

ATTACHMENT A
Application for Continuation of a Dumping Duty Notice
Certain Utility Scale Wind Towers exported from China

The application must include a detailed statement setting out reasons for seeking continuation of the anti-dumping measure. Applicants must provide evidence addressing whether, in the absence of measures, dumped or subsidised imports would cause material injury to the local industry producing like goods.

i. Will the dumping or subsidisation continue, or recur?

KPE submits that sufficient evidence exists for the Anti-Dumping Commission (**the Commission**) to conclude that the expiration of the measures would likely lead to a continuation or recurrence of dumping of the goods exported to Australia from China.

In assessing the likelihood of dumping continuing or recurring, the Commission's Dumping and Subsidy Manual outlines several relevant factors and considerations. Such factors may include exporters' dumping margins, the volume of exports before and after the measures were imposed, the effect of the measures, the level of dumping compared with the level of measures, and any change in those measures (e.g., as a result of a review).¹

▪ **Anti-dumping actions by other countries**

Overview

According to the World Trade Organisation (**WTO**) *Integrated Trade Intelligence Portal*, a total of thirty-one anti-dumping and/or countervailing measures are currently imposed by member countries on wind towers or similar goods from China, as classified to the six-digit tariff subheadings 7308320, 7308.90 and 8502.30.²

Major Jurisdictions

United States

Wind towers exported from China have been the subject of antidumping and countervailing duty investigations in the United States (**U.S.**). The original investigation resulted from U.S. industry applicant petitions filed on 29 December 2011 to the Department of Commerce (**DOC**) and the International Trade Commission (**ITC**) alleging that the U.S. industry was materially injured and threatened with material injury by reason of dumped and subsidised imports from China, and dumped imports from Vietnam.

On 26 December 2012, The DOC published its determination that wind tower imports from China and Vietnam were being sold at dumped prices and were subsidised by the Government of China (**GOC**). The DOC determined on 8 February 2013 that the domestic industry was materially injured or threatened with material injury by reason of dumped wind tower imports from China and Vietnam, and subsidised wind tower imports from China. On 15 February 2013, the DOC issued its antidumping duty orders on wind towers from China and Vietnam, with final weighted-average dumping margins ranging from 44.99 percent to 70.63 percent for China, and 51.54 percent to 58.54 percent for Vietnam.³

¹ Dumping and Subsidy Manual, December 2021, p. 137.

² Non-Confidential Attachment 1: WTO Integrated Trade Intelligence Portal; galvanised steel trade remedies against India, Malaysia, and Vietnam (extract made 04/08/2021).

³ Non-Confidential Attachment 2: Utility Scale Wind Towers from Canada, Indonesia, Korea, and Vietnam. Investigation Nos. 701-TA-627-629 and 731-TA-1458-1461 (Final). P. 69.

**Application for the continuation of a
Dumping Duty Notice**

ADN No. 2014/33

In the 2019 five-year review, the ITC determined that revocation of the countervailing duty order on wind towers from China, and the antidumping duty orders on wind towers from China and Vietnam, would be likely to lead to continuation or recurrence of material injury. This decision levied the following dumping and countervailing margins on Chinese exporters:⁴

Producer/exporter	Original margin	First five-year review margin
Chengxi Shipyard Co., Ltd.	36.98%	--
Titan (Lianyungang) Metal Product Co., Ltd. / Titan Wind Energy (Suzhou) Co., Ltd.	34.33%	--
Titan Wind Energy (Suzhou) Co., Ltd.	34.33%	--
CS Wind China Co., Ltd. / CS Wind Corporation	35.81%	--
Guodian United Power Technology Baoding Co., Ltd.	35.77%	--
Qiangsheng Wind Equipment Co., Ltd. / Sinovel Wind Group Co., Ltd.	35.77%	--
China – Wide Entity	60.02%	Up to 60.02%

Non-Confidential Table 1: U.S. dumping margins on Wind Towers

Producer/exporter	Original margin	First five-year review margin
CS Wind China Co., Ltd., CS Wind Tech (Shanghai) Co., Ltd., and CS Wind Corporation (collectively, CS Wind)	21.86%	21.86%
Titan Wind Energy (Suzhou) Co. Ltd. (Titan Wind), Titan Lianyungang Metal Product Co. Ltd. (Titan Lianyungang), Baotou Titan Wind Power Equipment Co., Ltd. (Titan Baotou), and Shenyang Titan Metal Co., Ltd. (Titan Shenyang) (collectively, Titan Companies)	34.81%	34.81%
All others	28.34%	28.34%

Non-Confidential Table 2: U.S. countervailing margins on Wind Towers

European Union

On 21 October 2020, the European Commission (EC) initiated an anti-dumping investigation into certain steel wind towers originating from China. The EC initiated the investigation following a complaint lodged on 9 September 2020 by the European Wind Tower Association. The complaint was made on behalf of the Union industry of steel wind towers, and contained evidence of dumping and resultant material injury that was sufficient to justify initiation of the inquiry.⁵

The investigation of dumping and injury covered the period from 1 July 2019 to 30 June 2020, and the examination of trends relevant for the assessment of injury covered the period from 1 January 2017 to 30 June 2020.

At conclusion of the investigation on 15 December 2021, the EC imposed the following margins of dumping on the basis that Chinese exports had caused material injury during the investigation period:

Producer/exporter	Dumping margin
Chengxi Shipyard	7.5%
Penglai Dajin	7.2%

⁴ Non-Confidential Attachment 3: Utility Scale Wind Towers from China and Vietnam. Investigation Nos. 701-TA-486 and 731-TA-1195-1196 (Review). P. 62-63.

⁵ Non-Confidential Attachment 4: 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. P. 1.

Suzhou Titan	14.4%
Other cooperating companies	11.2%
All other companies	19.2%

Non-Confidential Table 3: EC dumping margins on Wind Towers⁶

The EC concluded that European producers had lost significant market share with price increases insufficient to pass on the strong increase in costs of production, resulting in a collapse in profitability which negatively affected investments, return on investments, and cash flow.⁷

Mexico

On 16 April 2019, the Ministry of Economy of Mexico initiated an antidumping investigation on imports of wind towers from China. The investigation followed an application lodged on 3 December 2018 by Arcosa Industries de México, S. de R.L. de C.V. and Speco Wind Power, S.A. de C.V.

On 27 December 2019, the Mexican authorities imposed provisional duties of between 41.22 percent and 143.06 percent. On 5 October 2020, the Mexican authorities imposed a definitive duty on imports of wind towers from China. The rate of duty was 21 percent, and entered into force on 6 October 2020.⁸

▪ Current normal values in the exporting countries

Chinese normal values are difficult to obtain as each wind tower project is unique in nature.

As established in original investigation No. 221 (**INV 221**), Continuation Inquiry No. 487 (**CON 487**), and subsequent Accelerated Review inquiries, the Commission is of the view that the GOC's 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 in determining the cost of production, and consequently ascertaining normal values.

In CON 487, as specifically relating to the GOC's influence on plate steel, the Commission:⁹

...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.

As a result, the Commission uplifted the price of raw material steel plate to calculate the cost of production of Chinese exporters domestically sold wind towers.

In Accelerated Review No. 597,¹⁰ the Commission uplifted the raw material steel plate cost as follows:¹¹

5.4.1.1 Steel plate uplift methodology

In order to calculate the uplift applied to Chengxi's cost to make data, the commission had regard to uplifted plate steel costs as reported in REP 487, where the commission previously established a competitive market

⁶ Ibid, p. 67.

⁷ Non-Confidential Attachment 4: 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. P. 58.

⁸ Non-Confidential Attachment 5: Mexico: Definitive antidumping duty on imports of wind towers from China, 28 December 2019.

⁹ CON 487, p. 33.

¹⁰ Accelerated Review 597 – Wind Towers from China (with an investigation period of 1 July 2020 to 31 December 2021).

¹¹ Ibid, Section 5.4.1.1, p. 17 (Electronic Public Record Folio No. 005).

cost for plate steel. The commission indexed the uplifted plate steel costs from REP 487 with reference to movements in the S&P Global (Platts) benchmark in the current review period. The commission referred to Flat Products / Plate CFR East Asia / East Asia import CFR \$ / ton, (CFR terms, USD per tonne) as its benchmark to index the cost. The benchmark indicates that competitive market steel prices were significantly higher during the inquiry period than the costs set out in Chengxi's records. Therefore, Chengxi's steel plate costs have been uplifted accordingly in its cost to make data.

The raw material steel plate purchases in Chengxi's records were compared to the corresponding quarterly benchmarked prices. The difference in these prices was then applied to the cost of plate steel, as reflected in Chengxi's records, as a proportional uplift that would be inclusive of any relevant grade differences.

Plate steel is the major raw material input into the production of wind towers, and contributes at least 50 percent of the cost to make the goods.¹² Steel plate prices therefore materially impact Chinese exporter normal values.

The below depicts the movement in Chinese, Korean, Taiwanese, and Japanese plate steel prices from FY2018 (the period covered by CON 487) to FY2022. A composite Korea/Taiwan price has also been included, as the Commission may wish to use this benchmark (or similar) as the uplift to establish a competitive market cost for plate steel:¹³

[Confidential Chart 1: Plate Steel Home Market Prices: FY2018-FY2022]

For the above-tabled period, plate steel prices have risen as follows:

- China, from AU\$[XXX]/tonne (FY2018) to AU\$[XXX]/tonne (FY2022); an increase of [XX]%;
- Japan, from AU\$[XXX]/tonne (FY2018) to AU\$[XXX]/tonne (FY2022); an increase of [XX]%;
- Korea, from AU\$[XXX]/tonne (FY2018) to AU\$[XXX]/tonne (FY2022); an increase of [XX]%;
- Taiwan, from AU\$[XXX]/tonne (FY2018) to AU\$[XXX]/tonne (FY2022); an increase of [XX]%; and
- Korea/Taiwan composite, from AU\$[XXX]/tonne (FY2018) to AU\$[XXX]/tonne (FY2022); an increase of [XX]%

Assessing a shorter comparison period between Accelerated Review No. 597 and 2022 yields the following home market steel plate price movements for the same above-noted countries:¹⁴

[Confidential Chart 2: Plate Steel Home Market Prices: CY2021-1HFY22]

For this period, plate steel prices have risen as follows:

- China, from AU\$[XXX]/tonne (CY2021) to AU\$[XXX]/tonne (1HCY22); a decrease of [XX]%;
- Japan, from AU\$[XXX]/tonne (CY2021) to AU\$[XXX]/tonne (1HCY22); an increase of [XX]%;
- Korea, from AU\$[XXX]/tonne (CY2021) to AU\$[XXX]/tonne (1HCY22); an increase of [XX]%;
- Taiwan, from AU\$[XXX]/tonne (CY2021) to AU\$[XXX]/tonne (1HCY22); an increase of [XX]%; and
- Korea/Taiwan composite, from AU\$[XXX]/tonne (CY2021) to AU\$[XXX]/tonne (1HCY22); an increase of [XX]%

Non-Chinese steel plate prices have altered significantly between FY2018 and CY2022. This will have driven a change in Chinese normal values in accordance with the above-noted established benchmarking methodology adopted by the Commission.

¹² INV 221, Final Report, Section 5.2.1, p. 24.

¹³ Confidential Attachment 6: China, Korea, Taiwan, Japan Home Market Plate Steel Prices.

¹⁴ Confidential Attachment 1.

Proper Comparison of Domestic and Export Prices

Because the Commission has concluded the above 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 continuation inquiry period are not suitable for determining a price under section 269TAC(1) of the *Customs Act 1901*.¹⁵

In order to make this assessment, the Commission's approach to assessing proper comparison considers the relative effect of the market situation 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).

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).

For the following reasons, KPE submits that because of the GOC's influence in the Chinese steel industry, sales of like goods 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 a number of 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.

¹⁵ 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.

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.¹⁶

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 they increase their dependence on China.¹⁷

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:¹⁸

- 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:¹⁹

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.

¹⁶ REP 487, p. 56.

¹⁷ Non-Confidential Attachment 8: *China spends far more than others to help favoured industries, report finds*. The Wall Street Journal, 23 May, 2022.

¹⁸ Non-Confidential Attachment 9: *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>

¹⁹ Non-Confidential Attachment 10: *China's relentless export machine*. Australian Strategic Policy Institute, The Strategist. 21 June, 2022.

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, Platts/S&P Global have recently noted that:²⁰

In order to revive China's manufacturing sector that took a blow from the pandemic, the government recently introduced a series of stimulus policies. Among the key measures include financing aid to manufacturers. A reduction in passenger car purchase tax has so far been the most direct and effective policy aiding the manufacturing sector.

China's finance ministry in May 31 cut the purchase tax to 5% from 10% for passenger cars of two liters and below, with a price tag under Yuan 300,000/unit (\$45,000/unit). This tax will come into effect June 1 and will run through Dec. 31. According to Cui Dongshu, the secretary of the China Passenger Car Association, the purchase tax cut will boost China's passenger car retail sales by 2 million units over June-December, taking China's total retail sales in 2022 to 21 million units, up 4% on the year.

Amongst 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 shown above, plate steel prices in China are consistently lower than equivalent prices for plate steel in Japan, Korea, and Taiwan.

This disparity was recently highlighted in an assessment of wind turbine tower supply chain trends for 2022 where both the total cost, and the steel plate cost, of producing a wind tower in the U.S. was compared to that of China:²¹

[Confidential Reproduced charts from Confidential Attachment 15]

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

²⁰ Confidential Attachment 13.

²¹ Confidential Attachment 15.

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 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 applicable to exports of HSS from China, as identified from an earlier HSS variable factors review inquiry.²² 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.²³ REP 590 then determined that Chinese exporters of the goods were in receipt of countervailable subsidies by margins of between 8.4 percent and 51 percent.²⁴

In its proper comparison assessment, the Commission concluded as follows:²⁵

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

In the above-noted recent European wind tower 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:²⁶

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

²² REP 590, p. 101.

²³ Ibid.

²⁴ REP 590, p. 100.

²⁵ REP 590, p. 182.

²⁶ Non-Confidential Attachment 4: 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. P. 10.

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:²⁷

As to the GOC being in a position to interfere with prices and costs through State presence in firms in the sense of Article 2(6a)(b), second indent of the basic Regulation, the following examples illustrate the above trend of an increasing level of intervention by the GOC through state presence inside the economic operators in the 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:²⁸

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.

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 all inputs in the manufacture of Chinese wind towers are subject to cost distortions:²⁹

²⁷ Ibid, p. 10.

²⁸ Ibid, p. 12.

²⁹ Ibid.

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. Those distortions 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:³⁰

...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 both selling prices and costs as inappropriate in the determination of Chinese normal values. For the new continuation inquiry, 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.

▪ **Whether exports have continued post the imposition of measures, and estimates of export price**

Exports from China for wind tower projects in Australia have continued post the imposition of measures, and also since CON 487. This can be no more clearly evidenced than via an assessment of the Accelerated Review enquiries undertaken since CON 487. Each Accelerated Review indicates engagement by subject Chinese exporters in the Australian wind tower market. Specifically:

Accelerated Review No.	Applicant	Period	Outcome
538	Suzhou Titan New Energy Technology Co Ltd	1 October 2018 – 30 September 2019	Terminated.
597	Chengxi Shipyard Co., Ltd	1 July 2020 – 31 December 2021	Applicant assigned a 0.0% effective rate of interim dumping duty under the ad valorem method.
602	Penglai Dajin Offshore Heavy Industry Co., Ltd	1 January 2021 – 31 December 2021	Final report and recommendations made to the Minister for Industry and Science on 20 June 2022. Currently awaiting Ministerial declaration.

³⁰ Ibid.

603	CS Wind China Co., Ltd	1 January 2021 – 31 December 2021	Final report and recommendations made to the Minister for Industry and Science on 24 June 2022. Currently awaiting Ministerial declaration.
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As with Chinese normal values, Chinese export prices are also difficult to obtain. Further, no meaningful import data for wind towers is available from the Australian Bureau of Statistics on the basis that the tariff classifications applicable to the goods are too broad.

However, in the same manner as domestic normal values, wind tower export prices are also impacted by raw material costs. KPE submits that the above movements in plate steel prices will have impacted and therefore altered export price variable factors.

To evidence export prices, and their change between FY2018 and CY2022, KPE provides at Confidential Attachment 2 and Confidential Attachment 3 quotes for the supply of the goods into the Australian market. In summary, for FY2018:

[Confidential Table: Summary of Quote Prices from Confidential Attachment 2]

The average quoted price from the above table is AU\$[XXX]/tonne. Confidential Attachment 3³¹ details a February 2022 estimated Free-Alongside-Ship China export price of AU\$[XXX].

- **Whether exporters have maintained distribution links in Australia**

The evidence above of ongoing subject country export trade to the Australian market indicates the presence of well-utilised distribution links. The continued export activity via these established export pathways presents an opportunity for Chinese exporters to quickly increase sales volume of dumped and injurious wind towers if the measures are removed.

- **Whether exporters retain excess capacity for direction to Australia**

Summary

Chinese wind tower producers have the capacity to export a substantial volume of subject goods to the Australian market in the event of the expiration of the measures. Subject producers maintain extensive production capacity, and they have the means and motive to export substantial volumes of the goods to Australia. Given the attractiveness of the Australian market, they would not hesitate to do so without the discipline of the measures.

CON 487

In CON 487, the Commission considers it likely that there was excess production capacity for all exporters of wind towers from China. The Commission noted that the significant economies of scale could lead to Chinese exporters offering competitive pricing, flexible terms of trade and shorter manufacturing lead-times.³²

In its assessment of whether dumping and material injury would continue or recur, the Commission concluded that:³³

³¹ Refer slide 5.

³² REP 487, p. 43.

³³ Ibid, p. 48.

The continued exportation of wind towers from China indicates that Australia remains a significant market for those goods. Chinese exporters collectively appear to have spare production capacity and will continue to export in the context of a growing Australian market. Whilst the decision to purchase is impacted by a range of factors, as noted at section 7.4.4 it is clear that price is a key consideration for wind farm proponents. The Commission notes that Chinese exporters for wind tower projects have won bids during the inquiry period at dumped prices. Accordingly, the Commission considers it likely that future exports of wind towers from China will be at dumped prices.

Current Considerations

Information is generally not publicly available on excess capacity for Chinese exporters, however as evidenced above Chinese exports have continued post the imposition of measures and Australian distribution links have been maintained. Chinese exporters would therefore seek to grow their sales into the Australian market at dumped and materially injurious prices in the absence of measures.

The above-noted 2022 report on global wind turbine tower supply chain trends indicates that China has large excess wind tower capacity:³⁴

[Confidential Chart 3: Chinese wind tower excess capacity, 2021]

Chinese overcapacity here for the 2021 year is highlighted as being [XXXX] wind turbine towers. Importantly also is that forecast Chinese demand for 2022/23 is well below Chinese supply capability, with maximum Chinese demand levels at [XXXX] sections as compared to [XXXX] section supply capability. It is therefore highly likely then that this oversupply translates to a displacement of export volumes to open markets, making Australia an attractive destination for dumped and injurious excess wind towers.

A further relevant consideration is the EC's conclusion in the above-noted FY2020 investigation that in the absence of measures against Chinese imports, the wind tower industry in the European Union was very likely to further deteriorate. The EC concluded that there is substantial excess capacity of wind tower production in China:³⁵

Such capacity exceeds 23 000 towers per annum, i.e. 100% of the world's demand, in a context where Chinese SWT producers face trade defence measures in several parts of the world, such as USA, Australia or Mexico, making an further increase of Chinese imports to the Union very likely.

KPE agrees with (and further critiques below) the Commission's assessment that spare capacity has remained a feature of the Chinese steel market and will continue dominating the steel landscape for the foreseeable future.

Global Capacity Developments

With plate steel accounting approximately 50 percent of the cost to make wind towers, an analysis of excess capacity in the subject goods industry requires consideration of both overcapacity in the industry specifically (as above), and the steel producing industry more generally.

Overcapacity in the steel industry is the subject of continual critique, yet the conclusions remain the same – global excess capacity is one of the biggest challenges facing steel producers, which much of that capacity being artificially sustained by market-distorting policies and practices.

³⁴ Confidential Attachment 15.

³⁵ Ibid, p. 68.

Earlier Commentary & Analysis

The Organisation of Economic Cooperation and Development (**OECD**) has noted that whilst global steel-making capacity (in nominal terms) decreased from 2015 to 2018, available information suggested that capacity had been increasing for the first time since 2014.³⁶ In addition, steel investment project announcements suggested that global gross steel capacity was currently expanding by 17.3 million tonnes, with a further 26.63 million tonnes in the planning stages.³⁷ Fully implemented, this would add approximately 44 million metric tonnes of new global steel-making capacity within the next three years.³⁸

The Commission's Analysis of Steel and Aluminium Markets Report to the Commissioner of the Anti-Dumping Commission³⁹ found that ongoing excess capacity is a significant challenge for the global steel industry. In relevant part:

Excess capacity – a problem that afflicts the steel industry – is a significant issue for the sector. The growing gap between global steelmaking capacity and demand has led to deterioration in the financial situation of steelmakers, and raised concerns about the longer-term economic viability and efficiency of the industry.

The tipping point in global steel excess capacity was recognised by the OECD in April 2016. It noted that excess capacity was the biggest challenge facing the steel industry:

Excess steelmaking capacity – a global challenge that continues to grow – is creating significant difficulties for steel producers in advanced, emerging and developing economies alike. Low steel prices, weak profitability, trade disturbances in some jurisdictions, and an escalation of trade actions against steel imports are some of the immediate impacts of excess capacity that are being felt by steel manufacturers around the world. These effects are pronounced due to the weakness of global steel markets and sluggish growth prospects. Alleviating excess capacity would lead to improved and more stable business conditions, and allow the industry to face a number of long-term challenges more effectively.⁴⁰

At the March 2018 OECD Steel Committee meeting, it was further noted that:⁴¹

New investment projects continue to take place around the world and global steelmaking capacity could increase by 2.0% between 2018 and 2020 in the absence of any further closures. Global excess capacity is expected to continue to be a major challenge for the global steel industry—calling for urgent, accelerated actions to reduce it. Economies at the heart of the increase in capacity have an important role in this regard, and those increasing capacity should do so strictly in line with demand to avoid an exacerbation of the problem.

In March 2019, the OECD Steel Committee again ...expressed concerns about the low growth prospects for the global economy and global steel markets, noting that decelerating demand growth and virtually unchanged steelmaking capacity result in a persistence of severe excess capacity in the steel sector.⁴²

On 25 November 2019 the South East Asian Iron and Steel Institute (**SEAFISI**) highlighted that the ASEAN region

³⁶ Non-Confidential Attachment 6: *OECD Latest Development in Steel Making Capacity, 2020*, p. 9 (2.1.1 Global Summary).

³⁷ Non-Confidential Attachment 7: *Extending the EU Safeguard; Key Elements* (February 2021, p. 1).

³⁸ *Ibid.*

³⁹ <https://www.industry.gov.au/data-and-publications/analysis-of-steel-and-aluminium-markets>

⁴⁰ OECD, High-Level Meeting, Excess Capacity and Structural Adjustment in the Steel Sector: Background Note No. 2: "Capacity Developments in the World Steel Industry" (April 18, 2016) at p. 2.

⁴¹ OECD, "Statement by Lieven Top, Chair of the OECD Steel Committee", 84th Session of the OECD Steel Committee, (5-6 March 2018).

⁴² OECD, "Statement by Mr Jai Motwane, Vice Chairman of the OECD Steel Committee", 86th Session of the OECD Steel Committee, (25-26 March 2019).

is slated to significantly increase its overall steelmaking capacity.⁴³ SEAISI forecast an alarming increase across the region from the then current existing capacity of 83.7 million metric tonnes, to 144.2 million metric tonnes.⁴⁴ This was to be driven primarily by Chinese investment,⁴⁵ the steel industry of which is not impartial to ignoring the economic and fiscal impacts of unmitigated steel manufacture.

Current Commentary & Analysis

The OECD's 2021 *Latest Developments in Steelmaking Capacity* report concludes that steel capacity continues to expand in key producing economies, and that new plants are being built in economies that previously had little or no steel production. Its key findings are:⁴⁶

- Global crude steelmaking capacity increased by 37.6 million metric tonnes (mmt), or 1.6%, in 2020 despite extremely weak market conditions. Over the past two years, global capacity has increased by a total of 73.7 mmt. Asia and the Middle East accounted for almost all of that growth.
- Because of falling production and demand for steel, the global capacity increase led to a worsening excess capacity situation for the world steel industry in 2020. The gap between global capacity and production increased 624.9 mmt in 2020.
- Capacity is expected to continue expanding over the next few years. Many investment projects continue to take place around the world: for example, a total of 45 mmt of capacity is currently underway for completion over the next three years (2021-23) while an additional 68.7 mmt is in the planning stages. Should all these projects be realised, global steelmaking capacity could increase by almost 5% between 2021 and 2023 in the absence of closures, clearly adding to supply side pressures for the steel industry.
- Excess capacity pressures have emerged, and are getting worse, in regions that previously had strong steel demand and positive prospects for market growth; there are growing concerns in Southeast Asia for instance as capacity growth outpaces demand, supported by foreign investment particularly from China. These emerging problems, and the longevity of capacity once installed, highlight the need to address excess capacity issues early on.

During 2020, most steelmaking capacity additions took place in Asia, where an additional 28.8 mmt of capacity was deployed.⁴⁷ Information on gross capacity additions expected in 2021-2023 suggests 45.0 mmt is currently under construction around the world, and that Asia and the Middle East are likely to experience a considerable increase in steelmaking capacity over the next few years.⁴⁸

In Asia specifically, steelmaking capacity increased by 28.8 mmt in 2020, representing growth of 1.8 per cent from 2019. Capacity growth is expected to continue over the next few years, supported by several investment projects that are underway or in the planning stages, with production operations expected to start during the three-year period of 2021-2023. The projects that are now underway could add an additional 18.6 mmt of steelmaking capacity by 2023 (in gross terms), bringing Asia's total capacity to 1,664.9 mmt (+1.1% during the three-year period) in the absence of closures.⁴⁹

Within China, several new capacity investments are being made:⁵⁰

⁴³ Confidential Attachment 11: South East Asian Iron & Steel Institute, "Update on ASEAN Steel Industry Development Scenario", (25 November 2019).

⁴⁴ Ibid.

⁴⁵ Ibid.

⁴⁶ Non-Confidential Attachment 12: *OECD Latest Development in Steel Making Capacity, 2021*. P. 5 (Introduction and key findings).

⁴⁷ Ibid, p. 9.

⁴⁸ Ibid, p. 10.

⁴⁹ Ibid, p. 12.

⁵⁰ Ibid, p. 12-13.

With regard to investments in BOF capacity in China, Anyang Zhoukou Steel is constructing a new BOF plant with 1.75 mmt in Henan province, and its completion date has been postponed to 2021 from 2020 (reference omitted). In addition, Baosteel Zhanjiang Iron and Steel is constructing a new BOF plant with capacity of 3.6 mmt which is scheduled to become operational in 2021 (reference omitted).

With regard to investments in EAF capacity, in the Sichuan province, Luzhou Xinyang Steel and Sichuan Jinsheng Steel started operations at their new EAF plants in 2020, which have steelmaking capacities of 2.0 mmt and 1.0 mmt, respectively. Also, Fujian Dingsheng Iron and Steel installed an EAF with 2.0 mmt of capacity in Fujian province in 2020 (reference omitted). In Guangxi Zhuang Autonomous Region, Wuzhou Yongda Iron and Steel commissioned a new EAF plant in December 2020 with steelmaking capacity of 1.0 mmt (reference omitted). In the Guangdong province, Heyuan Derun Iron and Steel has plans to replace existing EAFs with new EAFs. Although these facilities are expected to become operational in summer 2021, their capacity levels are still unknown (reference omitted).

China's plate capacity expansions, via rising steelmaking capacity, is set to gain pace in 2022-2023. According to a recent article by [commercial-in-confidence source and analysis].⁵¹

Wind tower capacity implications

KPE contends that overcapacity in the global steel market generally has an impact on the subject goods specifically. Such global excess capacity leads to excess capacity and low prices for the subject goods. It is highly likely then that this global oversupply translates to a displacement of export volumes to open markets, making Australia an attractive destination for dumped and injurious excess wind towers.

ii. **Will material injury recur?**

▪ **Volume and value of imports, and sources of imports**

As noted above, no meaningful import data for wind towers is available from the Australian Bureau of Statistics on the basis that the tariff classifications applicable to the goods are too broad. Furthermore, import data does not generally distinguish between wind towers and wind turbines, making it difficult to reasonably identify the goods.⁵² KPE notes however that China is one of the main sources of wind tower exports to Australia, via the established Australian importer distribution links noted above.

▪ **Performance of the local industry (profits, price trends, investment and employment)**

KPE will provide Confidential Appendix A-6 and Confidential Appendix A-7 at a later stage.

▪ **Likelihood of material injury in the absence of anti-dumping measures**

Summary

KPE submits that in the event the anti-dumping measures applicable to wind tower exports from China are allowed to expire on 16 April 2024, the Australian industry will suffer, and be threatened with a recurrence of, material injury that the measures are intended to prevent.

⁵¹ Confidential Attachment 13.

⁵² This was observed by the Commission at p. 22 of REP 221.

The Likely Volume of Imports Would be Significant

In evaluating the likely effects of subject imports, the Commission looks to assess whether the likely volume of the subject goods would be significant if the measures were to expire. The Commission also considers all economic factors relevant to the inquiry in making this assessment, such as production capacities (and existing unused capacity), market size and share, and changes in the structure and operation of the market since the measures were imposed.⁵³ Another important factor that the Commission considers is the extent to which subject producers are export oriented. As shown below and above, taken together, these factors indicate that the likely volume of wind tower exports from China would be significant if the measures lapse.

INV 221

The Commission's market share assessment over the January 2012 to June 2013 investigation period examined the number of wind towers placed for tender, the number of wind towers that KPE successfully bid for, and the number of wind towers where KPE was unsuccessful. The Commission found that 291 towers over five projects were available for tender, with the Australian industry awarded a total of 101 towers, 56 being awarded to China, 64 to Korea, and 70 to a country not the subject of the investigation.⁵⁴ In relation to the lost bids:⁵⁵

The Commission requested information in relation to lost bids, Keppel Prince claimed it had bid for and lost the following tenders in the investigation period to the allegedly dumped imports from China and Korea.

- *The Gullen Range project in NSW comprised 73 wind towers, Keppel Prince quoted for 73 towers and was awarded 17 towers whilst 56 towers were sourced from China.*
- *The Snowtown II project in South Australia comprised 90 wind towers, Keppel Prince quoted for 90 and was unsuccessful, E&A Contractors were awarded 20, whilst 70 were sourced from a country other than China or Korea.*
- *The Mt Mercer project in Victoria comprised 64 wind towers, Keppel Prince quoted for 64 and was unsuccessful with the 64 wind towers sourced from Korea.*

All of the above tenders were awarded in the 2012 calendar year. The total available for tender was 240 wind towers of which Keppel Prince was successful in obtaining 30 wind towers and another industry member E&A obtained 20 wind towers.

The Commission concluded that the industry market share for the 2012 calendar year and the investigation period was the lowest it had been over the injury analysis period (i.e. the January 2008 to June 2013 period), falling to below 60%.⁵⁶ The Commission found that the dumped exports from China contributed to the injury suffered by the Australian industry in the form of lost actual and potential sales volumes and reduced market share over the original investigation period.⁵⁷

CON 487

The Commission assessed that following the imposition of the original measures, the size of the Australian market for wind towers continued to fluctuate. The market share held by Chinese exporters had also been variable, but continued to account for a large proportion of all sales during the inquiry period.⁵⁸

⁵³ Dumping and Subsidy Manual, November 2018, p. 176.

⁵⁴ REP 221, p. 44.

⁵⁵ Ibid.

⁵⁶ Ibid, p. 44.

⁵⁷ Ibid, p. 45.

⁵⁸ REP 487, p. 45.

The Commission concluded that the continued exportation of wind towers from China indicated that Australia remained a significant market for the goods – Chinese exporters collectively had spare production capacity and would continue to export to the Australian market.⁵⁹ The continued exportation of wind towers at dumped prices was therefore likely to cause a continuation or recurrence of the injury that the measures were intended to prevent.

Current Inquiry

KPE considers that the expiration of measures would likely lead to material injury to the Australian industry in the form of reduced sales and reduced market share. In the absence of measures, exporters from China are likely to increase export volumes to Australia.

Absent the continuation of the trade measures, the domestic industry will once again be forced to compete with rising volumes of low-priced subject imports. Any projected future growth in demand will not shield the domestic industry from the injurious effects of imports that have demonstrated their ability to be at materially dumped and injurious levels.

A recent report by the U.S. ITC on the recent rapid growth in Chinese exports of wind turbines concluded that Chinese wind turbine exports increased from US\$2.9 billion in 2017 to US\$7.2 billion in 2021, including a \$2.2 billion increase from 2020 to 2021. This rise in exports reflected the increasing competitiveness of Chinese original equipment manufacturers (OEM’s) in foreign markets, Western OEM’s exporting more turbines from their factories in China, and an increase in component sourcing from China.⁶⁰ As relevant to export volumes, the report found that:⁶¹

Rapid growth in Chinese wind turbine exports

*Chinese wind turbine exports increased from \$2.9 billion in 2017 to \$7.2 billion in 2021 (figure 1). Exports of wind-powered generating sets (WPGSs) increased by 294 percent, exports of blades and hubs rose by 150 percent, and exports of WPGS parts grew by 109 percent. Export growth was likely higher in volume terms due to the significant decline in wind turbine prices. The rise in exports was primarily driven by demand in Europe and Asia, with the large increase to Asia in 2021 driven by higher demand in Vietnam (figure 2). Chinese exports to North America also rose during 2017–20 but fell in 2021 amid weaker U.S. demand and **the build-up of alternative sources of supply not subject to Section 301 duties.** [emphasis added].*

Figure 1: Chinese wind turbine exports

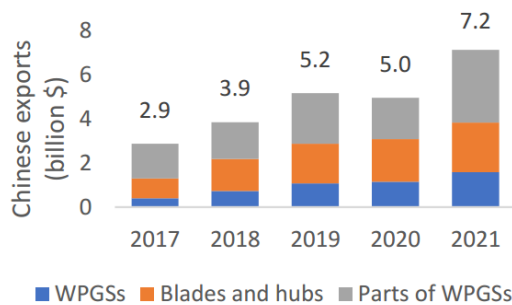
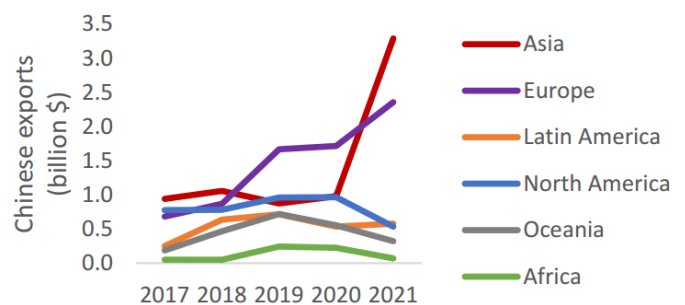


Figure 2: Chinese wind turbine exports by region



Reproduced Figure 1 and Figure 2: Non-Confidential Attachment 14

⁵⁹ Ibid, p. 48.

⁶⁰ Non-Confidential Attachment 14: Chinese Wind Turbine Export Growth Continued in 2021. U.S. International Trade Commission – Executive Briefings on Trade, March 2022. P. 1.

⁶¹ Ibid.

There is a direct correlation between the growth in wind turbine and wind tower exports. With the propensity of Chinese exporters to seek export markets where trade related penalties are not imposed (such as the U.S. Section 301 duties), and which are geographically close (in reference to Figure 2 above highlighting the rapid increase in exports to Asia), the clear conclusion can be drawn that Chinese exporters of wind towers would seek to export a substantial volume of the goods to the proximate Australian market in the absence of ongoing anti-dumping measures.

A further consideration during the proposed continuation inquiry period is that the SARS-CoV-2 (**COVID-19**) global pandemic, that commenced in late 2019, disrupted global demand and the supply of many steel and steel related products. KPE submits that had COVID-19 not disrupted global supply chains, export volumes from China would have likely been higher. As supply chains stabilise, Australian industry sales volumes will become vulnerable from exports as a result of an increase in volumes.

The Commission has recently assessed the impact of COVID-19 on supply chains in HSS CON 590, noting:⁶²

While the economic uncertainty driven by the COVID-19 pandemic is likely to continue in the short term, the commission does not consider that the growth in the Australian market experienced during the inquiry period is likely to be replicated on an ongoing basis.

...

The commission considers that the growth in the Australian market during the inquiry period was anomalous when assessed against the longer term trend. The commission expects that as the impacts associated with the pandemic recede, the Australian market will return to more normalised conditions, characterised by gradual growth over the long term, within the context of the shorter time variability inherent to the business cycle (i.e. variance within shorter time periods).

...

The commission considers the Australian industry remains susceptible to injury from dumping and subsidisation as those favourable conditions evident during the inquiry period likely dissipate over coming years.

These above conclusions can be similarly applied to wind tower exports to Australia; logistical bottlenecks that had been contributing to rapidly rising inventory levels in China will eventually unwind, resulting in increased exports of the subject goods to Australia at materially injurious levels.

As evidenced above, subject producers maintain extensive production capacity, and have the means, existing supply channels, and motive to export substantial volumes of wind towers to Australia. Given the attractiveness of the Australian market and its geographic proximity, they would not hesitate to do so without the discipline of the measures.

The Likely Price Effects Would be Significant

In considering the likely price effects of subject imports, the Commission considers whether there is likely to be significant underselling by the subject imports, and whether the subject imports are likely to enter the Australian market at prices that otherwise would have a significant depressing or suppressing effect on domestic like product prices. In this continuation review, the evidence relating to these factors demonstrates that the likely price effects of the subject imports on the domestic like product would be significant.

⁶² CON 590 Statement of Essential Facts, p. 107-108, 109.

INV 221

The Commission's consideration of its injury determinations in the original investigation, reflecting the industry's condition prior to the imposition of measures, is important because that period was the most recent time during which imports of the Chinese goods competed in the Australian market free of the discipline of interim dumping duties.

In INV 221, the Commission's analysis revealed that prices from China and Korea substantially undercut industry prices in the range of 10 to 20%.⁶³ The Commission considered it reasonable to conclude that the amount of undercutting was the main factor in the decision to award wind tower contracts to Korea and China during the original investigation. In relation to the specific tenders:⁶⁴

Gathered information in relation to the Mortons Lane project for 13 wind towers shows that Keppel Prince reduced its prices on several occasions. The information also showed that industry's prices were in direct competition to dumped imports which were undercutting Keppel Prince's tender offer. Gathered information in relation to the Gullen Range project for the 17 towers, 85 metres high designed for a 1.5 MW capacity also shows that Keppel Prince reduced its tender offers in response to feedback from tenderers. As outlined earlier, competing dumped import prices were significantly undercutting Keppel Price's tender offers.

The Commission's view in INV 221 was that the undercutting caused by the offers of dumped imports on the Mortons Lane and Gullen Range projects contributed to the price depression and suppression that the Australian industry experienced as it reduced prices in response to the dumped price offers.⁶⁵

CON 487

The Commission observed that:⁶⁶

- *the feedback provided by the OEM-related entities concerning lost tenders tends to focus on KPE's pricing in comparison with competing bids;*
- *KPE is regularly asked whether it is able to reduce its price to approach the prices offered for imported goods; and*
- *for the projects that KPE won the contract, the price difference between KPE and imports was minimal.*

The Commission concluded that price was a significant factor impacting on the assessment of tender bids. Critically, the prices being offered for wind towers exported from China during the CON 487 inquiry period were increased by the effect of the anti-dumping measures. The Commission found that an absence of such measures would have substantially increased the gap to the prices offered by KPE.⁶⁷

Current Inquiry

Given the substitutability of the domestic like goods and subject imports and price-based competition for wind towers in the Australian market, if the measures expire, a significant volume of dumped subject goods from China would again substantially undersell the domestic like product to win tenders and gain market share. In turn, this would depress and suppress domestic like product prices to a significant degree. With Chinese exporters no longer bound by the measures, a recurrence of the price injury experienced by the Australian industry in the original investigation period is highly likely.

⁶³ Ibid, p. 45.

⁶⁴ Ibid.

⁶⁵ Ibid, p. 46.

⁶⁶ REP 487, p. 46.

⁶⁷ Ibid.

In the U.S. ITC's report on Chinese wind turbine exports, export pricing was critiqued as follows:⁶⁸

Chinese OEMs continue to increase foreign sales

Exports by Chinese OEMs increased from 641 megawatts (MW) in 2017 to several gigawatts (GW) in 2021, with at least five OEMs exporting more than 150 MW (including at least one OEM exporting more than 1 GW). Goldwind, the largest Chinese OEM, has set a goal of 2 to 3 GW in annual exports starting in 2022. The pattern of exports by Chinese OEMs indicates the increasing competitiveness and acceptance of their products, which are typically lower priced, in foreign markets.

The Australian market for wind towers remains highly price sensitive given the substitutable nature of the domestic like product and the subject goods. Expiration of the measures would likely lead to a recurrence of injury to the domestic industry by negatively impacting both sales and prices. KPE submits that the excess capacity in China, and the proximity of the Australian market, provides a strong incentive for subject exporters to adopt a lower export market profit strategy or a marginal cost pricing strategy in order to obtain market share in the Australian market.

Without the discipline of trade relief, unfairly traded wind tower imports would again be free to enter the Australian market unrestrained, and they would regain market share through underselling. This would suppress and depress prices, causing subject imports to adversely affect the profitability and stability of the domestic industry, as was the case prior to the imposition of the measures.

iii. Conclusion

The Commission needs to appropriately consider the period beyond the life of the current measures to determine if it is likely that dumped and injurious wind tower exports from China will likely recommence.

In INV 221, the Commission considered that the continuation of price competition from dumped imports from China was likely to have a continuing adverse impact on the Australian industry in lost sales volumes and revenues, price depression and price suppression, reduced profits and profitability, reduced revenues and reduced capacity utilisation; and that continued dumping was likely to cause further material injury to the Australian industry.

This application indicates that the likely impact of wind tower imports from China on the domestic industry would be significant if the measures were discontinued. As shown above, should the discipline of the measures be removed, subject producers will likely export a significant volume of the goods to the Australian market. Those unfairly traded imports would likely take sales from the Australian industry and depress and/or suppress Australian prices. These developments would then likely cause Australian industry's output, sales, market share, profits, productivity, return on investments, and capacity utilisation to decline. They would also likely have significant negative effects on other aspects of the industry's performance, such as employment, wages, growth, and investment.

Accordingly, the likely adverse impact of the subject imports would be significant if the measures expire. The Australian industry therefore remains vulnerable to material injury in the event of expiration. Should trade relief be terminated, the Australian wind tower industry will experience a continuation or recurrence of material injury, as it did prior to the imposition of the measures. Given the Commission's previous determinations with respect to the volumes and injurious price effects of subject imports, a substantial volume of dumped subject imports will inevitably result in the decline of Australian prices and the overall financial performance of the domestic industry. The history and findings of the original investigation and continuation inquiry categorically confirm that dumped subject imports cause material injury to the Australian industry in the absence of measures.

⁶⁸ Non-Confidential Attachment 14: Chinese Wind Turbine Export Growth Continued in 2021. U.S. International Trade Commission – Executive Briefings on Trade, March 2022. P. 1.