods received.]

[REDACTED]

[information relating to the structure of GWA's payments].

We were able to match the cost on commercial [REDACTED] to the price in the PO.

### Original commercial invoices

Following the visit GWA provided us with copies of the five monthly "original commercial invoices" issued by [REDACTED] covering all of the shipments to date, refer **confidential attachment 25**.

[REDACTED]. [GWA comment regarding the format of the invoices.]

[REDACTED]

[GWA explanation of the original commercial invoices].

### Payment

GWA provided us with a receipt from [REDACTED] for [REDACTED], refer **confidential attachment 26**. The payment amount matched the [REDACTED]-amount in the payment schedule.

### Conclusion – invoice details

We have reviewed the "commercial invoices" and the "original commercial invoices" and when we made the adjustments described above were able to reconcile the invoices to the contract total, refer **confidential appendix 2**.

#### 5.6.2 Shipment costs

As mentioned in section 4.3.1 above, GWA has a contract with Deugro that covers the handling, loading and transporting of GW100/2500 towers from the place of collection (in China) to the place for delivery (GRWF). Schedule 4 to that contract (refer **confidential attachment 15**) shows an ocean freight amount [REDACTED]

[contract details]

GWA noted that the contract is a [REDACTED] contract and Schedule 4 is for accounting [REDACTED] purposes only however it is considered a reasonable

## PUBLIC RECORD

estimation of the costs attributed to [redacted] [description of the] contract.

At the visit GWA provided us with a copy of an invoice and supporting payment documentation for the ocean freight for [redacted] wind towers, refer **confidential attachment 16**.

We were able to match the amount on the invoice with the rate in the logistics agreement.

Following the visit GWA provided us details for some loose break bulk tower items (not containers) that are part of a logistics contract variation totalling [redacted] per tower refer **confidential attachment 27**.

### 5.6.3 Importation costs

As mentioned in section 4.3.1 above, GWA has a contract with Deugro that covers the handling, loading and transporting of GW100 towers from the place of collection (in China) to the place for delivery (GRWF). Schedule 4 to that contract (refer **confidential attachment 15**) shows amounts for import customs clearance, inbound wharfage and port charges and portside handling. These amounts [redacted] [commercially sensitive information].

Importation costs are incurred as a combination of fixed (per shipment) and variable (per T/m3) costs. Importation costs are an approximation calculated based on the tower volume being [redacted]% of the GW 100/2500 WTG volume. The [redacted]% is an approximation of the variable portion based on shipping volume and equates to ~[redacted]% of total cargo volume

### 5.6.4 Summary

From the documents provided we calculated the following costs:

| Item   | AUD        |
|--|------------|
| Wind tower (GW100/2500) including the embed, FAS | [redacted] |
| Ocean freight                                    | [redacted] |
| Importation costs                                | [redacted] |
| <b>Total</b>                                     | [redacted] |

GWA noted that this total price does not include the value of the tower electrical and cable fit-out, which is an additional cost of [redacted] per tower (refer section 3.3.1 above). It is GWA's view that the value of the tower electrical and cable fit-out should be factored into any comparison with the Chinese domestic price.

### 5.7 Export prices for selected shipments

We have reviewed the documents provided and are satisfied that the export price is the contract price between [redacted] and GWA. **Confidential Appendix 1** is the Commission's preliminary export prices.

## **6 WHO IS THE IMPORTER AND EXPORTER**

### **6.1 Who is the importer?**

We reviewed the documents provided in respect of the selected shipments. We note that:

- GWA is listed as the consignee on the commercial invoice [REDACTED];
- GWA is listed as the importer on the Customs entry;
- GWA is listed as the consignee on the Bill of Lading; and
- the SA contract-between GWA and [REDACTED] lists GWA is the buyer and [REDACTED] as the supplier of 56 imported GW100/2500 towers manufactured by Shanghai Taisheng Wind Power (TSP)

We consider GWA to be the beneficial owner of the goods at the time of importation, and therefore the importer.

### **6.2 Who is the exporter?**

The Commission will generally identify the exporter as:

- a principal in the transaction, located in the country of export from where the goods were shipped, who gave up responsibility by knowingly placing the goods in the hands of a carrier, courier, forwarding company, or their own vehicle for delivery to Australia; or
- a principal in the transaction, located in the country of export, who owns, or previously owned, the goods but need not be the owner at the time the goods were shipped.

It is common for traders and other intermediaries to play a role in the exportation of the goods. These parties will typically provide services such as arranging transportation, conducting price negotiations, arrange contacts with the producer, etc.

In such cases, the trader typically acts as an intermediary who, although one of the principals, is essentially a facilitator in the sale and shipment of the goods on behalf of the manufacturer. Typically the manufacturer as a principal who knowingly sent the goods for export to any destination will be the exporter.

Therefore, depending on the facts, the Commission considers that only in rare circumstances would an intermediary be found to be the exporter. Typically this will occur where the manufacturer has no knowledge that the goods are destined for export to any country and the essential role of the intermediary is that of a distributor rather than a trader.

Subject to further inquiries, we are satisfied that the manufacturer, being TSP, can be considered the exporter of wind towers imported by GWA. To our knowledge, this entity is a principle in the country of export, which manufactures the goods and gave up the goods for shipment directly to GWA.

## **7 ARMS LENGTH**

In determining export prices under s. 269TAB(1)(a) and normal values under s. 269TAC(1), the Act requires that the relevant sales are arms length transactions.

S.269TAA outlines the circumstances in which the price paid or payable shall not be treated as arms length. These are where:

- there is any consideration payable for in respect of the goods other than price;
- the price is influenced by a commercial or other relationship between the buyer, or an associate of the buyer, and the seller, or an associate of the seller; and
- in the opinion of the Minister, the buyer, or an associate of the buyer, will, directly or indirectly, be reimbursed, be compensated or otherwise receive a benefit for, or in respect of, the whole or any part of the price.

We reviewed the documentation for the supply of wind towers and found that GWA [REDACTED] [commercially sensitive information]. At this stage we have not found: any consideration payable other than price; that the price is influenced by the commercial relationship between GWA and its supplier; or that GWA receives a benefit in respect of the price.

Pending further inquiries we are satisfied that import transactions between GWA and its supplier are at arms length in terms of s. 269TAA.

## **8 CAUSATION**

We sought GWA's views on the Australian industry claims in its application of injury and causation from the allegedly dumped imports of wind towers from China and Korea.

GWA's views were that there is no causal link. In the early days the Australian industry invested to meet local demand but the demand has been volatile. More recently the Australian industry has had competition from countries like China that manufacture to a larger scale with competitive manufacturing advantages. GWA further commented that the Australian manufactures are much less competitive than Canadian and US manufacturers and that there is no competitive advantage to making towers in Australia.

[GWA's independently formed views of current and future market based on GWA's analysis of the market.]

## **9 UNSUPPRESSED SELLING PRICE**

Under s 8(5A) of the *Customs Tariff (Anti Dumping) Act 1975*, the Minister must have regard to the desirability of fixing a lesser amount of duty such that the sum of the export price and the lesser amount of duty does not exceed the non-injurious price (NIP). Section 269TACA of the *Customs Act 1901* defines the non-injurious price as the minimum price necessary to remove the injury (or hindrance) caused by dumping and/or subsidy.

Unsuppressed selling price and non-injurious price issues are examined at an early stage of an investigation and, where possible and appropriate, preliminary examinations are made during the application consideration period for the purpose of assessing injury and causal link and therefore the appearance of reasonable grounds for the publication of a dumping duty notice.

The Commission generally derives the non-injurious price by first establishing a price at which the applicant might reasonably sell its product in a market unaffected by dumping. This price is referred to as the unsuppressed selling price.

The Commission's preferred approach to establishing unsuppressed selling prices observes the following hierarchy:

- industry selling prices at a time unaffected by dumping;
- constructed industry prices – industry cost to make and sell plus profit; or
- selling prices of un-dumped imports.

Having calculated the unsuppressed selling price, the Commission then calculates a non-injurious price by deducting the costs incurred in getting the goods from the export free on board point (or another point if appropriate) to the relevant level of trade in Australia. The deductions normally include overseas freight, insurance, into-store costs and amounts for importer expenses and profit.

Given the uniqueness of each type of wind tower, in terms of height, thickness inclusions/exclusions (such as embeds, lifts) and free issue goods the Commission was seeking views from interested parties on methods of calculating and applying a USP and NIP.

GWA submits that there are a number of international legal precedents concerning the determination of the unsuppressed selling price which should be taken into account by the ADC in its investigation.

## **10 RECOMMENDATIONS**

From our investigations, we are of the opinion that, for the goods imported by GWA from TSP, the goods have been exported to Australia otherwise than by the importer. However, we do not have sufficient information to determine whether the goods have been purchased from the exporter.

Subject to further inquiries in relation to these shipments, we recommend that the export price for wind towers imported by GWA from TSP can be established under s.269TAB(1)(c) or s.269 TAB(3) of the Customs Act 1901.

**PUBLIC RECORD**

**11 APPENDICES AND ATTACHMENTS**

|                                   |  |
|-----------------------------------|--|
| <b>Confidential Appendix</b>      | Preliminary export price                       |
| <b>Confidential Attachment 1</b>  | Goldwind corporate organisation structure      |
| <b>Confidential Attachment 2</b>  | MLWF tower sourcing analysis - China/Australia |
| <b>Confidential Attachment 3</b>  | Final offer letter from KPE                    |
| <b>Confidential Attachment 4</b>  | GWA-KPE tower price negotiations               |
| <b>Confidential Attachment 5</b>  | Tower cost comparison table                    |
| <b>Confidential Attachment 6</b>  | Tower electric fit out subcontract for GRWF    |
| <b>Attachment 7</b>               | Bloomberg TSP Ownership details                |
| <b>Attachment 8</b>               | TSP 1H13 Results                               |
| <b>Attachment 9</b>               | TSP Key Tables (English Translation)           |
| <b>Confidential 10</b>            | 2013 Interim Results Announcement H Shares     |
| <b>Confidential Attachment 11</b> | Pre-qualified tower suppliers to Goldwind      |
| <b>Confidential Attachment 12</b> | Tower Supplier (English Translation)           |
| <b>Confidential Attachment 13</b> | ██████████ - SA                                |
| <b>Confidential Attachment 14</b> | ██████████ - SA                                |
| <b>Confidential Attachment 15</b> | Logistics Agreement                            |
| <b>Confidential Attachment 16</b> | Logistics payments                             |
| <b>Confidential Attachment 17</b> | Commercial invoices                            |
| <b>Confidential Attachment 18</b> | Customs entries                                |
| <b>Confidential Attachment 19</b> | Shipping Waybills                              |
| <b>Confidential Attachment 20</b> | GRWF Employer's requirements                   |
| <b>Confidential Attachment 21</b> | Contract structure diagrams                    |
| <b>Confidential Attachment 22</b> | GWA response to ADC visit follow-up email      |

## PUBLIC RECORD

|                                   |   |
|-----------------------------------|---|
| <b>Confidential Attachment 23</b> | Tower payment plan based on shipping schedule |
| <b>Confidential Attachment 24</b> | GWA payments for [REDACTED] (SA)              |
| <b>Confidential Attachment 25</b> | [REDACTED] Original Commercial Invoices       |
| <b>Confidential Attachment 26</b> | [REDACTED] SA advance payment receipt         |
| <b>Confidential Attachment 27</b> | Additional logistic costs                     |