CLAYTON UTZ

For Publication

The Director, Investigations 3
Anti-Dumping Commission
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21 December 2017

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Dear Commissioner

Siemens Wind Power Pty Ltd (Siemens)
Investigation into the Alleged Dumping of Wind Towers Exported to Australia from Vietnam (Case 405)

We refer to the Statement of Essential Facts (**SEF**) published in this investigation on 13 December 2017. Siemens supports the Commissioner's preliminary finding that any injury to the Australian industry caused by the exports of relevant goods during the investigation period is negligible, and the Commissioner's proposal to terminate the investigation under s 269TDA(13) of the *Customs Act 1901* (Cth) (**Act**).

Causation assessment

1. Siemens supports the Commissioner's finding that injury to the Australian industry caused by the goods exported to Australia at dumped prices during the investigation period is negligible, having regard to the following factors:

   (a) in the absence of dumping, exports from Vietnam would remain at prices significantly below the Australian industry's cost of production. Siemens supports the significant weight attributed to this factor;[1]

   (b) non-price factors were determinative in the decision of OEMs to award tenders to CS Wind Korea during the investigation period. Siemens supports the Commission's recognition that considerations including timely delivery, quality, pre-qualification status, supplier reliability, specialisation, size and capacity, past experience and risk were key in OEMs' decisions to award tender offers, and that price was not the determinative factor;[2]

   (c) there was uncertainty and reduced market demand for wind tower projects in Australia during the injury analysis and investigation period;[3] and

   (d) the Australian industry faces challenges in terms of competitiveness.[4] Siemens agrees with the Commission's assessments that the exemption sought by KPE (EX0061) casts doubt on the capacity of the Australian industry to supply the

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[1] see also Termination Report No. 239A at page 48, where the significant price advantage that goods exported to Australia would have despite the imposition of dumping duties formed the basis of the Commission's finding that there was no or negligible injury to the Australian industry caused by dumped goods.
[2] SEF 7.9.2
[3] SEF 7.9.4
[4] SEF 7.9.6

domestic wind tower market, and that the Australian industry's claim that it will be able to meet the demand for the majority of wind tower projects going forward is doubtful, having regard to current information regarding capacity and projected demand.

Dumping margin

2. As to the revision of the dumping margin (8.0%, compared to the 2.6% calculation in the Exporter Visit Report published on 28 November 2017) based on the revised profit determination for the purpose of normal value,[5] Siemens acknowledges the Commission's discretion pursuant to regulation 45(3)(c) of the *Customs (International Obligations) Regulation 2015* to use "*any other reasonable method...having regard to all relevant information*" to work out the profit amount. However, Siemens repeats the contentions set out in its submissions dated 12 December 2017, and submits that it was not necessary for the Commission to revise its original profit determination in response to the Australian Industry's submissions on this point.

Termination of investigation

3. Siemens supports as logical and sound the Commissioner's finding that the injury to the Australian industry that has been, or may be, caused by dumped exports from Vietnam is negligible. In light of this finding, it is proper that the investigation be terminated pursuant to s 269TDA(13) of the Act.

Yours sincerely

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Our ref 11276/80188323

[5] SEF at 5.5.11