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Public File

Anti-Dumping Review 615 – Wind Towers exported from the People's Republic of China

1. Introduction

Keppel Prince Engineering Pty Limited (**KPE**) is an Australian manufacturer of Certain Utility Scale Wind Towers (**wind towers**), and was the applicant company that requested the above-noted variable factors review – refer ADN No. 2023/011. KPE makes the following initial submission in relation to this inquiry.

2. Proper Comparison of Chinese Domestic and Export Prices

As was established in the original wind tower investigation (No. 221 – **INV 221**), Continuation Inquiry No. 487 (**CON 487**), and subsequent Accelerated Review inquiries, the Commission is of the view that the Government of China's (**GOC**) involvement and influence over the steel industry, and the markets for raw materials used in the production of wind towers, has created distortions that make raw material costs unsuitable for use in determining the cost of production in China, and consequently ascertaining normal values.

In CON 487, as specifically relating to the GOC's influence on plate steel, the Commission:[1]

> *…observed in several recently completed investigations ongoing intervention by the GOC in its domestic steel markets. These findings are applicable to Chinese producers of plate steel, which would have been influenced by the same policies and other interventions. Therefore the Commission considers that raw material costs for plate steel… did not reasonably reflect competitive market costs associated with the production or manufacture of like goods.*

Because the Commission has made this conclusion regarding the GOC's influence in the Chinese steel industry, it must also consider whether, because of this conclusion, sales of like goods in the Chinese market during the review period are suitable for determining a price under section 269TAC(1).[2]

To make this assessment, the Commission's approach to assessing proper comparison considers the relative effect of the specific situation in the foreign market on both domestic sales and Australian export sales. If there is a finding that the particular market situation does not equally affect domestic sales and export sales, such a finding may render domestic sales unsuitable for the purposes of section 269TAC(1).

[1] CON 487, p. 33.
[2] A reference in this submission to "the Act", or to a "Section", "Subsection", or "Subparagraph" is a reference to a Section, Subsection, or Subparagraph of the Act, unless otherwise specified.

The Commission considers this approach consistent with Australia's obligations under the Anti-Dumping Agreement and the WTO Panel's interpretation of these obligations set out in DS529 (Australian Anti-Dumping Measures on A4 Copy Paper).

KPE submits, for the following reasons, that because of the GOC's influence in the Chinses steel industry, sales of wind towers in the Chinese market are not suitable for determining a price under section 269TAC(1):

1. Australian conditions of competition:

    a. Market structure:

        i. Australian industry and imports supply the Australian market, selling directly to customers;
        ii. the Australian produced goods and the imported goods have similar end uses, meet similar quality specifications and standards, are sold to the same types of customers and compete directly with each other in the same markets; and
        iii. demand for wind towers is driven by the demand for wind turbines, which is in turn driven by demand for wind energy, a renewable resource.

    b. Raw material:

        i. the major raw material used in the production of the goods in Australia is plate steel, purchased from Australian suppliers;
        ii. Australian producers of plate steel set their price based on an import benchmark pricing strategy where known import offers in the Australian market are used to determine the level at which it sets its selling price; and
        iii. Australian produced plate steel competes with imported goods mostly at the wholesale or distribution level of trade.

    c. Import penetration in the Australian market:

        i. the presence of two Australian producers of the goods and several importers with material import volumes from numerous countries indicates that the Australian market for wind towers can be characterised as having a high level of import penetration contributing to a highly competitive market for the goods between participants.

2. Chinese conditions of competition:

    a. Market structure:

    In the absence of contrary information, KPE considers that the Commission's Appendix A analysis of the Chinese market for the goods from CON 487 remains relevant. The Commission found that the GOC's involvement within and influence over the steel industry to be a primary cause of the prevailing structural imbalances within the steel industry. This involvement included the issuing of planning guidelines and directives along with provisions of direct and indirect financial support.[3]

    KPE highlights with the Commission recent economic analysis and commentary suggesting that the GOC's industrial interventions continue to increase, as industrial policy is seen as vital to reducing China's economic dependence on other countries, while increasing their dependence on China.[4]

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[3] REP 487, p. 56.
[4] Non-Confidential Attachment 1: *China spends far more than others to help favoured industries, report finds.* The Wall Street Journal, 23 May, 2022.

Keppel Prince

According to the *Centre for Strategic and International Studies* (**CSIS**), Beijing's industrial initiatives have become more ambitious in recent years. In a recent study, the CSIS concluded that:[5]

- China's industrial policy spending is enormous, totalling at least 1.73 percent of GDP in 2019. This is equivalent to more than US$248 billion at nominal exchange rates and US$407 billion at purchasing power parity exchange rates. This is higher than China's defence spending for 2019, estimated at US$240 billion.

- China is an outlier; it spends far more on supporting its industries than any other economy. As a share of GDP, China spends over twice as much as South Korea, which is the second-largest relative spender. In dollar terms, China spends more than twice as much as the U.S.

- China's approach to industrial policy is exceptional, as Beijing is sustaining or increasing vertical industrial policy at a level of development when other economies have dialled back. China stands out in terms of both quantifiable spending as well as non-quantifiable policy tools.

In June 2022, *The Australian Strategic Policy Institute* assessed that:[6]

> *China's trade surplus hit an extraordinary US$292 billion in the first five months of the year—more than double its pre-pandemic level—and its aggressive pursuit of export markets is likely to become a flashpoint in a slowing world economy.*
>
> *The Chinese export surge includes Australia, despite Beijing's continuing campaign of illegal trade sanctions against Australian exports.*
>
> *China's exports to Australia over the last reported five months were up 44% from a year ago, while Australia's shipments in the other direction were down 5%, despite soaring commodity prices.*
>
> *There is no hint of a concerted Western response to China's mercantilist strategy, which treats trade surpluses as a manifestation of national power. The World Trade Organization's rules place no restriction on either the preponderance of state-owned enterprises in the Chinese economy or the subsidies China extends to its private sector, which are fuelling its export boom.*

Specific to Chinese steel manufacturing, [*commercial-in-confidence economic analysis*].[7]

Amongst many others, this economic analysis and commentary highlights the ongoing prevalence and involvement of the GOC in Chinese industry broadly, and the steel industry specifically. Applied here, it is KPE's firm position that the GOC continues to influence the domestic market in China for wind towers through the broad range of policies and plans that result in Chinese domestic selling prices for the goods being lower than they otherwise would be.

b. Raw material:

i. the major raw material used in the production of the goods in China is plate steel, purchased from Chinese suppliers; and
ii. as was evidenced in KPE's application for the current review, plate steel prices in China are consistently lower than equivalent prices for plate steel in Japan,

[5] Non-Confidential Attachment 2: Red Ink, Estimating Chinese Industrial Policy Spending in Comparative Perspective. Centre for Strategic & International Studies. May 2022. Accessible at https://www.csis.org/analysis/red-ink-estimating-chinese-industrial-policy-spending-comparative-perspective
[6] Non-Confidential Attachment 3: China's relentless export machine. Australian Strategic Policy Institute, The Strategist. 21 June, 2022.
[7] Confidential Attachment 4.

Korea, and Taiwan.

KPE considers that Chinese manufacturers of the goods generally have access to lower priced raw material inputs relative to Japanese, Korean, Taiwanese and Australian manufacturers. KPE considers the Chinese domestic market conditions lead to lower prices for plate due to the distortions in the Chinese market.

c. Import penetration in the Chinese market:

KPE considers that, given the highly likely large volume of Chinese producers supplying the Chinese market for wind towers, and based on the lower cost of raw material inputs available to those producers, relative to comparable international benchmarks absent a market situation, there would appear to be a competitive disadvantage in respect of the importation of the goods into China.

KPE notes the Commission's conclusions in Report 590 (**REP 590**) to the Continuation Inquiry 590 (**CON 590**) involving HSS exported from China where it has concluded that the GOC continues to influence the Chinese domestic market for hot rolled coil (**HRC**), the key raw material input in the production of HSS.

REP 590 detailed a total of 59 countervailable subsidies as being applicable to exports of HSS from China, as identified from an earlier HSS variable factors review inquiry.[8] During the course of CON 590, the Commission also identified an additional program under which countervailable subsidies were provided to Chinese exporters of the HSS goods.[9] REP 590 then determined that Chinese exporters of the goods were in receipt of countervailable subsidies by margins of between 8.4 and 51 percent.[10]

In its proper comparison assessment, the Commission concluded as follows:[11]

> *…the effect of the particular market situation on the domestic sales prices in China does not result in any competitive advantages or disadvantages between market participants, being Chinese producers. In other words, while there may be competition between Chinese producers based on manufacturing efficiencies and other factors (no evidence of which was presented to the commission during the inquiry), the particular market situation nonetheless modifies the conditions of competition in a consistent manner for market participants.*
>
> *In Australia, where no particular market situation or input cost decrease exists, competitive pricing prevails at a higher level. Higher production costs for those participants producing without the benefit of a particular market situation establishes a higher minimum threshold for competitive prices. Under these circumstances, the effect of the particular market situation in China on the price of Chinese HSS sold into the Australian market results in competitive advantages and disadvantages between market players.*
>
> *Specifically, Chinese exporters enjoy a cost advantage that manifests as an increased margin at the prevailing level of competitive pricing in the Australian market, a lower export price that undercuts the Australian industry pricing, or a combination whereby the Chinese manufacturer can enjoy a higher margin while still undercutting Australian industry. In other words, the effect of the particular market situation on export price is to modify the conditions of competition in Australia to the benefit of Chinese exporters and, to the extent that benefit manifests as a low price, to the detriment of Australian manufacturers. Thus, the relative effect of the particular market situation on domestic and export prices is different in the relevant markets.*

KPE submits that the GOC's involvement and influence over the steel industry, and within the specific plate raw

[8] REP 590, p. 101.
[9] Ibid.
[10] REP 590, p. 100.
[11] REP 590, p. 182.

material market and the subsequent distortions created in costs and selling prices, is akin to that of HSS and HRC.

On 15 December 2021, the European Commission (**EC**) imposed definitive anti-dumping duties on Chinese wind tower exports on the basis that they had caused material injury to the European industry during the fiscal year 2020 investigation period.[12]

In this investigation, the EC examined whether it was appropriate to use domestic wind tower prices and costs in China, due to the existence of significant distortions. On the level of GOC ownership in the wind tower sector, the EC noted:[13]

> *With certain level of government intervention in the wind tower industry and a high share of SOEs in the wind towers and steel sector, even privately owned producers are prevented from operating under market conditions. Indeed, both public and privately owned enterprises in the wind towers sector are also subject to policy supervision and guidance as set out in recitals.*

On the level of GOC price and cost interference:[14]

> *As to the GOC being in a position to interfere with prices and costs through State presence in firms, the following examples illustrate the above trend of an increasing level of intervention by the GOC through state presence inside the economic operators in wind towers sector. Many wind tower producers explicitly emphasise party building activities on their websites, have party members in the company management and underline their affiliation to the CCP* [Chinese Communist Party]. *The investigation revealed party building activities in a number of wind towers producers, including the sampled exporting producer Chengxi Shipyard. According to the Articles of association of CSSC holding limited, which holds 100 % of Chengxi Shipyard's shares, the role of the party committee is as follows: "Supervise and ensure the effective implementation of the Party and State policies in the company […], Sticking to the principle of cadres managed by the Party, in combination with the operational management principle of members of the Board of Directors selected in accordance with law, as well as with the principle of operational managers applying human rights in accordance with law, the Party organization ensures pre-arrangements and puts forward opinions and suggestions as regards the candidates to the Board of Directors or to Managing Director level, or, after completing comprehensive research, provides opinions and suggestions to Board of Directors and the General Manager on existing candidates, […], Research and discuss matters related to the company's reform, development and stability and to major operations and management […].*
>
> *Also, in case of CS Wind, the investigation established that there were efforts to increase the number of party members in the company: "The foreign-funded enterprise CS Wind Power Equipment (Lianyungang) Co., Ltd. has more than 150 employees and used to have only 5 party members. Through the "integration of the Party and the masses", the company's Party members have now reached more than 70.*

In terms of the GOC's guidance and direction of the Chinese wind tower sector:[15]

> *The GOC further guides the development of the sector in accordance with a broad range of policy tools and directives related to, inter alia market composition and restructuring, raw materials, investment, capacity elimination, product range, relocation, upgrading, etc. Through these and other means, the GOC directs and controls virtually every aspect in the development and functioning of the sector. The current problem of overcapacity is arguably the clearest illustration of the implications of the GOC's policies and the resulting distortions.*

[12] Non-Confidential Attachment 5: COMMISSION IMPLEMENTING REGULATION (EU) 2021/2239 of 15 December 2021 imposing a definitive anti-dumping duty on imports of certain utility scale steel wind towers originating in the People's Republic of China.
[13] Ibid, p. 10.
[14] Ibid, p. 10.
[15] Ibid, p. 12.

Wind energy is also supported on a provincial and municipal level, for example the Lianyungang Municipality's 13th FYP for maritime economic development explicitly refers to the development of this industry. The plan envisages to "Build a wind power equipment industry chain". Encourage and guide the transformation and upgrading of a number of leading wind power enterprises such as Guodian Power, Zhongfu Lianzhong, Tianshun Tower, and CSWind Power, gradually upgrade their development, design and manufacturing technologies, and promote megawatt blade projects.

Critically, the EC determined that <u>all</u> inputs in the manufacture of Chinese wind towers are subject to cost distortions:[16]

The wind towers sector is also affected by the distortions of wage costs in the sense of Article 2(6a)(b), fifth indent of the basic Regulation, as also referred to above in recital (53). Those distortion affect the sector both directly (when producing SWT or the main inputs), as well as indirectly (when having access to capital or inputs from companies subject to the same labour system in the PRC).

Finally, the Commission recalls that in order to produce wind towers, a number of inputs are needed. According to evidence on the file, all the sampled exporting producers sourced the large majority of their inputs in the PRC. Furthermore, the PRC is one of the major producers of steel - the key raw material in the wind towers production process. When the producers of wind towers purchase/contract these inputs, the prices they pay (and which are recorded as their costs) are clearly exposed to the same systemic distortions mentioned above. For instance, suppliers of inputs employ labour that is subject to the distortions. They may borrow money that is subject to the distortions on the financial sector/capital allocation. In addition, they are subject to the planning system that applies across all levels of government and sectors.

The EC consequently concluded that not only were domestic Chinese selling prices not appropriate in assessing normal values, but that:[17]

…all the input costs (including raw materials, energy, land, financing, labour, etc.) are also affected because their price formation is affected by substantial government intervention, as described in Parts A and B of the Report. Indeed, the government interventions described in relation to the allocation of capital, land, labour, energy and raw materials are present throughout the PRC. This means, for instance, that an input that in itself was produced in the PRC by combining a range of factors of production is exposed to significant distortions. The same applies for the input to the input and so forth.

KPE therefore submits that the proven existence of GOC-driven distortions in the Chinese wind tower market, as evidenced by the Commission in the original investigation and subsequent inquiries, in other recent steel-related Australian trade remedy investigations, and now by the EC, renders <u>both</u> selling prices and costs as inappropriate in the determination of normal values.

For this variable factors review, the Commission must therefore determine Chinese normal values under s269TAC(2), constructing all costs of production and sale, plus an amount for profit, on the basis of undistorted prices/costs or benchmarks.

For and on behalf of KPE.

[16] Ibid.
[17] Ibid.