



ANTI-DUMPING NOTICE NO. 2023/030

Customs Act 1901 – Part XVB

Wind Towers Exported to Australia from the People's Republic of China

Initiation of a Continuation Inquiry No 621

Notice under section 269ZHD(4) of the Customs Act 1901

I, Dr Bradley Armstrong PSM, the Commissioner of the Anti-Dumping Commission (Commissioner), have initiated an inquiry into whether the continuation of anti-dumping measures, in the form of a dumping duty notice (the notice), in respect of certain wind towers (the goods) exported to Australia from the People's Republic of China is justified.

The anti-dumping measures are due to expire on 16 April 2024 (specified expiry day).¹

1. The goods

The goods subject to anti-dumping measures are outlined in the table below:

Full description of the goods
<p>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.</p> <p>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.</p> <p>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.</p>

¹ On and from 17 April 2024, if not continued, the anti-dumping measures would no longer apply.

Further information

Goods specifically excluded from the anti-dumping measures are:

- nacelles and rotor blades, regardless of whether they are attached to the wind tower
- any internal or external components which are not attached to the wind towers or
- sections thereof.

There are two tariff concession orders (TCOs) for wind towers under tariff classification 7308: TCO 1761480, and TCO 1813104. Interim dumping duty (IDD) does not apply to goods subject to TCO 1761480 with an effective date of 21 September 2017 due to *Ministerial Exemption Instrument No 2 of 2018*. IDD does not apply to goods subject to TCO 1813104 with an effective date of 16 May 2018 due to *Ministerial Exemption Instrument No 5 of 2018*. For further details refer to the Anti-Dumping Commission's (commission) Dumping Commodity Register available on its website via www.adcommission.gov.au

The goods are generally, but not exclusively, classified to the following tariff subheadings of Schedule 3 to the *Customs Tariff Act 1995 (Cth)*:³

Tariff subheading	Stat code	Unit	Description
7308	STRUCTURES (EXCLUDING PREFABRICATED BUILDINGS OF 9406) AND PARTS OF STRUCTURES (FOR EXAMPLE, BRIDGES AND BRIDGE-SECTIONS, LOCK-GATES, TOWERS, LATTICE MASTS, ROOFS, ROOFING FRAMEWORKS, DOORS AND WINDOWS AND THEIR FRAMES AND THRESHOLDS FOR DOORS, SHUTTERS, BALUSTRADES, PILLARS AND COLUMNS), OF IRON OR STEEL; PLATES, RODS, ANGLES, SHAPES, SECTIONS, TUBES AND THE LIKE, PREPARED FOR USE IN STRUCTURES, OF IRON OR STEEL:		
7308.20.00	- Towers and lattice masts:		
	03	tonnes	Tubular, whether or not tapered
	04	tonnes	Other
7308.90.00	- Other:		
	Columns, pillars, posts and beams, girders, bracing, gantries, brackets, struts, ties and similar structural units:		
	.Roll formed structures:		
	52	tonnes	..Hot rolled
	53	tonnes	..Plated or coated with zinc or with aluminium-zinc alloys, of a thickness less than 1.2 mm
	54	tonnes	..Plated or coated with zinc or with aluminium-zinc alloys, of a thickness of 1.2 mm or more
	55	tonnes	..Other
	56	tonnes	..Other
	63	tonnes	Sectional components, prepared for use in towers and lattice masts
	65	tonnes	Other
8502	ELECTRIC GENERATING SETS AND ROTARY CONVERTERS:		

8502.31.10	- Other generating sets		
	--Wind-powered		
	31	No	--- AC generating sets of an output exceeding 500 kVA

2. Background to the anti-dumping measures

The anti-dumping measures were initially imposed by public notice on 16 April 2014 by the then Parliamentary Secretary to the Minister for Industry² following consideration of *Anti-Dumping Commission Report No. 221*. The anti-dumping measures initially applied to all exporters from China and the Republic of Korea (ROK). Following *Continuation Inquiry No 487*, the then Minister for Industry, Science and Technology:³

- ceased the anti-dumping measures applying to:
 - all exporters from ROK and
 - Shanghai Taisheng Wind Power (TSP) from China
- revised the variable factors applying to exporters generally from China (except TSP).

The original investigation and the imposition of the anti-dumping measures resulted from an application made under section 269TB of the *Customs Act 1901*⁴ by Keppel Prince Engineering Pty Ltd (KPE), supported by Ottoway Fabrication Pty Ltd (OF) and Crisp Bros. and Haywards Pty Ltd (Haywards) representing the Australian industry.

Further details on the goods and existing measures are available on the Dumping Commodity Register on the commission's website (www.adcommission.gov.au).

3. Application for continuation of the anti-dumping measures

Division 6A of Part XVB sets out, among other things, the procedures to be followed in dealing with an application for the continuation of anti-dumping measures.

On 16 February 2023, the commission published a notice⁵ on its website in accordance with section 269ZHB(1) inviting the following persons to apply for the continuation of the anti-dumping measures:

- the person whose application under section 269TB resulted in the anti-dumping measures (section 269ZHB(1)(b)(i)); or
- persons representing the whole or a portion of the Australian industry producing like goods to the goods covered by the anti-dumping measures (section 269ZHB(1)(b)(ii)).

² Anti-Dumping Notice (ADN) No. 2014/33 refers.

³ Refer to Electronic Public Record (EPR) No 487 on the Anti-Dumping Commission's website and Anti-Dumping Review Panel Review No 2019/100 available at www.industry.gov.au.

⁴ All legislative references in this notice are to the *Customs Act 1901*, unless otherwise stated.

⁵ ADN No. 2023/006 refers.

On 12 April 2023, an application for the continuation of the anti-dumping measures was received from KPE. A non-confidential version of the application is available on the commission's public record.

Having regard to the application, and the original investigation, I am satisfied that KPE is the person under section 269ZHB(1)(b)(i) because KPE's application under section 269TB resulted in the existing anti-dumping measures.

4. Consideration of application under section 269ZHD(1)

Pursuant to section 269ZHD(1), I must reject an application for the continuation of anti-dumping measures if I am not satisfied of one or more of the matters referred to in section 269ZHD(2). These are:

- the application complies with section 269ZHC (section 269ZHD(2)(a)); and
- there appear to be reasonable grounds for asserting that the expiration of the anti-dumping measures to which the application relates might lead, or might be likely to lead, to a continuation of, or a recurrence of, the material injury that the measures are intended to prevent (section 269ZHD(2)(b)).

5. Assessment under section 269ZHD(2)(a) - compliance with section 269ZHC

I consider that the application complies with the requirements of section 269ZHC because it is:

- in writing
- in a form approved by me for the purposes of this section
- contains the information that the form requires
- signed in the manner indicated by the form, and
- was lodged in a manner approved under section 269SMS, being by email to the commission's email address provided in the instrument under section 269SMS.⁶

6. Assessment under section 269ZHD(2)(b) – reasonable grounds

Applicant's claims

In its application, KPE claims, among other things, that:

- Since the imposition of the anti-dumping measures, exporters from China have maintained their distribution channels to Australia.
- There is significant excess capacity in China's steel making industries, which may be redirected to Australian markets in the absence of anti-dumping measures.
- Other jurisdictions such as the United States, European Union and Mexico have anti-dumping measures on wind towers.
- Plate steel is the primary input and major cost component for the goods and its price has risen significantly between 2018 and 2022 which has materially impacted Chinese exporter normal value and export price.

⁶ A copy of the instrument can be found on the commission's website at www.adcommission.gov.au.

- The Government of China continues to exert significant influence in the Chinese domestic steel industry. As the commission found in the original Investigation 221 (INV 221), Continuation Inquiry No. 487 (CON 487) and Accelerated Review 597 (AR 597), domestic prices for Chinese plate steel will continue to be substantially different to those that would otherwise prevail in normal competitive market conditions.
- In the absence of anti-dumping measures, exporters from the subject countries are likely to increase export volumes to Australia.
- The proposed continuation period was impacted by the disruption of global supply chains associated with COVID-19. As supply chains stabilise, Australian industry sales volumes will become vulnerable from exports as a result of an increase in volumes.
- The Australian market for wind towers remains highly price sensitive given the substitutable nature of the domestic like product and the subject goods. If the anti-dumping measures expire, a significant volume of dumped subject goods from China would again substantially undercut the domestic like product to gain market share. In turn, this would significantly depress and suppress domestic like product prices and therefore adversely affect the profitability and stability of the domestic industry.

The commission's consideration

In assessing KPE's application, I have considered the information provided in the application, information obtained from the Australian Border Force (ABF) import database, findings in INV 221 and subsequent CON 487, as well as other information relevant to the application.

KPE has relied on information such as the maintenance of distribution links, anti-dumping measures for wind towers in other jurisdictions⁷, and excess capacity in the global steel market to support its claim that exports of wind towers would increase in the absence of anti-dumping measures, and these exports are likely to be at dumped prices.

The commission has examined information it obtained from the ABF import database and has found that exporters from China have continued to export the goods to Australia since the imposition of the anti-dumping measures.

As outlined in INV 221 and CON 487, the wind tower industry in Australia is competitive and often involves participation in tender processes. Each wind tower project is unique. Each tender differs significantly based on the site characteristics of the wind farm, specification, and transport. Factors including pricing, timely delivery and consistent product quality are taken into consideration in the tender process.

Given the price sensitive nature of the domestic market, any pricing advantage achieved as a result of dumping will have a direct impact on the Australian industry's ability to win tenders for the supply of wind towers. In this environment, it is reasonable to conclude that should the anti-dumping measures expire, exporters from China would obtain a price advantage over the Australian industry, incentivising them to increase volume and market share.

⁷ The commission also notes that the Canada Border Services Agency initiated an investigation concerning alleged dumping and subsidisation of certain wind towers exported from China on 1 May 2023. Refer to <https://www.cbsa-asfc.gc.ca/sima-lmsi/i-e/wt2023/wt2023-ni-eng.html>.

Such a price advantage may result in reduced sales volumes and market share to the Australian industry, and/or price injury as the Australian industry seeks to compete with lower priced imports. Volume and price injury would in turn likely be detrimental to other economic factors such as revenue, profit and profitability.

Having regard to the application, KPE's claims and other relevant information set out in this notice, I am satisfied that, in accordance with section 269ZHD(2)(b), there appear to be reasonable grounds for asserting that the expiration of the anti-dumping measures might lead, or might be likely to lead, to a continuation of, or a recurrence of, the material injury that the anti-dumping measures are intended to prevent.

7. Conclusion

Based on the above findings, I have therefore decided to not reject the application.

8. This continuation inquiry

Following my inquiry, I will recommend to the Minister for Industry and Science (Minister) whether the notice should:

- (i) remain unaltered; or
- (ii) cease to apply to a particular exporter or to a particular kind of goods; or
- (iii) have effect in relation to a particular exporter or to exporters generally, as if different variable factors had been ascertained; or
- (iv) expire on the specified expiry day.⁸

On 27 February 2023, I initiated a review of the anti-dumping measures (Review 615) pursuant to Division 5 of Part XVB.

To the extent that it is relevant, I propose to have regard to the variable factors determined in Review 615 for the purposes of this continuation inquiry.

For the purposes of this inquiry, I am not requesting that exporters complete an exporter questionnaire addressing questions regarding current variable factors.

I have placed an exporter questionnaire on the commission's website with questions relevant to my assessment of whether the dumping and material injury will continue or recur if the anti-dumping measures expire.

9. Public record

I must maintain a public record for this inquiry. The EPR hosted on the commission's website (www.adcommission.gov.au) contains, among other things, a copy of all non-confidential submissions from interested parties. Documents published on the EPR can be provided upon request to interested parties.

10. Submissions

Interested parties, as defined in section 269T(1), are invited to lodge written submissions concerning the continuation of the measures, no later than

⁸ Section 269ZHF(1)(a).

19 June 2023⁹, being 37 days after publication of this notice. The commission's preference is to receive submissions by email to investigations3@adcommission.gov.au.

Submissions may also be addressed to:

The Director, Investigations 3
Anti-Dumping Commission
GPO Box 2013
Canberra ACT 2601

Interested parties wishing to participate in the inquiry must ensure that submissions are lodged promptly. Interested parties should note that I am not obliged to have regard to a submission received after the date indicated above if to do so would, in my opinion, prevent the timely placement of the SEF on the public record.

Interested parties claiming that information contained in their submission is confidential, or that the publication of the information would adversely affect their business or commercial interests, must:

- (i) provide a summary containing sufficient detail to allow a reasonable understanding of the substance of the information that does not breach that confidentiality or adversely affect those interests, or
- (ii) satisfy me that there is no way such a summary can be given to allow a reasonable understanding of the substance of the information.

Submissions containing confidential information must be clearly marked "OFFICIAL: Sensitive ". Interested parties must lodge a non-confidential version or a summary of their submission in accordance with the requirement above (clearly marked "PUBLIC RECORD").

11. Statement of essential facts

The dates specified in this notice for lodging submissions must be observed to enable me to report to the Minister within the legislative timeframe. I will place the SEF on the public record on or before 30 August 2023, that is, within 110 days after the publication of this notice, or by such later date as I may allow in accordance with section 269ZHI(3).¹⁰ The SEF will set out the essential facts on which I propose to base a recommendation to the Minister concerning the continuation of the anti-dumping measures.

Interested parties are invited to lodge submissions in response to the SEF within 20 days of the SEF being placed on the public record. Submissions received in response to the SEF within 20 days of the SEF being placed on the public record will be taken into account in completing my report and recommendation to the Minister.

⁹ The due date is 18 June 2023, however as this is a Sunday the due date is the following working day, Monday 19 June 2023.

¹⁰ On 19 January 2017, the Parliamentary Secretary to the Minister for Industry, Innovation and Science delegated the powers and functions of the Minister under section 269ZHI to the Commissioner. See ADN 2017/10 for further information.

12. Report to the Minister

I will make a recommendation to the Minister in a report on or before 16 October 2023¹¹, that is, within 155 days after the date of publication of this notice, or such later date as I may allow in accordance with section 269ZHI(3).

The Minister must make a declaration within 30 days after receiving the report, or if the Minister considers there are special circumstances, such longer period, ending before the specified expiry day, as the Minister considers appropriate. If the Minister receives the report less than 30 days before the specified expiry day, the Minister must make the declaration before that day.

13. The Commission contact

Enquiries about this notice may be directed to the case manager by email at investigations3@adcommission.gov.au.



Dr Bradley Armstrong PSM
Commissioner
Anti-Dumping Commission
12 May 2023

¹¹ The due date is 14 October 2023, however as this is a Saturday the due date is the next working day, Monday 16 October 2023.