Keppel Prince Engineering Pty. Ltd.
(Incorporated in Victoria)
A.C.N. 004 727 619
A.B.N. 62 004 727 619
Tel: (03) 5523 8888
Mobile:
184 Darts Road, Portland Vic 3305
PO Box 515, Portland Vic 3305
info@keppelprince.com.au
Fax: (03) 5523 8890

19 September 2023

Assistant Director – Investigations 3
Anti-Dumping Commission
GPO Box 1632
Melbourne Victoria 3001

Email: Investigations3@adcommission.gov.au

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 (**REV 615**) – refer ADN No. 2023/011. KPE makes the following submission in response to the recent submission by Penglai Dajin Heavy Industry Co., Ltd (**Dajin**) concerning Chinese particular market situation claims.

2. Dajin's representations

Distilled into its relevant points, Dajin's basis for asserting that a particular market situation (**PMS**) does not exist in the Chinese wind tower market is premised on the following:

a) that the Commission's previous and current PMS findings are dated and therefore irrelevant; and that
b) the recently published Canada Border Services Agency (**CBSA**) Section 20 inquiry findings would not necessarily have sufficient probative value to allow the Minister to be satisfied that a PMS exists under Australian legislation.

KPE agrees with Dajin's statement that the Commission must make a PMS finding based on substantial positive evidence. Dajin, however, has not presented any such detail that would contradict the substantial body of positive evidence currently before the Commission, and the additional evidence it will gather as part of the inquiry in question, that would render a conclusion any other than the categorical existence of a PMS in the Chinese wind tower market.

3. The Commission's steel product PMS findings

Dajin states that:[1]

> *…the Commission's previous findings relating to steel products such as steel plate, aluminium zinc coated steel, galvanised steel coated steel, and hollow structural sections, are not considered relevant given those inquiries and findings were made over decade ago.*
> …

[1] Dajin submission, EPR folio no. 16, p. 2, 3.

> *These particular supply and demand market characteristics* [referencing Dajin's steel plate purchases] *are specific to the wind tower sector, whilst the previous particular market situation findings made by the Commission were based on a consideration of the general market dynamics of the broader domestic steel plate sector in China, which would not be applicable to the wind tower market.*

Dajin's representations are inaccurate across two fronts; firstly, that the Commission's China PMS findings are somehow dated; and secondly that such findings should not contribute to the Commission's Chinese wind tower market assessments when they already have.

Regarding the first inaccuracy, KPE details below the very recent continuation-related China steel PMS findings made by the Commission:

Product	Investigation No.	Investigation Period	Countries
Hollow Structural Sections	590	1 July 2020 – 30 June 2021	China, Korea, Malaysia, Taiwan
Aluminium Zinc Coated Steel	610	1 July 2021 – 30 June 2022	China
Zinc coated (galvanised) steel	611	1 July 2021 – 30 June 2022	China, Korea, Taiwan

The Commission is also currently assessing the ongoing existence of a Chinese PMS for steel pallet racking. Furthermore, these decisions have been informed by earlier continuation and annual review assessments. This recent Australian trade remedy precedent, established and continually under review, is therefore clearly not dated, contrary to Dajin's statement that such findings are.

Dajin's second inaccurate proposition is that the Commission's steel-related PMS findings lack the specificity with which to apply to the Chinese wind tower market.[2] On the contrary, the Commission has continually sought to place reliance on steel PMS findings to form the view that the Government of China's (**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 these raw material prices unsuitable to use for determining the cost of wind tower production in China. In relevant part, from recent Accelerated Review No. 602:[3]

> *As established in INV 221 and CON 487, 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 them unsuitable to use for determining the cost of production in China.*
>
> *The commission has not been presented with any evidence to suggest that the Government of China's (GOC) involvement in the industry has changed since the previous inquiry. Therefore, Penglai Dajin's cost of production records are considered to not be determined in competitive market conditions, and do not reasonably reflect competitive market costs associated with the production of wind towers for the purposes of section 43(2) of the Regulation.*

The Commission's steel PMS findings are therefore clearly applicable to the Chinese wind tower market. Any assertion otherwise ignores the fact that they have been, and will continue to be, considered by the Commission in Australian wind tower trade remedy inquiries.

[2] Dajin submission, p. 3.
[3] See Accelerated Review No. 602, p. 20-21.

4. Canadian Section 20 Inquiry

Dajin states that:[4]

> *KPE's misunderstands the Section 20 inquiry in the Canadian dumping system, and importantly, overlooks the critical differences in the assessment of Chinese domestic market sales within the Australian and Canadian dumping systems, and in particular the alternative methodologies available within each system to determine normal value.*

Dajin's focus is primarily on the determination of normal values, as it sought to provide an explanation of how these are assessed under the Canadian non-market economy provisions vis-a-vis Australia granting China market economy status. However, whilst the specific calculation of Chinese normal values under a PMS is a critical aspect in determining variable factors, the primary role for the Commission in a PMS assessment is, and which is acknowledged by Dajin, to examine factors which may affect the interaction of supply and demand in a sector, industry or particular market, to such an extent that prices and costs in that market are no longer viewed as having been established under market principles. In this regard, Dajin does not address the obvious relevance of the Section 20 inquiry findings to the Commission's assessment.

KPE submits that the Canadian Section 20 inquiry is contemporary positive evidence that, when taken in totality with other positive evidence, should satisfy the Minister that a situation exists in the Chinese domestic market for wind towers. In addition to the Commission's own inquiries, one such other piece of contemporary evidence that Dajin omits from its submission is the recent European Commission's (**EC**) imposition of 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.[5]

In the EC investigation, it examined whether it was appropriate to use domestic wind tower prices and costs in China, due to the alleged existence of significant distortions. The EC's analysis covered the examination of the substantial government interventions in the Chinese economy in general, and the specific market situation in the Chinese wind tower sector. The EC further supplemented these evidentiary elements with its own research on the various criteria relevant to confirm the existence of significant distortions in China.

The EC's investigation is a critical consideration for the Commission in the current inquiry for the determination of Chinese normal values as it is a contemporary and current assessment of the GOC's distortive impact in the Chinese wind tower market, with implications for assessing the relative effect of such influence on selling prices and costs between the Chinese home market and the Australian export market.

The EC concluded that the GOC directs and controls virtually every aspect in the development and functioning of the Chinese wind tower sector[6] - all input costs (including raw materials, energy, land, financing, labour, etc) are affected because their price formation is impacted by substantial government intervention. For this reason also, the EC concluded that domestic wind tower selling prices were not appropriate to use in determining normal values.[7]

[4] Dajin submission, p. 3.
[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.
[6] Ibid, p. 12.
[7] Ibid.

5. Conclusion

Dajin's submission does not proffer any substantively positive evidence that would detract from a PMS finding in the Chinese wind tower market. It is clear that the Commission will have reference to its own recent Chinese steel market PMS findings in making the current assessment, and KPE submits that it must also have regard to positive evidence in the form of contemporary foreign jurisdictional trade precedent.

For and on behalf of KPE.