



CUSTOMS ACT 1901 - PART XVB

STATEMENT OF ESSENTIAL FACTS
NO 621

**INQUIRY INTO THE CONTINUATION
OF ANTI-DUMPING MEASURES ON
WIND TOWERS
EXPORTED TO AUSTRALIA FROM
THE PEOPLE'S REPUBLIC OF CHINA**

16 October 2023

SEF – 621 Wind towers – China

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ABBREVIATIONS

ABF	Australian Border Force
the Act	<i>Customs Act 1901</i>
ADN	Anti-Dumping Notice
ADRP	Anti-Dumping Review Panel
the commission	the Anti-Dumping Commission
the Commissioner	the Commissioner of the Anti-Dumping Commission
CTMS	cost to make and sell
Chengxi	Chengxi Shipyard Co., Ltd
China	the People's Republic of China
CON 487	<i>Continuation Inquiry No 487</i>
CS Wind	CS Wind China Co Ltd
DCR	Dumping Commodity Register
DEECA	Department of Energy, Environment and Climate Action
EPR	electronic public record
EU	European Union
GOC	Government of China
the goods	wind towers exported from China as defined in Chapter 3 – the goods, like goods and the Australian Industry
GW	gigawatts
Haywards	Crisp Bros. and Haywards Pty Ltd
IDD	interim dumping duty
Korea	the Republic of Korea
KPE	Keppel Prince Engineering Pty Ltd
the Manual	<i>Dumping and Subsidy Manual</i>
the measures	the anti-dumping measures currently applicable to exports of wind towers to Australia from China that are due to expire on 16 April 2024
the Minister	the Minister for Industry and Science
MW	megawatt
OEM	Original Equipment Manufacturer
original investigation	<i>Investigation 221</i>
Penglai	Penglai Dajin Offshore Heavy Industry Co. Ltd.
REQ	response to the exporter questionnaire

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REP 221	<i>Anti-Dumping Commission Report No 221</i>
REP 487	<i>Anti-Dumping Commission Report No 487</i>
RET	Renewable Energy Target
ROI	return on investment
TCO	Tariff Concession Order
TSP	Shanghai Taisheng Wind Power Equipment Co. Ltd
SEF	statement of essential facts
USA	United States of America
Vietnam	the Socialist Republic of Vietnam
VRET	Victoria Renewable Energy Target
WTO	World Trade Organization

1 SUMMARY AND RECOMMENDATIONS

1.1 Introduction

This statement of essential facts (SEF) concerns an inquiry into whether to continue the anti-dumping measures (the measures) on certain utility scale wind towers exported to Australia from the People's Republic of China (China). The measures are in the form of a dumping duty notice.¹ The measures are due to expire on 16 April 2024.²

The Commissioner of the Anti-Dumping Commission (the Commissioner) initiated this inquiry on 12 May 2023 following consideration of an application lodged by Keppel Prince Engineering Pty Ltd (KPE) seeking the continuation of the measures.³

KPE is eligible to apply for a continuation of the measures because it is a person specified under section 269ZHB(1)(b)(i) of the *Customs Act 1901* (the Act)⁴ whose application under section 269TB resulted in the measures.

For the purpose of this inquiry the Commissioner examined data from the Australian Border Force (ABF) import database and KPE's financial data from 1 January 2017 to 31 December 2022. This was for the purpose of assessing whether expiration of the measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping and the material injury that the measures are intended to prevent.

The Anti-Dumping Commission (the commission) is assisting the Commissioner conduct the inquiry, pursuant to the commission's function specified in section 269SMD.

This SEF sets out the facts on which the Commissioner proposes to base their recommendations to the Minister for Industry and Science (the Minister). Interested parties should note that the SEF may not represent the final views of the Commissioner. The Commissioner invites interested parties to make submissions in response to the SEF (see section 1.5).

The Commissioner's final recommendations to the Minister will be contained in a report due by 5 February 2024.

1.2 Proposed recommendations

The Commissioner proposes to recommend that the measures on wind towers exported to Australia from China expire on 16 April 2024. This is because the Commissioner is preliminarily not satisfied that the expiry of the measures on wind towers exported to

¹ Refer to [Anti-Dumping Notice \(ADN\) No 2023/030](#).

² Under section 269TM of the *Customs Act 1901*, dumping duty notices expire 5 years after the date of publication, unless revoked earlier. If not continued, the measures would no longer apply on and from 17 April 2024.

³ See [Electronic Public Record \(EPR\) 621](#), document no 1.

⁴ All legislative references in this report are to the *Customs Act 1901* unless otherwise specified.

Australia from China would be likely to lead to a continuation of, or a recurrence of, the material injury that the measures are intended to prevent.

1.3 Background to the inquiry

The Commissioner initiated this inquiry on 12 May 2023.⁵ This inquiry concerns whether the expiry of the measures would lead, or be likely to lead, to a continuation or a recurrence of the dumping and the material injury that the anti-dumping measure is intended to prevent.

Review 615

The commission is also conducting a review of measures on wind towers, *Review 615*. *Review 615* is examining the period 1 July 2021 to 31 December 2022 to determine whether the variable factors have changed and possible revocation of the measures as they apply to one exporter.

Review 615 is a separate review to this continuation inquiry. In the initiation notice for this continuation inquiry 621, the Commissioner did not specify a particular inquiry period, but at that time proposed to have regard to the variable factors determined in *Review 615* for the purposes of this continuation inquiry, to the extent relevant. At present, *Review 615* remains ongoing.

This inquiry

The Commissioner considers the information assessed is sufficient to make preliminary findings for this inquiry. The Commissioner has had regard to information on the record for *Review 615*, where applicable.

The Commissioner preliminarily finds that the expiry of the measures will not lead, or be likely to lead, to a continuation of, or a recurrence of the material injury that the measures are intended to prevent.

Based on the preliminary injury findings and information considered, the Commissioner no longer considers it necessary to assess the variable factors in the inquiry period, nor any related assessment as to particular market situation. Given the preliminary findings of this inquiry, the Commissioner also does not consider it necessary to determine revised variable factors for the subject exporters.

The Commissioner will consider submissions in response to this continuation and, if there are grounds to change the recommendation to the Minister regarding the expiry of the measures, continue to assess the variable factors for *Review 615*.

⁵ [EPR 621](#), document no 2.

1.4 Summary of key preliminary findings

The Commissioner's preliminary findings and conclusions in this SEF rely on the information available at this stage of the inquiry. Based on the information currently available, the Commissioner's findings and conclusions are that:

- There is an Australian industry (that is capable of) producing like goods, consisting of KPE as the sole cooperating applicant.
- The Australian industry was last successful in winning a tender to supply wind towers in 2020 and last manufactured wind towers in October 2020.
- Since that time, the Australian market for wind towers is predominately supplied by imports exempt from measures, most of which are from China. The decline in the Australian industry's production and sales volumes coincided with changes in the market, including increased market share from the exempt Chinese exporter TSP. In 2022, TSP's imports made up 86% of total imports (from all countries) into Australia. The commission considers that TSP's ability to compete on price and produce wind towers to the specification requirements of Original Equipment Manufacturers (OEMs) has led to it being successful in capturing a large portion of the Australian market, to the detriment of the Australian industry.
- There have been significant changes in the Australian wind towers market which has been detrimental to the Australian industry's ability to win wind tower projects. These changes include:
 - The lack of available Victorian Renewable Energy Target (VRET) auctions. VRET is a mechanism implemented by the Victorian government to assist in meeting the legislated renewable energy targets. Projects awarded under this mechanism are subject to requirements for minimum local content under the Local Jobs First Act 2003 (Vic). From 2019, the majority of the Australian industry's project wins were through VRET auctions. The final VRET project win for KPE occurred in 2020. There have been no further wind energy VRET auctions since 2020. The absence of government led wind tower projects with local content requirements is a significant factor impacting the performance of the Australian industry (see section 6.7.1).
 - Changes in wind tower design and construction. Wind towers have increased considerably in size over time. The commission found that KPE's current facilities are unable to produce wind towers to the size and dimensions required by the market, and considers that KPE would need to either upgrade its current facilities to manufacture larger tower sections or look to supplement its own production with imported wind towers of the dimensions that it cannot currently produce (see section 6.7.2).
 - Geographical constraints – due to the substantial size of wind towers, the cost of installation and road transportation costs are significant and KPE has an advantage working on projects closer to its own geographical location of Portland. High transport costs are prohibitive and impacts on KPE's ability to bid for projects at a more distant site (see section 6.7.3).
 - The lack of pre-qualification with OEMs – manufacturing wind towers requires rigorous quality controls and as such, OEMs require suppliers to satisfy its qualification standards which includes safety, quality, capability, delivery and cost. KPE's lack of pre-qualification with major OEMs limits its

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ability to tender for and be responsive to upcoming projects (see section 6.7.4).

- A lack of funding (whether through private or government means) has further constrained the Australian industry's ability to invest in facility upgrades in order to produce wind towers to the specifications that the market requires. The commission does not have evidence of future government funding or capital investments that may improve the Australian industry's ability to address these manufacturing capabilities.
- Taking these factors into account, the Commissioner finds that if the anti-dumping measures were to expire, the evidence does not support a finding that expiration would lead, or be likely to lead, to a continuation of, or a recurrence of, the material injury that the anti-dumping measures are intended to prevent.

The paragraphs below provide a summary of these findings, which are set out in further detail throughout the SEF.

1.4.1 The goods, like goods and the Australian industry (chapter 3)

Based on information gathered in the inquiry and information from previous investigations, reviews and inquiries in relation to wind towers, KPE represented the Australian industry for like goods. The commission notes that the Australian industry has not produced like goods since October 2020 and has not won a tender since May 2020. However, the commission is satisfied that KPE continues to bid for wind tower projects and retains the ability to produce like goods.

1.4.2 Australian market (chapter 4)

The Australian wind tower market has previously been supplied by KPE based in Portland, Victoria, and Haywards, a Tasmanian based manufacturer that also formerly produced like goods. Haywards did not apply for this inquiry into the continuation of the measures and has not made any submissions to the inquiry. Based on available public information, the commission understands that Haywards last produced wind towers in 2019/2020.

For the purposes of this report, analysis regarding the Australian industry is specific to KPE only.

Currently the Australian market is supplied by imported goods, predominantly from China.

1.4.3 Economic condition of the Australian industry (chapter 5)

The Commissioner assessed the economic condition of the Australian industry from 1 January 2017 to 31 December 2022 to analyse trends in the market for wind towers and assess potential injury factors. The Commissioner found the economic condition has been negatively impacted in recent years, demonstrated by no production or sales of like goods since October 2020. This lack of revenue had a flow on effect onto other key business metrics such as profit and capacity utilisation, reduced employment, and wages expenses.

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The decline in the Australian industry's production and sales coincided with changes in the market, including increased market share from goods not subject to measures.

1.4.4 Likelihood of dumping and material injury continuing or recurring (chapter 6)

The Commissioner's preliminary view is that the expiry of the measures would not lead, or would not be likely to lead, to a continuation or recurrence of the material injury that the measures are intended to prevent.

The Commissioner has reached this view based on the following key considerations.

Are exports likely to continue or recur? (Section 6.5)

The Commissioner considers that if measures were to expire, exports from China would likely continue.

The Commissioner has reached this finding having regard to the import volumes prior to and following the imposition of measures, the maintenance of distribution relationships between the Australian market and Chinese exporters and the excess production capacity of Chinese exporters, among other factors.

Is dumping likely to continue or recur? (Section 6.6)

The Commissioner considers that should the measures expire, goods exported to Australia from China at dumped prices are likely to continue or recur.

However, the Commissioner does not consider there is sufficient evidence to conclude that exports of the goods to Australia from Chengxi Shipyard Co., Ltd (Chengxi) at dumped prices are likely to occur should the measures expire.

Is material injury likely to continue or recur? (Section 6.7)

The Commissioner considers that the available evidence supports the finding that exports from China at dumped prices are likely to continue or recur if measures expire. The Commissioner is not, however, satisfied that there is sufficient evidence to support a finding that material injury is likely to be caused by future exports at dumped prices upon the expiration of the measures.

The Commissioner has reached this finding having regard to the economic conditions of the Australian industry, changing wind tower design and construction, geographical constraints on the supply of wind towers outside Victoria, procurement considerations, among other factors.

1.5 Responding to this SEF

The SEF may not represent the Commissioner's final views. The commission invites interested parties to make written submissions in response to this SEF for the Commissioner's consideration.

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Interested parties who wish to make written submissions in response to this SEF must do so no later than **6 November 2023**⁶, which is within 20 days after the SEF being placed on the public record.⁷

The Commissioner is not obliged to have regard to any submissions made in response to the SEF received after this date if to do so would, in the opinion of the Commissioner, prevent the timely preparation of the report to the Minister.⁸

Submissions may be lodged by email to investigations3@adcommission.gov.au.

Alternatively, interested parties may post submissions to:

Director, Investigations 3
Anti-Dumping Commission
GPO Box 2013
CANBERRA ACT 2601
AUSTRALIA

Confidential submissions must be clearly marked as 'OFFICIAL: Sensitive'. A non-confidential version of the submission, marked 'PUBLIC RECORD', is required for the public record. A guide for making submissions is available on the commission's website.⁹

The electronic public record (EPR) contains non-confidential submissions from interested parties, non-confidential versions of the commission's verification reports and other publicly available documents.

Interested parties should read this SEF in conjunction with other documents on the EPR.

1.6 Final report to the Minister

The Commissioner must report to the Minister by no later than 5 February 2024.¹⁰ The report will contain the Commissioner's recommendations about the continuation of the measures.

⁶ As this date is a Sunday, the due date becomes the next working day, Monday 6 November 2023.

⁷ Section 269ZHE(3).

⁸ Section 269ZHE(4).

⁹ A guide for making submissions is on the commission's website:
[How to lodge a submission in response to an anti-dumping or countervailing case](#)

¹⁰ The Commissioner's final report and recommendations must be provided to the Minister within 155 days after the publication of a notice under section 269ZHD(4) or such longer period as allowed.

2 BACKGROUND

2.1 Legislative framework

The procedures to be followed by the Commissioner in a continuation of anti-dumping measures are set out in Division 6A of Part XVB of the Act.

2.1.1 Legislative test

Under section 269ZHF(2), the Commissioner must not recommend that the Minister take steps to secure the continuation of the anti-dumping measures unless the Commissioner is satisfied that the expiration of the anti-dumping measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping and the material injury that the anti-dumping measure is intended to prevent.

2.1.2 Statement of essential facts

Section 269ZHE(1) requires the Commissioner to publish a statement of the facts on which they propose to base their recommendations to the Minister about the continuation of the measures. This is referred to as the SEF.

Section 269ZHE(2) requires the Commissioner, in formulating the SEF, to have regard to the application and any submissions received within 37 days of the initiation of the inquiry. Under section 269ZHE(3), the Commissioner is not obliged to have regard to any submissions relating generally to the inquiry that are received by the Commissioner after the 37 days if to do so would, in the Commissioner's opinion, prevent the timely placement of this SEF on the EPR.

The Commissioner may also have regard to any other matters they consider relevant.

2.1.3 Final report

Section 269ZHF(1) requires the Commissioner, after conducting an inquiry, to give the Minister a report which recommends that the relevant notice:

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

2.2 Application and initiation

On 16 February 2023, the Commissioner published a notice on the commission's website inviting the following persons to apply for the continuation of the anti-dumping measures:¹¹

¹¹ In accordance with section 269ZHB(1).

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- the person whose application under section 269TB resulted in the anti-dumping measures¹² or
- persons representing the whole or a portion of the Australian industry producing like goods to the goods covered by the anti-dumping measures.¹³

On 12 April 2023, KPE lodged an application for the continuation of the anti-dumping measures on the goods exported to Australia from China.¹⁴

The Commissioner was satisfied that:

- the application complied with section 269ZHC (content and lodgement requirements)¹⁵ and
- there appeared to be reasonable grounds for asserting that the expiry 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 measures are intended to prevent.¹⁶

The Commissioner therefore decided not to reject the application and published Anti-Dumping Notice (ADN) No 2023/030 initiating the present inquiry on 12 May 2023.¹⁷

2.3 Current anti-dumping measures

The anti-dumping measures were initially imposed by public notice on 16 April 2014 by the relevant Minister following *Investigation 221* (the original investigation). The findings are detailed in *Anti-Dumping Commission Report No 221* (REP 221).¹⁸ The anti-dumping measures initially applied to all exporters from China and the Republic of Korea (Korea).

Following *Continuation Inquiry No 487* (CON 487), the then Minister for Industry, Science and Technology:

- ceased the anti-dumping measures applying to:
 - all exporters from Korea and
 - Shanghai Taisheng Wind Power Equipment Co. Ltd (TSP) from China¹⁹ and

¹² Section 269ZHB(1)(b)(i).

¹³ Section 269ZHB(1)(b)(ii).

¹⁴ Under section 269ZHC. A non-confidential version of the application is available on [EPR 621](#), document no 1.

¹⁵ Section 269ZHD(2)(a).

¹⁶ Section 269ZHD(2)(b).

¹⁷ [EPR 621](#), document no 2.

¹⁸ [EPR 221](#), document no 40.

¹⁹ On 25 March 2019 the then Minister for Industry, Science and Technology decided to secure the continuation of the anti-dumping measures applying to wind towers exported to Australia from China, with effect from 17 April 2019. TSP applied for a review of the Minister's decision to the Anti-Dumping Review Panel (ADRP). On 6 April 2020 the ADRP recommended that the Minister revoke the reviewable decision in so far as it related to TSP's exports. The then Minister accepted the ADRP's recommendation, with the effect that TSP's exports of the goods were no longer subject to anti-dumping measures from 17 April 2019.

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- revised the variable factors applying to exporters generally from China (except TSP).

Table 1 summarises the anti-dumping measures currently applying to exports of the goods to Australia from China.

Country	Exporter	Duty method	Fixed IDD rate
China	Penglai Dajin Offshore Heavy Industry Co., Ltd	Ad valorem	1.2%
	CS Wind China Co., Ltd	Floor price	N/A – a variable IDD is payable if the actual export price is below the floor price
	Chengxi Shipyard Co., Ltd	Ad valorem	0.0%
	TSP (supplied either directly or through certain intermediaries)	Not subject to measures	
	All other exporters	Ad valorem	10.9%

Table 1: Measures applying to exports of the goods

Further detail about these measures can be found on the Dumping Commodity Register (DCR).²⁰

2.3.1 Previous cases

The commission has conducted other cases relating to wind towers. A summary of key cases relating to the goods are summarised in Table 2. Further details can be found on the commission's website.

Case type and number	ADN number	Date	Country of export	Findings
Continuation inquiry 487	2019/33	25 March 2019	China and Korea	Measures continued for China ²¹ and ceased for Korea
Accelerated review 597	2022/039	24 June 2022	China	Measures amended for Chengxi
Accelerated review 602	2022/057	20 March 2023	China	Measures amended for Penglai Dajin Offshore Heavy Industry Co. Ltd. (Penglai)
Accelerated review 603	2022/058	20 April 2023	China	Measures amended for CS Wind China Co., Ltd (CS Wind)

Table 2: Previous cases relating to the goods

²⁰ Available on the commission's website: [Current measures in the DCR](#)

²¹ Except TSP, which became exempt from the measures following [ADRP Review 2019/100](#).

2.4 Conduct of the inquiry

2.4.1 Australian industry

The commission is satisfied that KPE is an Australian company which has previously produced like goods to the goods the subject of this inquiry.²² The commission notes that KPE has not manufactured the goods since October 2020, however, it continues to bid for projects and retains the ability to manufacture wind towers within Australia. The commission also notes that KPE continue to manufacture other steel products, i.e. not wind towers. This is discussed further at section 3.5 below.

The commission conducted a verification visit to KPE's premises and the verification report is available on the EPR.²³

Haywards did not apply for the continuation of the measures and has not made any submissions to the inquiry.

2.4.2 Exporters

The commission identified exporters of the goods from China from the ABF import database for the period from 2017 to 2022. For the 12-month period ending 31 December 2022, the commission identified the following exporters of the goods from China:

- Chengxi
- CS Wind
- Penglai and
- Suzhou Titan New Energy Technology Co, Ltd (Suzhou Titan).

The commission sent exporter questionnaires to the first three exporters identified above. A copy of the exporter questionnaire was also placed on the public record for other exporters to complete. For the purposes of this inquiry, the Commissioner did not request that exporters complete an exporter questionnaire addressing questions regarding current variable factors. Instead, the exporter questionnaire contained questions about whether material injury will continue or recur if the anti-dumping measures expire.

The commission received a response to the exporter questionnaire (REQ) from:

- CS Wind and
- Chengxi.

The non-confidential versions of the REQs are available on the EPR.²⁴

2.4.3 Statement of essential facts and report to the Minister

The initiation notice advised the Commissioner would publish the SEF on the public record no later than 30 August 2023. However, the Commissioner approved extensions of

²² See chapter 3.

²³ [EPR 621](#), document no 7.

²⁴ [EPR 621](#), document nos 3 and 4.

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time for the publication of the SEF and final report.²⁵ The Commissioner is now due to publish the SEF on or before 16 November 2023. The Commissioner is due to provide the final report to the Minister on or before 5 February 2024.²⁶

2.4.4 Submissions received from interested parties

The commission received the submissions listed in Table 3 before publishing this SEF. Non-confidential versions of these submissions are available on the EPR.

EPR document number	Interested party	Topic of discussion	Date published on the EPR
6	Chengxi	Identified deficiencies in KPE's application	5 September 2023
8	Penglai	Measures are no longer warranted due to a number of factors not related to dumping	12 September 2023
9	GOC	Wind towers exported to Australia are not dumped, have not caused material injury to the Australian industry and is unlikely to cause material injury in the future.	21 September 2023

Table 3: Submissions received prior to the SEF

The Commissioner has had regard to all submissions in Table 3 in making the findings outlined in this SEF. The submissions are addressed throughout this report.

2.4.5 Submission received from Chengxi

The commission received a submission from Chengxi addressing deficiencies in KPE's application on the 4 September 2023.²⁷ In its submission, Chengxi stated that KPE's application does not meet the legal requirements for a continuation inquiry because KPE:

- failed to provide information regarding 'volume and value of imports and sources of import'
- failed to provide information regarding 'sales and market shares of all suppliers'
- refused to provide information regarding 'performance of the local industry'
- provided insufficient information regarding 'likelihood of material injury in the absence of the anti-dumping measures'
- provided misleading claims regarding 'whether exporters retain excess capacity for direction to Australia.'

Based on these reasons, Chengxi contended that KPE's application has materially failed to comply with the requirements for the application for continuation under sections 269ZHC and 269ZHD and as such, the commission should recommend that the Minister

²⁵ [ADN 2023/054](#) refers.

²⁶ [ADN 2023/065](#) refers.

²⁷ [EPR 621](#), document no 6.

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not secure the continuation of the measures insofar as exports from Chengxi are concerned.

The commission has also received submissions from Penglai and the GOC that contended there were deficiencies in KPE's application.²⁸

Commission's assessment

The Commissioner has considered the submissions made by interested parties and considers that it was appropriate to initiate this continuation inquiry. As the Commissioner stated in ADN No 2023/030, they considered that the application by KPE complies with section 269ZHC. Furthermore, in accordance with section 269ZHD(2)(b), the Commissioner was satisfied that, based on information contained in the application, there appeared 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.

In the application for this continuation inquiry, the commission received a broad range of information from KPE that suggested that the expiration of measures might have led, or might be likely to have led, to a continuation of, or a recurrence of, the material injury. The Commissioner initiated the continuation inquiry on that basis.

²⁸ [EPR 621](#), document nos 8 and 9.

3 THE GOODS, LIKE GOODS AND THE AUSTRALIAN INDUSTRY

3.1 Preliminary finding

The Commissioner finds that:

- locally manufactured wind towers are 'like' to the goods subject to the measures
- there is an Australian industry capable of producing like goods, of which KPE is the sole cooperating representative and
- the like goods are wholly manufactured in Australia, noting KPE did not produce like goods since October 2020.

3.2 Legislative framework

To be satisfied that the expiration of the measures would lead, or would be likely to lead, to a continuation of, or a recurrence of dumping and the material injury that the measures are intended to prevent, the Commissioner must firstly determine whether the goods produced by the Australian industry are 'like' to the imported goods.

Section 269T(1) defines like goods as:

...goods that are identical in all respects to the goods under consideration or that, although not alike in all respects to the goods under consideration, have characteristics closely resembling those of the goods under consideration.

Where the locally produced goods and the imported goods are not alike in all respects, the Commissioner assesses whether the respective goods have characteristics closely resembling each other. In performing this assessment, the Commissioner considers:

- physical likeness
- commercial likeness
- functional likeness
- production likeness.

The Commissioner must also consider whether the like goods are produced in Australia. Section 269T(2) specifies that for goods to be regarded as being produced in Australia, they must be either wholly or partly manufactured in Australia. Under section 269T(3), to be considered as partly manufactured in Australia, at least one substantial process in the manufacture of the goods must be carried out in Australia.

The commission's framework for assessing like goods is outlined in chapter 2 of the *Dumping and Subsidy Manual* (the Manual).²⁹

The following analysis therefore establishes the scope of the commission's inquiry.

²⁹ Available on the commission's website: www.adcommission.gov.au

3.3 The goods subject to the measures

ADN No 2023/030 defined the goods under consideration as follows:

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.

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.

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.

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.
- TCO 1813104.

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 2018.³⁰

3.3.1 Tariff classification

The goods may be classified to 7308.20.00 in Schedule 3 to the *Customs Tariff Act 1995*. This applies to complete towers, unassembled or assembled, and applies to a basic tower that includes doors, ladders, landings and embed or tower foundation. Steel tower sections, including sections with doors etc. are classified to 7308.90.00, assembled or

³⁰ Details of these TCOs are available on the Australian Border Force (ABF) website: [Tariff Concession Orders](#).

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disassembled, provided there are insufficient sections in a shipment to be considered a complete tower.

Combinations of towers and tower sections may vary on a case-by-case basis for assessment of tariff classification. Classification may vary when there is more of one item than another, for example a tower section and lift or a tower section with lift, electrical junction boxes and other equipment. An assembled complete wind powered generator is a composite machine consisting of two or more machines fitted together to form a whole; wind engine, generator, gearbox, yaw controls etc. fitted in a steel tower and nacelle and has a classification to subheading 8502.31.10.

Table 4 summarises the tariff classifications relevant to wind towers:

Tariff classification (<i>Schedule 3 of the Customs Tariff Act 1995</i>)			
Tariff code	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
Notes:			

- Statistical code 02 pertaining to tariff sub-heading 7308.20.00 was replaced with statistical codes 03 and 04; and
- Statistical code 61 pertaining to tariff sub-heading 7308.90.00 was replaced with four statistical codes. Two of these (statistical codes 63 and 65) are relevant to the goods.

Table 4: Relevant tariff subheadings for wind towers

These tariff classifications and statistical codes may include goods that are both the subject and not the subject of this inquiry. The listing of these tariff classifications and statistical codes are for convenience or reference only and do not form part of the goods description. Please refer to the goods description for authoritative detail regarding goods the subject of this inquiry.

3.4 Like goods

This section sets out the commission's assessment of whether the goods, if they were locally produced, are identical to or closely resemble, the goods under consideration and are therefore like goods to the goods subject to the anti-dumping measures.³¹

For the purposes of the findings outlined below, the commission has relied on information obtained at the verification of KPE, and the commission's understanding of the goods from previous investigations, reviews and inquiries into this product.³²

The commission notes that KPE has not produced wind towers since October 2020, although it still possesses the capacity to do so.

3.4.1 Physical likeness

The commission finds that the primary physical characteristics of the goods exported to Australia and locally produced goods are similar. Notwithstanding that there are variations in technical specifications (i.e. size of the wind tower sections, shape, height, content etc.) from project to project, locally produced wind towers have characteristics that are like to, or closely resemble the wind towers exported to Australia.

3.4.2 Commercial likeness

The commission finds that the goods exported to Australia and locally produced goods are commercially alike. They are sold to Original Equipment Manufacturers (OEMs) and directly compete in the same market. The channels to market are similar and often projects are bid on by multiple suppliers through competitive tender processes.

3.4.3 Functional likeness

The commission finds that the goods exported to Australia and locally produced goods are functionally alike. They have a similar end-use (i.e. electricity generation).

³¹ As defined in section 269T(1).

³² See [EPR 621](#), document no 7; [EPR 487](#), document no 9; EPR for accelerated reviews [597](#), [602](#) and [603](#).

3.4.4 Production likeness

The commission finds that the goods exported to Australia and locally produced goods are manufactured in a similar manner using the same raw materials.

3.4.5 Conclusion – like goods assessment

Based on the information obtained from verification visits and previous investigations, reviews and inquiries, the Commissioner is satisfied that:

- KPE manufactures like goods³³
- the like goods are wholly manufactured in Australia³⁴
- there is an Australian industry, consisting of KPE.³⁵

3.5 The Australian industry

The commission conducted an onsite verification of KPE at its premises in Portland. The commission notes that KPE currently do not produce wind towers but has retained its facilities and ability to manufacture the goods should it be successful in winning tenders. KPE continue to manufacture other steel products such as off grid solar and specialised telecommunication towers.

The commission was not able to observe the manufacturing process due to no wind towers being produced during verification. However, the commission has previously observed KPE's manufacturing process during CON 487, which involves the following processes:

- rolling of the processed plate into individual cylindrical steel cans, or “strakes”, meeting the precise specification diameter and curvature requirements
- welding according to specification to join edges and seams to form a tower section. This is followed by the precise fitting up of steel flanges
- surface treatment (including sand blasting) and then painting of steel surfaces; and internal fit out of mechanical parts (platforms are either bolted or welded in, along with ladders, cable trays and safety fall arrest devices. All electrical main power cables, junction boxes and electrical lighting are installed).

This is further outlined in the Australian industry verification report from CON 487.³⁶

³³ Section 269T(1).

³⁴ Section 269T(2).

³⁵ Section 269T(4).

³⁶ [EPR 487](#), document no 9.

4 AUSTRALIAN MARKET

4.1 Preliminary finding

The commission found that, in 2021 and 2022, the Australian market for wind towers was supplied entirely by imported goods, primarily from exporters that are exempt from, or are not subject to, the anti-dumping measures.

4.1.1 Approach to analysis

The analysis in this chapter is based on verified financial information submitted by KPE and data captured in the ABF import database.

The commission's analysis of the Australian market is in **Confidential Attachment 1**.

4.2 Market structure

The industry that uses wind towers in Australia is the renewable energy industry. This industry consists of energy production from:

- wind power
- hydroelectricity
- solar photovoltaics
- heat pumps
- geothermal
- wave power
- solar thermal.

The renewable energy industry for wind towers in Australia is then split into the following segments:

- free market projects
- government projects.

Projects are facilitated and controlled by OEMs. KPE stated during verification that there are eight main wind turbine OEMs supplying to the Australian market, with related local entities undertaking the development of the associated wind farms. These local entities are:

- Vestas Wind System A/S
- GE Energy
- Goldwind Australia Pty Ltd
- Senvion Australia (formerly Repower Australia)
- Siemens Gamesa Ltd Australia
- Acciona Nordex
- Suzlon Energy Australia
- Enercon Australia Pty Ltd

OEMs are responsible for sourcing the 3 essential components required to construct a wind turbine: the tower sections, rotor blades and the nacelle.

Locally produced and imported wind tower sections are used interchangeably across the 2 key market segments in Australia. However, the production capability of producers can vary – for example, some producers may not be able to produce larger wind tower sections which impacts their competitiveness in the market.

4.3 Key drivers of demand

The primary demand driver for wind towers is the renewable energy industry.

Demand for KPE's like goods is therefore impacted by factors that impact the renewable energy industry in Australia. KPE identified economic factors (availability for capital, domestic conditions, consumer confidence), and government regulation and projects (standards, policies, state government projects) as relevant factors that influence demand.

4.4 Market size

The commission estimated the size of the Australian market for wind towers using the domestic sales data from KPE and data sourced from the Australian ABF import database since 2017. The information sourced from the ABF import database was determined using the relevant tariff subheadings and statistical codes for wind towers and additional filtering to remove imports that were not considered to be the goods.

The commission's methodology for filtering the goods in the ABF import database is in **Confidential Attachment 2**.

The commission considers that its approach to estimating the size of the Australian market for wind towers is relevant and reasonable as:

- the ABF import database is an independent and reliable source of data in relation to imported wind towers
- the completeness, relevance and accuracy of the sales data compiled by KPE was verified by the commission.

The commission noted that most ABF entries indicated the weight of the shipment in tonnes, while some entries provided only a number of wind tower sections. Where the ABF entries recorded sections, the commission has converted the entry to a weight in tonnes using best estimates. The commission considers that this provides a reasonable basis for estimating the size of the Australian market for the purpose of this report.

Figure 1 depicts the commission's estimate of the size of the Australian market for wind towers from fiscal year 2017 to 2022.

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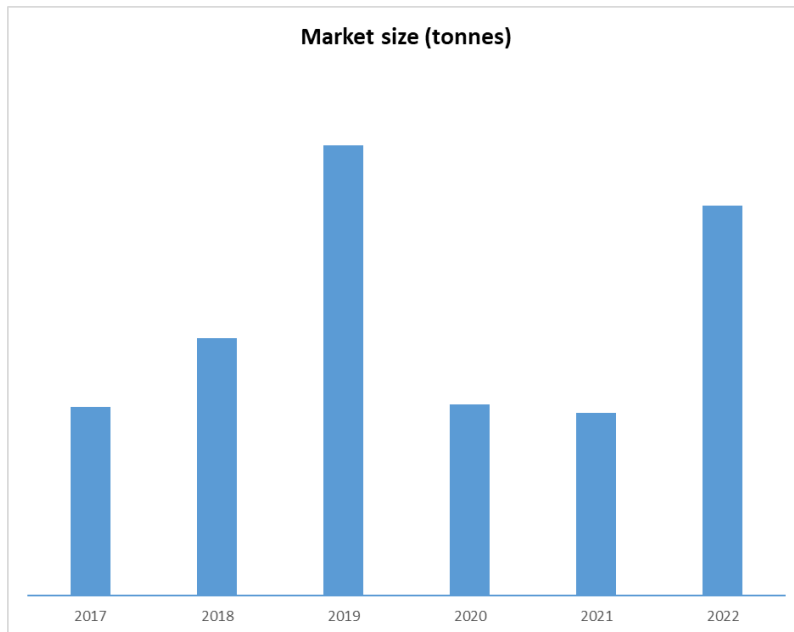


Figure 1: Australian market size (tonnes)³⁷

4.5 Australian market pricing

Wind towers are a project product and there is a lot of scope to substitute domestically produced and imported goods. There are exceptions and practical production constraints for some producers, particularly with the market shifting towards a preference for larger wind towers.³⁸ The commission notes that as of 2022, a standard wind tower is now considerably larger than at the time wind towers were first constructed in Australia. Several stakeholders have identified the transition to larger towers, and this is discussed further at section 6.7.2 below. Price remains one of the main factors that is taken into consideration by OEMs when purchasing wind towers, including transportation costs.

KPE claims that prices for the like goods are typically set through a tendering process, in which KPE will tender for a specific project and advise what can be supplied to the OEM in respect to a particular wind farm project in Australia. KPE manufactures wind tower sections to order upon winning tenders.

4.6 Geographic locations of wind farms

Wind farms and subsequently the geographic demand for wind towers is now dispersed across Australia. Originally concentrated mostly in Victoria, wind farms in NSW and Queensland are seeing a significant uplift in new and proposed government and free-market activity.³⁹ The geographic proximity of tower manufacturing facilities to wind farms is known to be a competitive advantage for local manufacturers. Conversely, because of the scale of the goods and the practical limitations of road transport, Australian

³⁷ Confidential Attachment 1.

³⁸ Confidential Attachment 4.

³⁹ Clean Energy Council, [Clean Energy Australia Report 2023](#), Clean Energy Council website, April 2023, accessed 17 August 2023.

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manufacturers are at a competitive disadvantage when it comes to tendering for distant projects.. In practical terms, this means that KPE is restricted to bidding for projects within a feasible distance of Portland, and Haywards for projects in Tasmania.

Offshore wind power is increasingly becoming a focus of governmental renewable energy planning. The Victorian government has set a target of commissioning 2 gigawatts (GW) of offshore wind by 2032,⁴⁰ and other states, including NSW, have followed suit in declaring offshore wind zones. The commission understands geographical location to be a greater consideration for establishing offshore wind farms than onshore due to the increased scale of tower sections and the associated transport, infrastructure requirements and installation challenges. The commission notes that the Australian industry does not have the capability to manufacture offshore wind towers with its current facilities.

The Australian industry's inability to secure government funding as well as a reduction in government mandates for locally produced onshore wind towers is discussed in detail in section 6.7 below.

⁴⁰ Department of Energy, Environment and Climate Action (DEECA), [Wind Offshore Energy Implementation Statement 2](#), Victorian Government energy website, March 2023, accessed 17 August 2023.

5 ECONOMIC CONDITION OF THE INDUSTRY

5.1 Preliminary finding

The Australian industry's economic condition has been negatively impacted in recent years, demonstrated by no production or sales of like goods since October 2020. This lack of revenue had a flow on effect onto other key business metrics such as profit and capacity utilisation, reduced employment, and wages expenses.

Based on the analysis outlined in this chapter and chapter 6, the commission does not consider the deterioration of the Australian industry to be attributable to imports of the goods subject to measures. Factors affecting Australian industry's economic condition in the period examined are listed in Chapter 6.

5.1.1 Approach to analysis

This chapter considers the economic condition of the Australian industry since the measures were imposed. This examination provides the basis for the commission's analysis in chapter 6 of whether material injury from dumping is likely to continue or recur in the absence of the measures.

The commission has assessed the economic condition of the Australian industry from 1 January 2017 using the verified information provided by KPE in this inquiry, the previous continuation inquiry, and data from the ABF import database. As the commission has no information on Hayward's financial performance, the commission considers that KPE's performance is indicative of the performance of the Australian industry as a whole. The data was aggregated on an annual basis for years ending 31 December. This preliminary assessment is at **Confidential Attachment 2**.

5.2 Findings in the original investigation

In REP 221 the Commissioner found that, during the investigation period, the Australian industry had experienced injury in the form of:

- loss of sales volume
- loss of market share
- reduced revenue
- price depression
- price suppression
- reduced profits
- reduced profitability
- reduced capacity utilisation
- decline in assets and capital investment
- reduced return on investment (ROI) and
- loss of employment.⁴¹

⁴¹ [EPR 221](#), document no 40.

Following CON 487, the Commissioner was satisfied that the expiration of the measures from China would lead, or would be likely to lead, to a continuation of, or recurrence of dumping and the material injury to Australian industry that the measures are intended to prevent.⁴²

As outlined in this report, the commission has observed changes in the market since the measures were put in place. TSP was the only exporter from China during the investigation period for REP 221. TSP was subsequently found to not be dumping in *ADRP Review no 2019/100* and the measures relating to TSP's exports have since expired.

In this inquiry, the commission considers that sources of injury other than dumped goods are the contributors to the material injury suffered by the Australian industry. The commission's assessment is contained in section 6.7.

5.3 Volume effects

As demonstrated below, the commission has found that KPE have experienced a deterioration in volume related economic performance during the period examined.

5.3.1 Sales volume

Figure 2 shows KPE's sales volume of wind towers from 2017 to 2022.

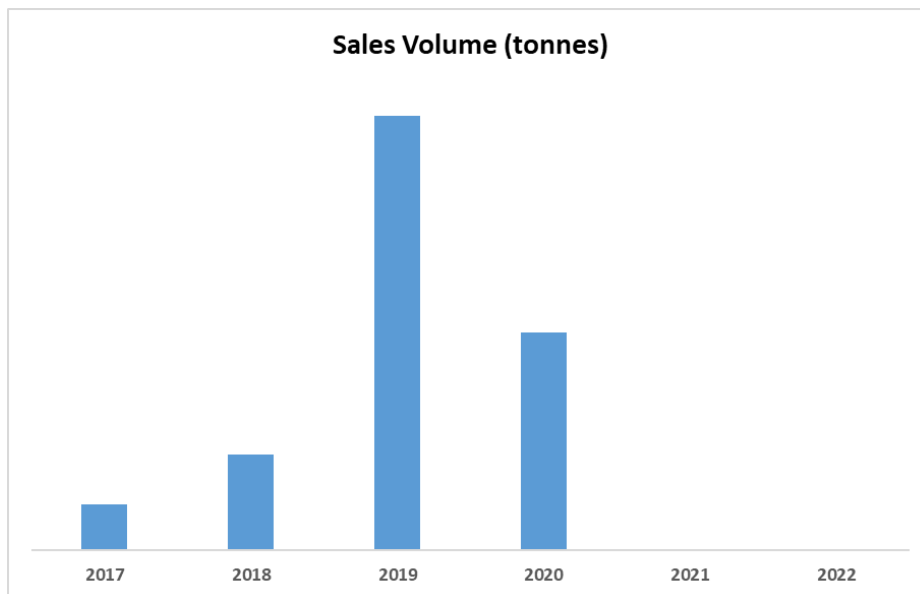


Figure 2: Sales volume⁴³

KPE's sales volume increased until 2019 and then decreased in 2020. An increase in 2019 and 2020 was related to Victoria Renewable Energy Target (VRET) stage 1 wind

⁴² [EPR 487](#), document no 19.

⁴³ Confidential Attachment 2.

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tower projects.⁴⁴ There were no sales in 2021 and 2022. This decrease in sales volume is directly attributable to the ceasing of VRET wind tower projects and the increase of imports from TSP, which is visible in figure 3.

5.3.2 Market share

Figure 3 details the proportion of the Australian market that has been supplied by the Australian industry, imports from China and from other countries.

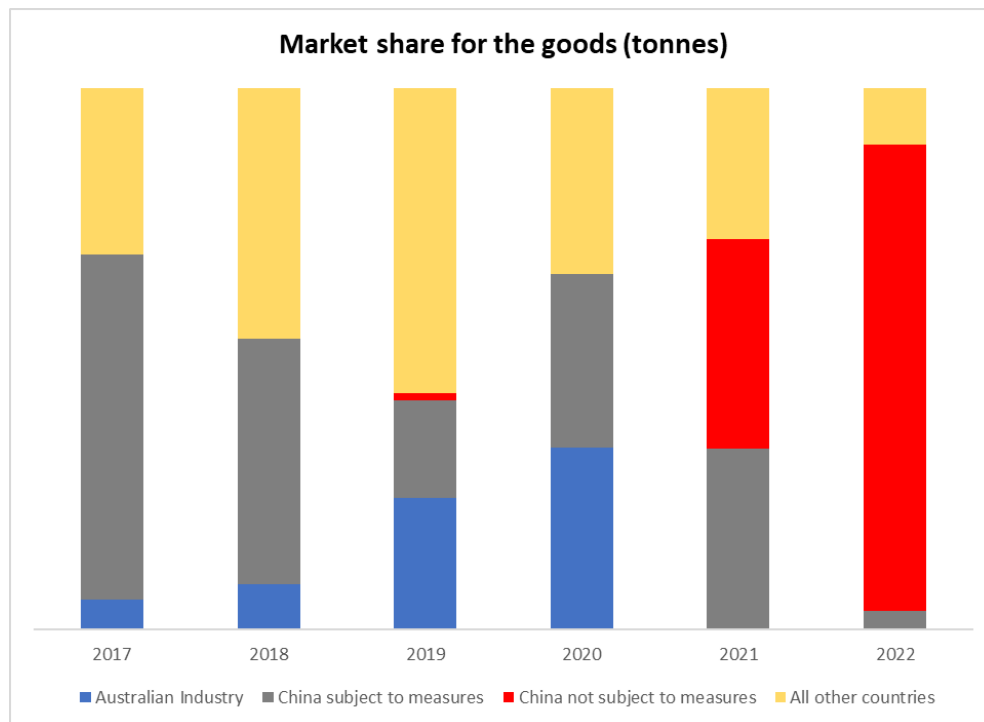


Figure 3: Market share⁴⁵

The Australian industry increased its market share up until 2020 compared to 2017 levels.⁴⁶ A decline in KPE's market share coincided with an increase in market share for Chinese goods not subject to measures, of which TSP is the sole exporter exempt from measures. KPE held no market share in 2021 and 2022.

5.4 Price effects

The commission has found it difficult to draw conclusions regarding trends in prices for products that involve tenders. However, it is reasonable to expect that a company's selling prices would normally exceed cost to make and sell (CTMS). Based on the available information outlined below, KPE have not achieved this in 2018 to 2020, thus KPE's prices appear to be suppressed between that period.

⁴⁴ The VRET auctions provide long-term contracts that create investment certainty to build new energy generation projects. For more information refer to this link: <https://www.energy.vic.gov.au/renewable-energy/victorian-renewable-energy-and-storage-targets>.

⁴⁵ Confidential attachment 1.

⁴⁶ Australian industry market share is based on verified sales data for KPE and an estimate for sales of other Australian industry participants as supplied by KPE.

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The commission has not attributed this to the goods subject to measures. The commission refers to section 6.7.5 and notes that the majority of imports and major price setters in the market were exporters not subject to measures.

5.4.1 Price depression and suppression

Price depression occurs when a company, for some reason, lowers its prices. Price suppression occurs when price increases, which otherwise might have occurred, have been prevented. An indicator of price suppression may be the margin between prices and costs.

Figure 4 charts KPE's unit selling price and unit CTMS from 2017 to 2020.⁴⁷

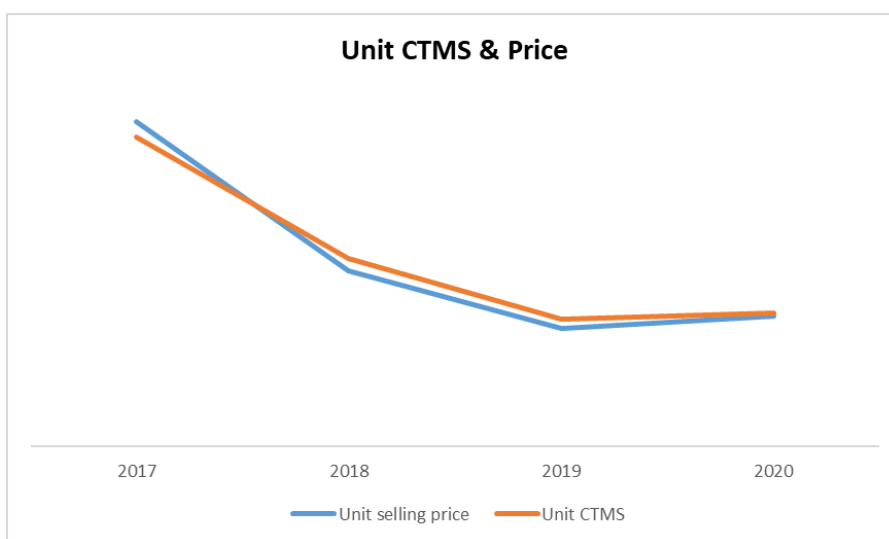


Figure 4: Unit CTMS and unit selling price (\$ per tonne)⁴⁸

Figure 4 indicates that:

- Unit CTMS trended downward from 2017 to 2019. Unit CTMS slightly increased in 2020.
- Unit selling prices have trended downward from 2017. Unit selling prices increased in 2020.
- The selling prices exceeded CTMS in 2017. During 2018 to 2020, when the Australian industry was able to achieve sales volumes, unit CTMS exceeded unit selling price.

5.5 Profits and profitability

The commission has found KPE's wind tower business experienced negative profit and profitability between 2018 and 2020, which indicates that its profit related economic

⁴⁷ As KPE did not sell the goods in 2021 and 2022, Figure 4 does not include those years.

⁴⁸ Confidential Attachment 2.

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condition was impacted prior to 2021. The commission can make no findings specific to 2021 and 2022 as KPE did not sell like goods during that period.

Figure 5 charts KPE's profit and profitability as a percentage of revenue from 2017 to 2022.

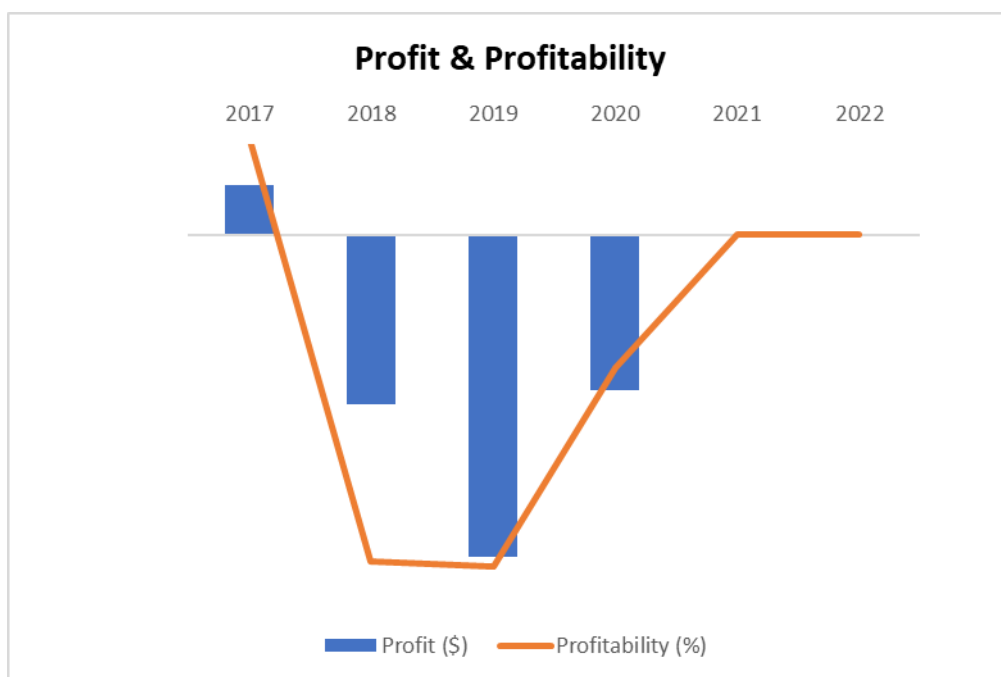


Figure 5: Profit (\$) and profitability (% of revenue)⁴⁹

From the production of like goods, KPE recorded a positive profit and profitability in 2017. It experienced negative profit and profitability between 2018 and 2020. There was no profit or profitability in 2021 and 2022, due to no sales taking place in those years.

5.6 Other economic factors

As part of its application, KPE provided data in relation to a range of other economic factors that may be indicative of injury to the Australian industry:

- asset value
- capital investment
- revenue
- ROI
- capacity utilisation
- employment
- wages

5.6.1 Asset value

Figure 6 depicts the value of KPE's assets used in the production of like goods from 2017 to 2022.

⁴⁹ Confidential Attachment 2.

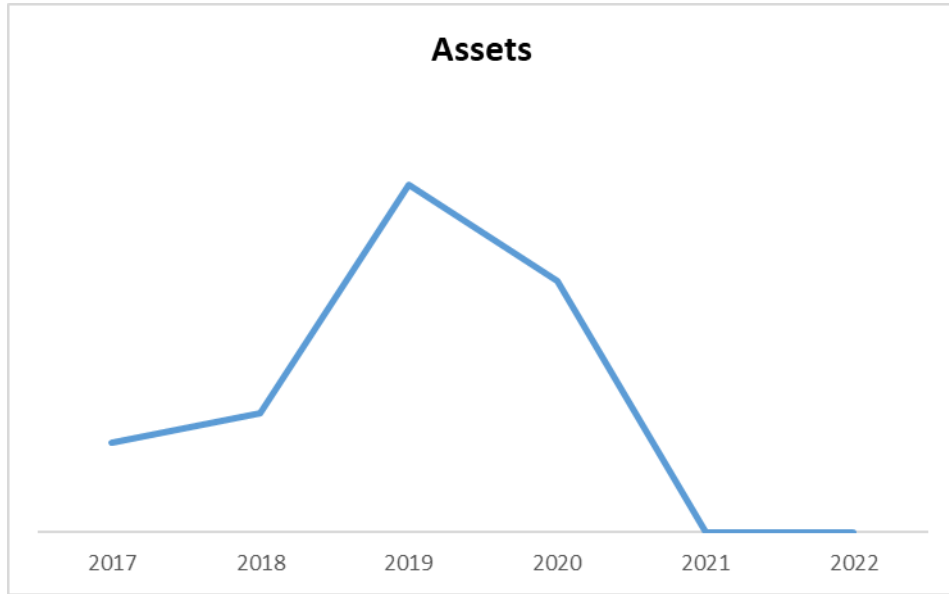


Figure 6: Assets⁵⁰

KPE's assets increased in the value from 2017 to 2019, before decreasing in 2020 and flat lining in 2021 and 2022.

5.6.2 Capital investment

Figure 7 depicts KPE's capital investment from 2017 to 2022.

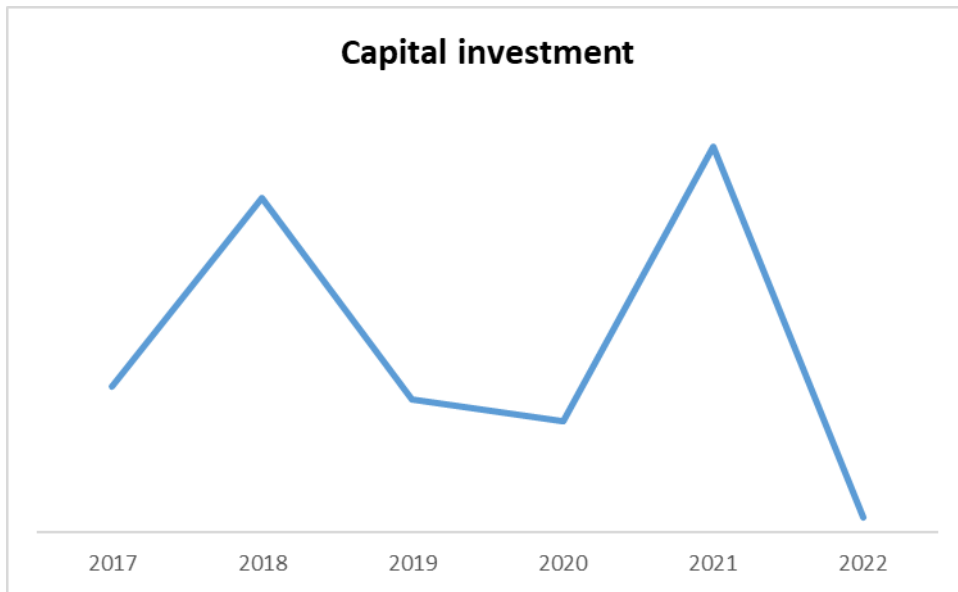


Figure 7: Capital Investment⁵¹

⁵⁰ Confidential Attachment 2.

⁵¹ Confidential Attachment 2.

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KPE's capital investment sharply increased from 2017 to 2018, before decreasing in 2019. This increased again in 2021 before falling in 2022.

5.6.3 Revenue

Figure 8 depicts KPE's revenue from the sale of like goods from 2017 to 2022.

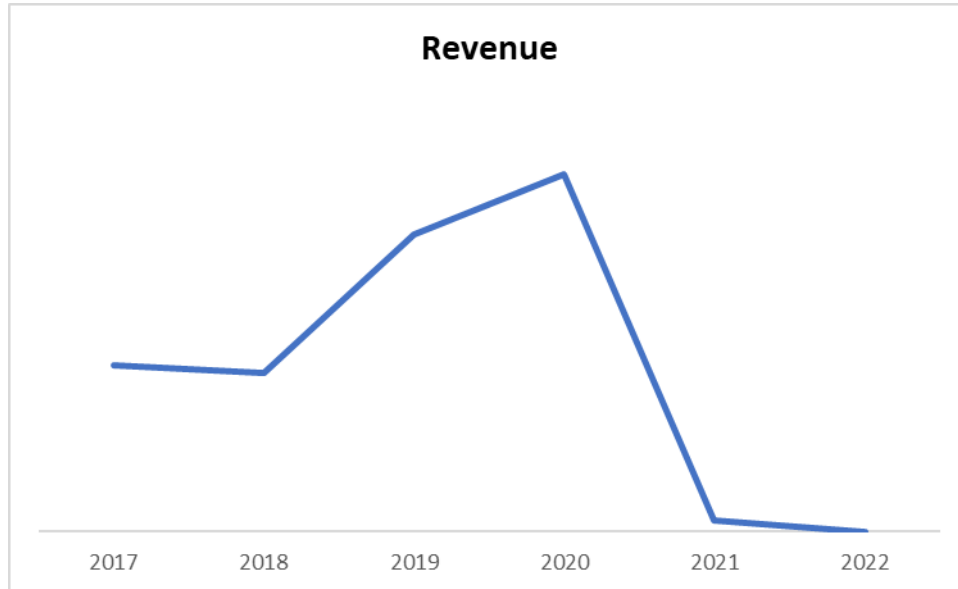


Figure 8: Revenue⁵²

KPE's revenue on sales of like goods gradually increased from 2018 to 2020, after which there was a period of strong decline in 2021 and no revenue in 2022.

5.6.4 Return on investment

Figure 9 depicts KPE's ROI from 2017 to 2022 derived from capital invested in the production of like goods.

⁵² Confidential attachment 2

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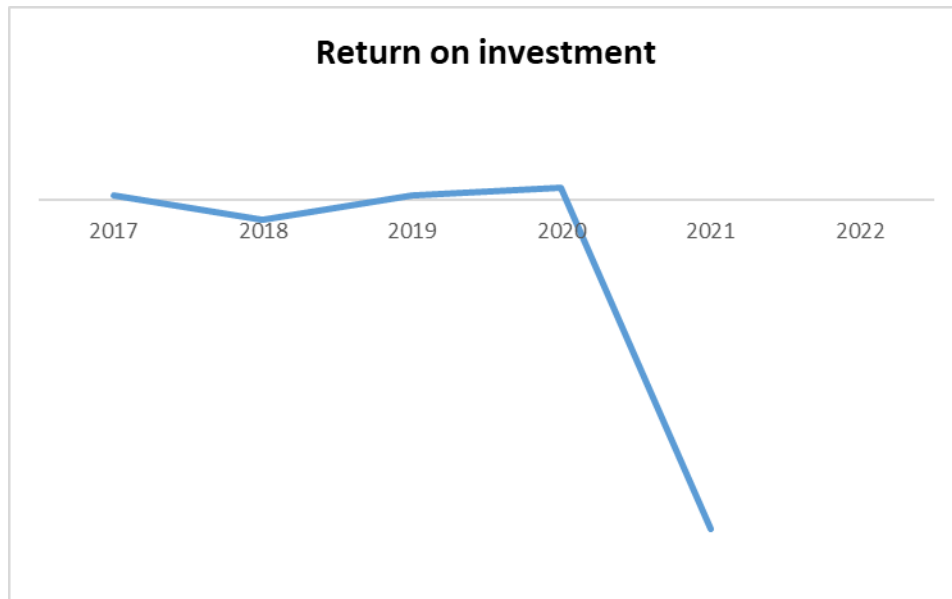


Figure 9: Return on investment⁵³

KPE had a negative ROI in 2018, 2021 and 2022, with its lowest ROI in 2021.

5.6.5 Capacity utilisation

This data was not presented by KPE. The commission has a general indication of KPE's capacity from prior investigations⁵⁴, reviews and inquiries⁵⁵ and discussion at the verification visit.⁵⁶ However, the commission understands that capacity utilisation can vary for KPE depending on the number of projects it wins and the size and complexity of the tower sections.

5.6.6 Employment

Figure 10 depicts KPE's employment numbers from 2017 to 2022.

⁵³ Confidential Attachment 2.

⁵⁴ [EPR 487](#), document no 9.

⁵⁵ [EPR 221](#), document no 14.

⁵⁶ [EPR 621](#), document no 7.

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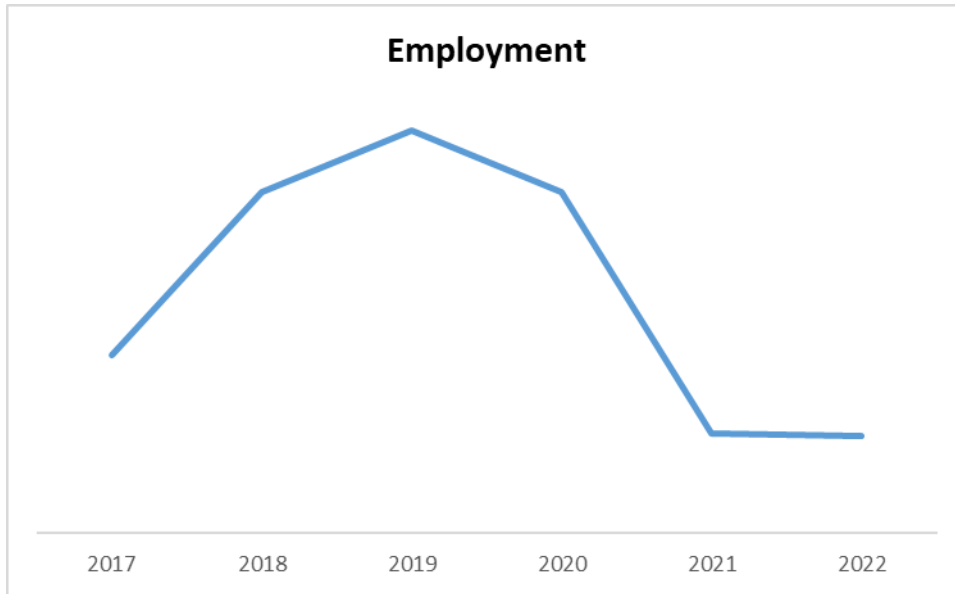


Figure 10: Employment⁵⁷

KPE's employment numbers increased from 2017 to 2019, before decreasing in 2020. KPE provided employed numbers for its manufacturing facility but noted that the small number of staff retained in recent years are not involved in the production of wind towers.

⁵⁷ Confidential Attachment 2.

5.6.7 Wages

Figure 11 depicts KPE’s wages bill from 2017 to 2022.

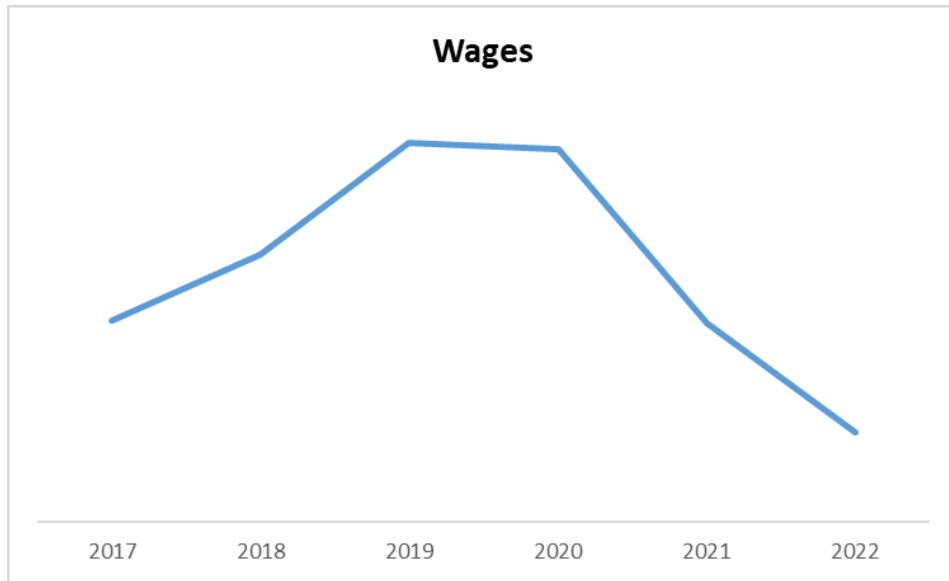


Figure 11: Wages⁵⁸

KPE’s wage bill increased steadily from 2017 to 2019, before decreasing slightly in 2020. This was followed by a strong decrease in 2021 and 2022.

⁵⁸ Confidential Attachment 2.

6 LIKELIHOOD THAT DUMPING AND MATERIAL INJURY WILL CONTINUE OR RECUR

6.1 Preliminary finding

Based on the evidence obtained in the course of this inquiry, the Commissioner is not satisfied that the expiration of the measures applying to wind towers exported to Australia from China would lead, or would be likely to lead, to a continuation of, or recurrence of dumping and the material injury that the measures are intended to prevent.

6.2 Legislative framework

Under section 269ZHF(2) the Commissioner must not recommend that the Minister take steps to secure the continuation of measures unless they are satisfied that the expiration of the measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping and the material injury that the measures are intended to prevent.

The commission notes that its assessment of the likelihood of certain events occurring and their anticipated effect, as is required in a continuation inquiry, necessarily requires an assessment of a hypothetical situation. The commission must consider what will happen (or what would be likely to happen) in the future, should a certain event, being the expiry of the measures, occur. However, the Commissioner must nevertheless base their conclusions and recommendations on facts.⁵⁹

6.3 The commission's approach

The commission considered a number of relevant factors to assess the likelihood that dumping and material injury will continue or recur, as outlined in the Manual.⁶⁰ The commission's view is that the relevance of each factor varies depending on the nature of the goods and the market into which the goods are sold. In this instance, no one factor can provide decisive guidance. The following analysis therefore examines a range of factors that the commission considers relevant to this inquiry.

The commission's analysis for this chapter is at **Confidential Attachment 1 and 3**.

6.4 Australian industry claims

In its application, KPE made the following claims regarding the continuation or recurrence of injury as a result of wind towers exported to Australia from China:

- Since the imposition of the anti-dumping measures, exporters from China have maintained their distribution channels to Australia and will likely increase export volumes in the absence of measures.
- 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.

⁵⁹ *Anti-Dumping Review Panel Report No 44*, available at the ADRP's website: [ADRP 2016/44](#)

⁶⁰ *Dumping and Subsidy Manual*, December 2021, p 19.

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- Anti-dumping measures on wind towers imposed by other jurisdictions such as the United States of America (USA), European Union (EU) and Mexico will influence the future export orientation towards countries where measures do not apply.
- As the global supply chains stabilise following COVID-19 related disruptions, Australian industry sales volumes will become vulnerable from increasing export 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 goods from China would again substantially undercut the domestic like goods to gain market share. In turn, this would significantly depress and suppress domestic like good prices and therefore adversely affect the profitability and stability of the domestic industry.

The Australian industry therefore claims that it is reasonable to expect that the expiration of the anti-dumping measures would lead, or would be likely to lead, to a continuation or recurrence of dumping and the material injury that the measures were intended to prevent.

The commission has considered KPE's claims in its analysis below.

6.5 Are exports likely to continue or recur?

6.5.1 Preliminary finding

Section 269ZHF specifies that the key question is whether the expiration of the measures would be 'likely' to lead to a continuation or recurrence of the dumping and material injury that the measures are intended to prevent. As a part of that overall question, this section analyses whether exports subject to measures would likely continue or recur in a reasonably foreseeable timeframe.⁶¹

The commission considers that if the measures were to expire, exports from China would likely continue.

In reaching this conclusion, the commission has regard to the:

- Australian market volumes including import volumes of the goods since the imposition of the measures in 2014
- Australian market volumes including import volumes of the goods since the continuation of the measures in 2019
- maintenance of distribution channels or links to the Australian market
- steel production capacities, export focus, and capacity utilisation of the subject exporters
- future supply and demand conditions in the Australian market and
- trade measures in other jurisdictions.

⁶¹ The commission notes that there is no requirement under section 269ZHF(2) to ascertain whether each individual factor or consideration is 'likely' in the overall assessment under that section. The 'likely' standard applies to the overall determinations on dumping and injury.

The following sections of the report outline the commission’s assessment in respect of each of the above considerations. The commission’s assessment is contained in **Confidential Attachment 1**.

6.5.2 Import volumes and patterns of trade

The commission analysed wind tower imports from 2012 using information from the ABF importation database. Measures on wind towers were originally imposed in 2014 and continued in 2019.

Figure 12 shows the share of the Australian market during the original investigation (1 January 2012 to 30 June 2013) and following the imposition of measures on exports from China and Korea (16 April 2014). During this time, an investigation into wind towers from the Socialist Republic of Vietnam (Vietnam) was initiated and subsequently terminated. Exports of the goods from China continued despite measures being imposed in 2014.

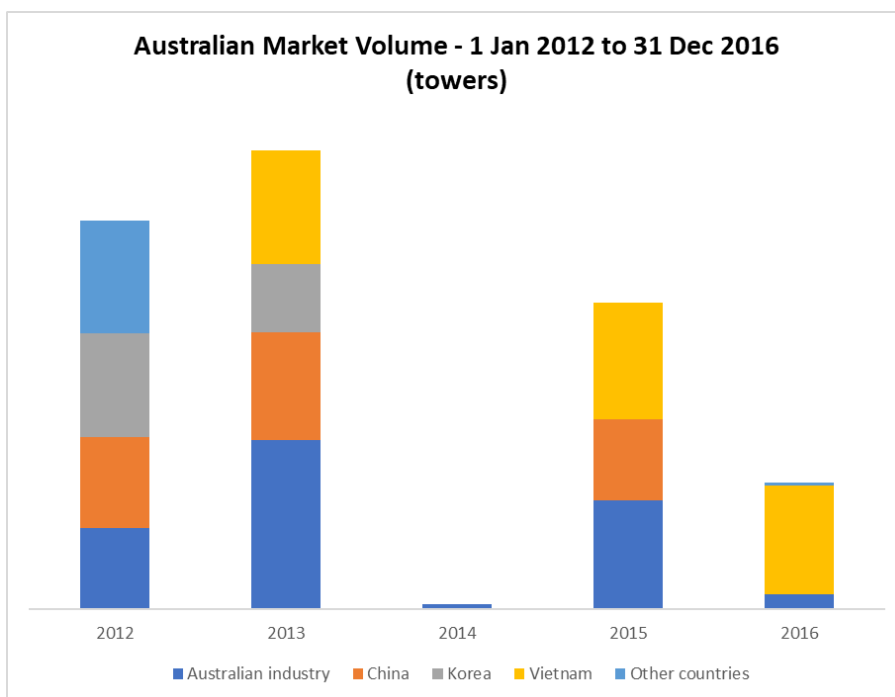


Figure 12: Market Volume from 1 Jan 2012 to 31 Dec 2016⁶²

Figure 13 shows the share of the Australian market from 2017. Measures on wind towers exported from Korea were allowed to expire in 2019. Following *ADRP Review No 2019/100*, finalised in April 2020, the measures applying to TSP (a Chinese exporter) were allowed to expire.

⁶² Confidential Attachment 2.

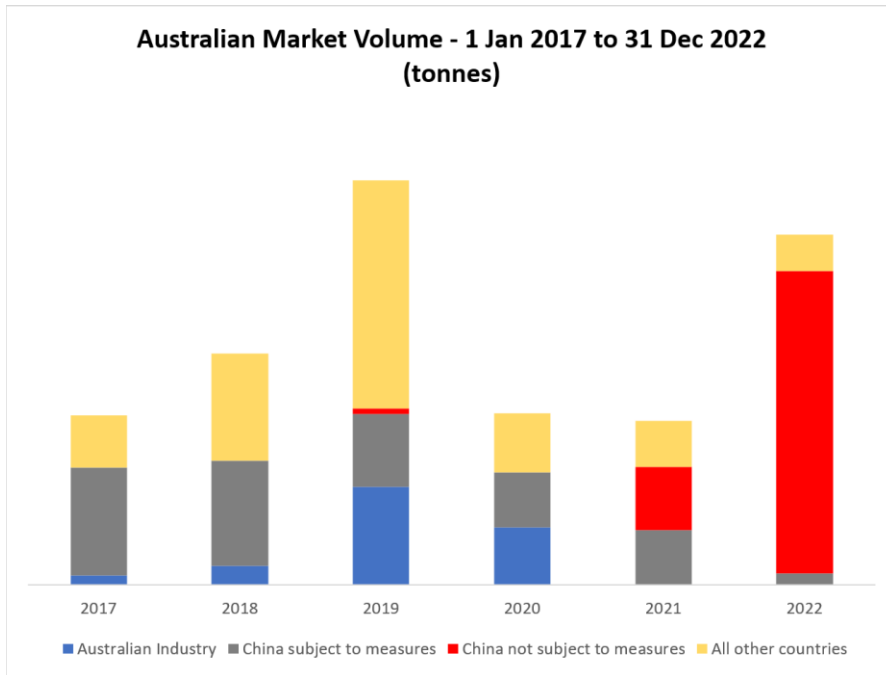


Figure 13: Market Volume from 1 Jan 2017 to 31 Dec 2022⁶³

Figures 12 and 13 show that exports of wind towers from China to Australia have been prevalent since the original investigation. Exports from Chinese exporters both subject and not subject to measures have continued.

In terms of subject and non-subject countries, following the continuation of measures in April 2019, the volume of imports from:

- China decreased slightly, before increasing markedly in 2021
- Korea and Taiwan decreased significantly, despite having no measures
- non-subject exporters from China dominated the Australian market during 2022 having a market share of 86%⁶⁴
- non-subject exporters from all countries including China made up 97% of the market in 2022.⁶⁵

Figure 14 shows the total volume of wind towers exported from China to Australia since 2017. Despite measures being continued in April 2019 following CON 487, imports of wind towers from China increased significantly following *ADRP Review No 2019/100*, where the measures applying to TSP were allowed to expire.

⁶³ Confidential Attachment 2.

⁶⁴ Confidential Attachment 3.

⁶⁵ Ibid.

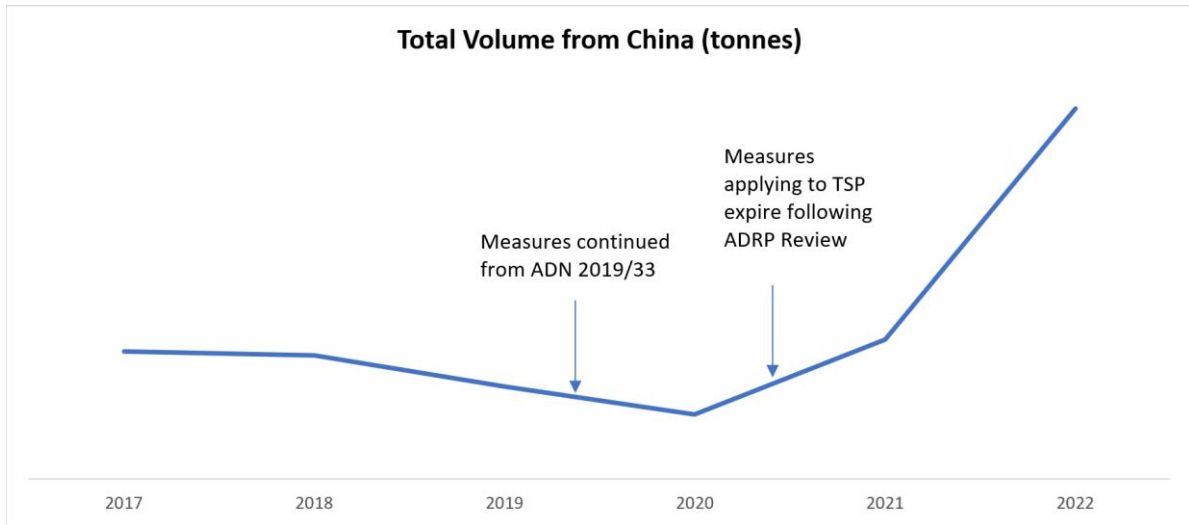


Figure 14: Total volume of wind towers exported from China to Australia⁶⁶

This increase in wind tower sections from non-subject exporters from China is one factor that has led to the Australian industry having no market share during the period examined.

6.5.3 COVID-19 and its effect on supply

In its application, KPE asserted that as the global supply chains stabilise following COVID-19, Australian industry sales volumes will become vulnerable to increasing export volumes. KPE also claimed that rising wind tower inventory levels in China will lead to increased exports to Australia.⁶⁷

The commission considers that the analysis in section 6.5.2 indicates that disruptions due to COVID-19 in China were not a factor relating to increased Chinese exports. Instead, the increasing volumes from China after 2020 are directly related to the recovery of Australian demand for wind towers post local COVID-19 disruptions, as well as TSP being exempt from measures.

The market and demand for wind towers in Australia is driven and controlled by the construction of new wind farms and the OEMs who procure the associated wind towers.⁶⁸ As a result, wind tower volumes are dictated by supply chain conditions in Australia, as

⁶⁶ Confidential Attachment 2.

⁶⁷ [EPR 621](#), document no 1, attachment A, p 18.

⁶⁸ Section 4.2 refers.

opposed to China, and the decreased Australian market size in 2020-21 seen in Figure 13 likely reflects the prevalence of COVID-19 during that time in Australia.⁶⁹

In addition, rising inventory levels of Chinese exporters are not congruous with the commission's knowledge of the sales and manufacturing process for wind towers, reviewed as recently as this year in Accelerated Reviews 602 and 603. As described in Chengxi's submission⁷⁰, and the commission's understanding of the tender process, wind towers are made to order based on design specifications submitted by OEMs which are specific to each project site. Producing a large volume of wind towers without an associated OEM tender request would be impractical. In addition, as per Figure 14, following the reduction in the size of the Australian market during 2020-21, exports from China continued at similar levels whilst Australian industry and imports from other countries lost market share. Thus, it is unlikely that surplus Chinese wind towers would be readily available for export to the Australian market should measures cease.

6.5.4 Maintenance of distribution links to the Australian market

The commission considers that the evidence of certain activities, in conjunction with a level of import volume over the period examined, indicates that importers have maintained distribution relationships with exporters from China. In making this assessment the commission had regard to ABF import data for the period 1 July 2017 to 31 December 2022.⁷¹

The commission found that the same two importer OEMs were responsible for the importation of over 85% of the total volume of imports from China in both calendar year 2018 and calendar year 2022. The commission noted that there had been some change in the source country of imported goods, most notably a shift in preference from goods produced in Korea and Taiwan to goods produced in China.

The commission has received evidence of continued tendering activity from Chinese manufacturers and suppliers over the period examined and understands that these parties have the capability to deliver on tender requirements for wind farm projects in Australia.

6.5.5 Excess production capacity of the subject exporters

Figure 15 shows the pattern of production capacity and actual production volume of the goods for cooperating exporters subject to measures, by tower sections per calendar year.

⁶⁹ ACCC, [Container stevedoring monitoring report 2021-21](#), October 2021, Australian Government, 2021, accessed 13 October 2023

⁷⁰ [EPR 621](#), document no 6, p 9.

⁷¹ Confidential Attachment 1.

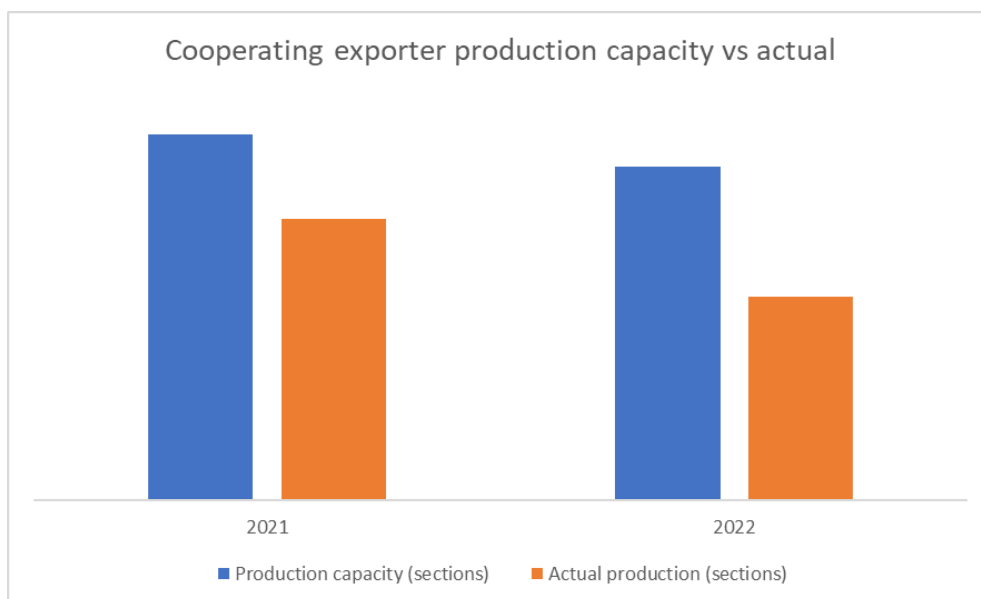


Figure 15: Capacity utilisation for cooperating exporters subject to measures⁷²

The commission notes that both cooperating exporters have excess production capacity as per the most recent calendar year. It also notes capacity utilisation declined for both exporters from 2021 to 2022, a year with significant imports from exempt exporter TSP. The commission also confirms that information received in *Review 615* indicates that other exporters also have excess production capacity and declining capacity utilisation over the same period.

The commission considers it likely that Chinese exporters had the capacity to produce a greater volume of wind towers than they produced over this period. Chinese exporters have demonstrated their intention to utilise this excess capacity to export to Australia through continued tendering for wind tower supply contracts.

6.5.6 Future supply and demand conditions in the Australian market

In assessing the supply and demand conditions for wind towers in the Australian market, the commission has relied upon the Clean Energy Council's recently published report on clean energy. The commission also considered a non-exhaustive list of known federal and state renewable energy programs within Australia in **non-confidential appendix A**. This list includes emissions reduction targets set by Australian State and Federal Governments. Wind energy projects are, in most cases, considered to be necessary for achieving these various targets.

Based on the Clean Energy Council's 2023 report, Australia's renewable energy industry accounted for 35.9% of Australia's total electricity generation in 2022, which is an increase from 32.5% in 2021.⁷³

⁷² Confidential Attachment 3.

⁷³ Clean Energy Council, [Clean Energy Australia Report 2023](#), Clean Energy Council website, April 2023, accessed 17 August 2023.

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According to the report, wind energy in Australia accounted for 10.1% of Australia's total energy generation in 2021 and accounted for more than one-third of all renewable energy generated. Australia currently has a capacity of 9,126 MW directly from wind farm generation. At the end of 2022, there were 21 wind projects across Australia that had commenced construction or had been financially committed to.⁷⁴

Of all renewable energy projects completed in 2022, wind accounted for approximately 1,403 MW of 2,257 MW total capacity (62%). This is down from 1,745 MW total capacity produced in 2021 and up from 706 MW total capacity completed in 2020. Wind continues to be an ever-growing source of renewable energy.

In 2022 the Australian renewable energy industry commenced construction on over 5,000 MW of wind and solar farms.⁷⁵ Wind farms under construction or committed at the end of 2022 accounted for 4,672 MW.

Wind farm developments within Australia are expected to increase dramatically with the introduction of offshore wind farms. At the end of 2021, the *Offshore Electricity Infrastructure Act 2021* was passed, which sets the framework to allow for the development of offshore wind in Australia.

Renewable energy programs will continue to grow within Australia, with the intention that Australia meets the targets set in the various programs outlined in **non-confidential appendix A**. This has resulted in higher demand for wind farms. This demand cannot be met solely by KPE.⁷⁶

Ongoing and planned wind farm projects will need to be supported by imported wind towers, and manufacturers who are pre-qualified with OEMs in Australia. The commission has also found that wind towers are increasing in size to meet greater energy targets (section 6.7.2). This increase in size further places constraints on KPE's ability to tender for upcoming wind farm projects. The commission understands that KPE does not have the capability to manufacture the increased-size wind towers.

Government of China submission

In its submission dated 20 September 2023,⁷⁷ the GOC provided the following commentary regarding its understanding of wind towers supply and demand in the Australian market:

- There is high demand for wind towers in the Australian market as a result of the Australian government's commitment to climate change and net-zero emissions targets. However, Australian industry producers are unable to meet market demands due to capability constraints by not being able to produce larger tower sections that the market requires.

⁷⁴ Clean Energy Council, [Clean Energy Australia Report 2023](#), Clean Energy Council website, April 2023, accessed 17 August 2023.

⁷⁵ Ibid.

⁷⁶ [EPR 615](#), document no 9, attachment 1.

⁷⁷ [EPR 621](#), document no 9.

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- In this context, the GOC asserted that Chinese wind towers play an important role in supplementing Australia's wind power market, rather than injuring Australian industries.
- Removal of measures on Chinese wind towers can contribute to Australia's successful development of wind energy capacity and assists in achieving Australia's climate change commitments.

6.5.7 Availability of other markets – impact of trade measures in other jurisdictions

In its application seeking the continuation of the measures, KPE detailed the extent of trade remedies or anti-dumping measures applying to the goods in other jurisdictions (or comparable goods where the scope of the goods subject to measures varies from jurisdiction to jurisdiction). The commission also considered trade remedies applying directly to wind towers in other jurisdictions in previous inquiries, and notes that many of those measures continue to apply.⁷⁸

The Australian industry claims that recent USA and EU anti-dumping and countervailing measures placed on like goods and proposed Canadian measures increase the likelihood of dumped and injurious exports to Australia.

The commission considers that the imposition of trade remedies and measures in other jurisdictions is a factor that influences global trade by altering access to markets. The commission considers that the expiry of measures may make Australia a comparatively more attractive and accessible market for exports from China, given the prevalence of trade measures against Chinese wind towers in other jurisdictions.

Given that wind towers are custom built and made-to-order at the request of customers, production volumes are driven by customer demand. Accordingly, a large influx in the volume of dumped goods is unlikely given that approximately 85% of imports to Australia in 2022 were produced by exempt exporter TSP. The commission considers that subject exporters from China may have increased their project tendering activity following the imposition of measures on 15 December 2021 in the EU, as higher anti-dumping duty rates than Australia were applied to Chengxi, Penglai and the 'all other companies' exporter category⁷⁹, making Australia potentially a more attractive destination. Despite the imposition of these measures, subject exporters' Australian market share was less than 5% during 2022, indicating that any increase in project tendering competition resulting from the new measures in the EU did not translate into immediate project wins against TSP.⁸⁰

⁷⁸ [EPR 621](#), document no 2, attachments 1, 2, 3, 4 and 5.

⁷⁹ [EPR 621](#), document no 1, attachment 4, p 75. Chengxi was assigned a duty rate of 7.5%, Penglai was assigned a duty rate of 7.2%, Suzhou Titan (subject to Australia's all other exporter rate of 10.9%) was assigned a duty rate of 14.4%, and 'all other companies' were assigned a duty rate of 19.2%.

⁸⁰ Confidential Attachment 2.

6.5.8 Conclusion

The commission considers that should the measures expire, exports from Chinese subject exporters are likely to continue as:

- exports of the goods to Australia continued following the original imposition of the measures in 2014
- exports of the goods to Australia continued following the continuation of the measures in 2019, although the majority of imports were not subject to measures
- exporters have maintained distribution links to the Australian market
- exporters have spare production capacity and have continued to tender for Australian projects
- non-subject exporters will not be affected by the expiry of measures and will continue to export into the Australian market
- Australia has ongoing and planned onshore wind farm projects, with the addition of planned offshore wind farm projects, all of which will contribute to the framework designed to enable Australia to reach its renewable energy targets. This requires the aid of imports from other countries in order to meet the growing demand of the wind renewable energy industry.
- Australia remains an attractive and accessible market for exports from China given the prevalence of trade measures against them in other jurisdictions.

6.6 Will dumping continue or recur?

6.6.1 Preliminary finding

The commission considers that the expiration of the measures would likely lead to a continuation of, or a recurrence of dumping of wind towers from China.

The commission has formed this view based on the following factors:

- dumping observed in previous wind tower inquiries and reviews and
- Chinese exporters of like goods have been found to be dumping in other jurisdictions⁸¹ and in previous investigations.⁸²

The Manual provides that in assessing the likelihood of dumping continuing or recurring, the commission may assess relevant factors such as exporters' dumping and subsidy margins, export volumes before and after the measures, the effect of the measures, the level of dumping compared with the level of measures, and any change in those measures – for example, because of a review.⁸³

⁸¹ [EPR 621](#), document no 1, attachments 3,4,5.

⁸² [EPR 221](#), document no 41, [EPR 487](#), document no 20, [EPR 602](#), document no 9

⁸³ Anti-Dumping Commission, [Dumping and Subsidy Manual](#), Anti-Dumping Commission website, December 2021, p 176.

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6.6.2 Historic and current dumping

Table 5 details the dumping margins assessed for exporters who have cooperated in this inquiry and all other exporters from the subject countries in all previous matters where variable factors have been ascertained.

Country	Exporter	Original Investigation (REP 221)	Continuation (REP 487)
China	Penglai	N/A	N/A
	CS Wind China Co., Ltd	N/A	N/A
	Chengxi	N/A	N/A
	TSP manufactured goods supplied directly or indirectly	15.0%	Measures ceased
	All other Chinese exporters	15.6%	10.9%
Korea	Win&P Ltd	17.2%	Measures ceased
	All other Korean exporters	18.8%	Measures ceased

Table 5: Previous dumping margins⁸⁴

Following CON 487, the commission conducted *Accelerated Reviews 597, 602 and 603* for exporters Chengxi, Penglai and CS Wind, respectively. These exporters were given their individual IDD rate based on dumping margin calculations in the accelerated reviews during 2022 and 2023.

Table 6 shows the current anti-dumping measures applicable to exports from China following these accelerated reviews and *ADRP Review 2019/100*.

⁸⁴ N/A refers to exporters who did not have their own rate for the relevant case and therefore were subjected to the 'all other' exporter rate.

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Country	Exporter	Dumping Margin
China	Penglai	1.2%
	CS Wind China Co., Ltd	Confidential (Floor price)
	Chengxi	0.0%
	TSP supplied directly	Exempt
	TSP supplied through: Baotou Taisheng Wind Energy Equipment Co. Ltd Nantong Blue Island Marine Engineering Co. Ltd Shanghai Taisheng (Dongtai) Power Engineering Machinery Co. Ltd Xinjiang Taisheng Wind Energy Equipment Co. Ltd. Goldwind International Penonome Limited Vestas Manufacturing AS TSP Canada Towers Inc Goldwind International Holdings (HK) or Nordex Energy SE & Co. KG	Importers entering goods manufactured by TSP and supplied indirectly through these traders are exempt from measures.
	All other exporters	10.9%

Table 6: Current dumping margins⁸⁵

Following *ADRP Review 2019/100*, the measures applying to TSP were allowed to expire on 16 April 2019. As illustrated in section 5.3.2, imports from TSP made up approximately 86% of the Australian market share in 2022, with Penglai being the only other exporter with imports from 1 July 2021 to 31 December 2022 named on the DCR.

Chengxi

Chengxi provided a completed exporter questionnaire as part of this inquiry and *Review 615*.

The commission found that Chengxi did not export during the inquiry period for *Review 615*. Chengxi's most recent exports were in the period examined for *Accelerated Review 597*. Chengxi was found not to be dumping as part of *Accelerated Review 597* and given a rate of 0.0% on 24 June 2022.

Since receiving its own dumping duty rate, Chengxi has not exported wind towers to Australia. In its application seeking revocation as part of *Review 615*, Chengxi contended that it operates a business model focussing on rewarding and sustainable wind tower projects that are more responsible and commercially viable in the longer term. As such, Chengxi is not incentivised to try and secure every wind tower project possible, with aggressive pricing and at any cost.⁸⁶ Chengxi provided evidence of its continued

⁸⁵ N/A refers to exporters who did not have their own rate for the relevant case and therefore were subjected to the 'all other' exporter rate.

⁸⁶ EPR 621, document no. 9, [Attachment 1](#)

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participation in tenders and quotations since 2022. The commission notes that Chengxi did not win any of these tenders. The commission considers that Chengxi has not endeavoured to compete on price with the lower price offerings currently on the market, by dumping, in an effort to capture sales volumes and market share.

As such, the commission considers that Chengxi's behaviour indicates that dumping is not likely to occur should measures expire.

Penglai

Penglai provided a completed exporter questionnaire as part of *Review 615*.

The commission found that Penglai did not have any additional exports, following those that were assessed in *Accelerated Review 602*. In *Accelerated Review 602*, the commission found that Penglai was dumping at a rate of 1.2%. The commission considers it likely that future exports from Penglai would be dumped.

CS Wind

CS Wind had not exported wind towers to Australia before *Accelerated Review 603*. As a result of *Accelerated Review 603*, CS Wind was given a floor price based on its normal value. CS Wind provided a completed exporter questionnaire as part of this inquiry in which it stated that the main factor affecting CS Wind's ability to supply the Australian market is the advantage enjoyed by existing suppliers not subject to dumping duty.⁸⁷

There have not been any exports of wind towers from CS Wind from China to Australia. However, the commission has identified that CS Wind has exported wind towers to Australia from both Malaysia and Vietnam in the past. These exports ceased after 2019.

From the commission's analysis, it appears that CS Wind is unable to compete with other exporters from China. Accordingly, were CS Wind to export to Australia at prices that were competitive with other Chinese exporters, the commission considers it likely that these would be at dumped prices.

6.6.3 Conclusion

Based on the evidence before the commission at this stage of the inquiry, the commission considers that there is sufficient evidence to conclude that goods exported to Australia from China at dumped prices are likely to continue or recur.

The commission does not consider there is sufficient evidence to conclude that exports of the goods to Australia from Chengxi at dumped prices are likely to continue or recur.

⁸⁷ EPR 621, document no [4](#)

6.7 Will material injury continue or recur?

The commission considers that it is not likely that the expiry of the measures would lead to a continuation or a recurrence of material injury that the anti-dumping measures are intended to prevent.

As detailed in the economic condition of industry chapter, the Australian industry has not produced or supplied wind towers in the past 3 years. The commission identified that Australian industry was last awarded a tender in May 2020 and last manufactured wind towers sections in October 2020.

The commission examined the reasons for the deterioration in the economic condition of the Australian industry since the measures were continued in 2019, and identified the following issues:

- decreasing wind tower projects awarded under Victoria's renewable energy target auctions
- changing wind tower design and construction
- geographical limitations on supplying wind towers
- procurement considerations and
- imports not subject to measures leveraging a cost advantage to secure contracts and take market share.

Each of these issues is discussed in detail below.

The commission considers that in the absence of measures, the Australian industry will continue to face the same challenges that have led to the deterioration in its economic condition since the measures were last continued. In this context the commission does not consider that the expiration of the measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, any material injury that the measure is intended to prevent.

6.7.1 Victorian renewable energy target projects

Victoria's renewable energy targets are legislated in the *Renewable Energy (Jobs and Investment) Act 2017 (Vic)*. The current targets are:⁸⁸

- 25% by 2020 (achieved)
- 40% by 2025
- 50% by 2030.

The Victorian Government has announced an intention to legislate updated targets of:

- 65% by 2030
- 95% by 2035.

The Victorian Renewable Energy Target auctions are the mechanism that has been implemented to assist in meeting the legislated renewable energy targets. Under these

⁸⁸ DEECA, [Victorian renewable energy and storage targets](#), Victorian Government energy website, February 2023, accessed 17 August 2023.

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auctions, participants bid for contracts to supply new energy generation projects. There have been 2 auctions so far under this mechanism. Projects awarded under this mechanism are subject to requirements for minimum local content under the *Local Jobs First Act 2003* (Vic).

The first VRET auction (VRET1) was finalised in September 2018. Under VRET1, 5 projects were delivered, including wind farms at Berrybank, Dundonnell and Mortlake.⁸⁹ The commission verified that the Australian industry supplied wind towers for each of these VRET1 projects. This represents the last time that the Australian industry manufactured like goods.

The second energy auction (VRET2) was finalised in November 2022. Six solar power projects were awarded under VRET2 and no wind projects. As such, the Australian industry did not benefit from VRET2.

The commission has analysed the performance of the Australian industry in the context of the VRET auctions. Figure 16 shows the year that wind tower projects were awarded to Australian industry, whether the projects resulted from a VRET auction, and the resultant volume of production in tonnes relating to those projects.

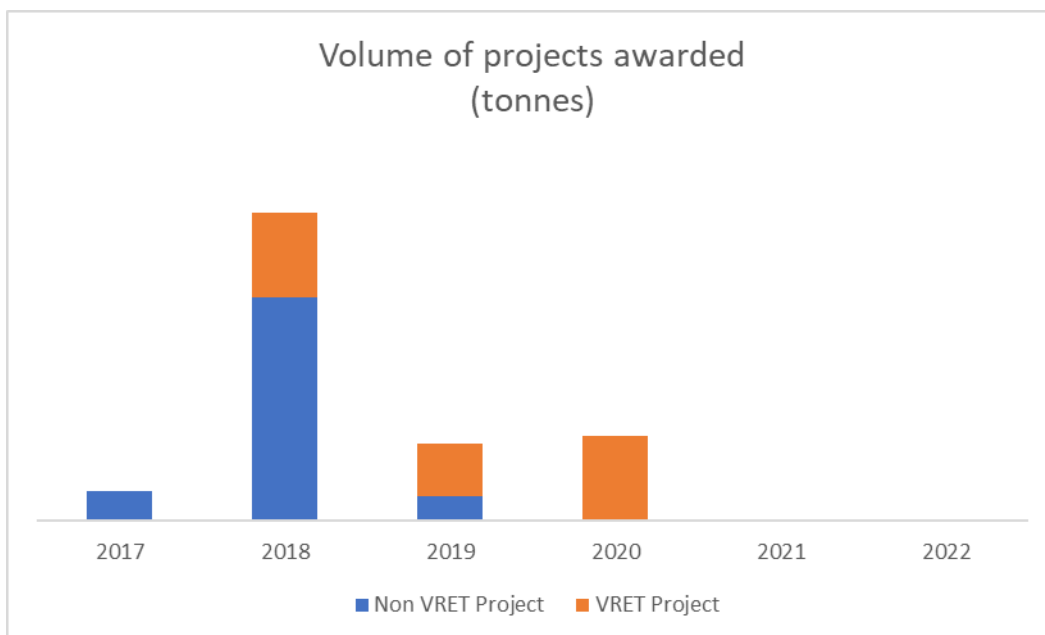


Figure 16: Australian industry weight of production in tonnes by year of project award⁹⁰

Figure 16 indicates that the Australian industry:

- won projects in 2018 that resulted in a significant volume of production, with most projects won outside of the VRET process

⁸⁹ DEECA, [Victorian Renewable Energy Target auction \(VRET1\)](#), Victorian Government energy website, March 2023, accessed 17 August 2023.

⁹⁰ Confidential Attachment 3.

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- experienced a reduction in the volume of production resulting from contracts awarded in 2019 while VRET projects made up the majority of Australian industry production
- was only awarded projects in 2020 that resulted from VRET auctions
- did not win any projects after 2020.

The commission considers that from 2018 onward the Australian industry was increasingly reliant on the Victorian Government's local manufacturing content requirements to leverage its competitiveness in the market. From 2020, the Australian industry has not won any projects in the Australian market outside of VRET auctions. In 2020, all projects won by KPE were under VRET auctions. There has been no further VRET auctions after 2020. As such, the commission considers that the absence of government led wind tower projects with local content requirements was a significant factor impacting the performance of the Australian industry.

6.7.2 Changes in wind tower design and construction

The market for wind towers in Australia commenced in 2000.⁹¹ There have been considerable changes in wind tower design and construction since that time. KPE provided information to the commission that highlighted several of these changes.⁹² When wind towers were first constructed in Australia, a standard tower had the following characteristics:

- 2 sections
- height 52 metres
- weight 60 tonnes
- base diameter 3.8 metres
- plate steel thickness 20 mm
- total length of welding 327 metres
- turbine 1.2 MW

As of 2022, a standard tower now has the following characteristics:

- 6 sections
- height 150 metres
- weight 500 tonnes
- base diameter 6 metres
- plate steel thickness 50 mm
- total length of welding 6,977 metres
- turbine 6 MW

This transition to larger towers was also highlighted in responses from other stakeholders.⁹³

⁹¹ [EPR 221](#), document no 40, p 19.

⁹² Confidential Attachment 4.

⁹³ [EPR 621](#), document nos 8 and 9.

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The commission considers that the increase in size of wind towers over time has placed further constraints on KPE's ability to meet the market's demand for larger towers.

As the Australian industry is not able to tender for the production of larger wind tower sections, the commission understands that KPE seeks to facilitate joint tender offerings. This requires the importation of larger wind tower sections. The commission notes that the Australian industry successfully applied for two TCOs in 2018 - TCO 1761480 and TCO 1813104.⁹⁴ TCOs are granted when it is deemed there is no local industry that can produce the goods in question. The TCOs specify wind tower sections with a minimum and maximum bound in plate steel thickness, section length, section width and outer diameter that local industry is unable to produce. For example, TCO 1813104 encompasses wind towers sections with outer diameter NOT less than 4,400 mm and NOT greater than 4,900 mm. These TCOs highlight the Australian industry's inability to manufacture larger wind tower sections.

The commission considers that with the demand for larger towers, KPE would need to either upgrade its current facilities to manufacture larger tower sections or look to supplement its own production with imported wind towers of the dimensions that it cannot currently produce. The commission considers the Australian industry's production capability shortfall is related to the change in the design and construction of wind towers over time. The commission considers it to be unrelated to the presence or absence of measures. At present, the commission has not identified evidence to indicate that, absent any commitments from government programs, KPE will make the capital investment to improve its manufacturing capability.

6.7.3 Geographical limitations on supply

The commission has noted in previous matters relating to wind towers that due to transport costs and logistical issues, KPE has a geographical advantage over importers in supplying wind towers close to its manufacturing base in Victoria. This competitive advantage dissipates when tendering to supply wind towers to locations that are more distant from KPE's manufacturing base, as interstate transport costs are understood to be prohibitive.⁹⁵

In its submission dated 11 September 2023, Penglai noted that logistical challenges faced by KPE are a factor in its inability to successfully tender for projects located outside of Victoria.⁹⁶ Penglai asserted that a key consideration in the purchasing and supply of wind towers is proximity to the manufacturing facility, making KPE not a practical or economically feasible option for wind farms located outside of Victoria.

The commission analysed the location of projects supplied by the Australian industry since 2018 and identified that all projects were in Victoria or Tasmania. The commission has also examined port of discharge information from the ABF database to estimate the value of the Australian market over that time. Based on this, the commission has segregated the Australian market into Victorian and Tasmanian projects, and projects in

⁹⁴ Details of these TCOs are available on the ABF website: [Tariff Concessions System](#)

⁹⁵ [EPR 487](#), document no 19, p 47.

⁹⁶ [EPR 621](#), document no 8.

other locations for both imported and locally produced goods. The commission’s analysis is shown in Figure 17.

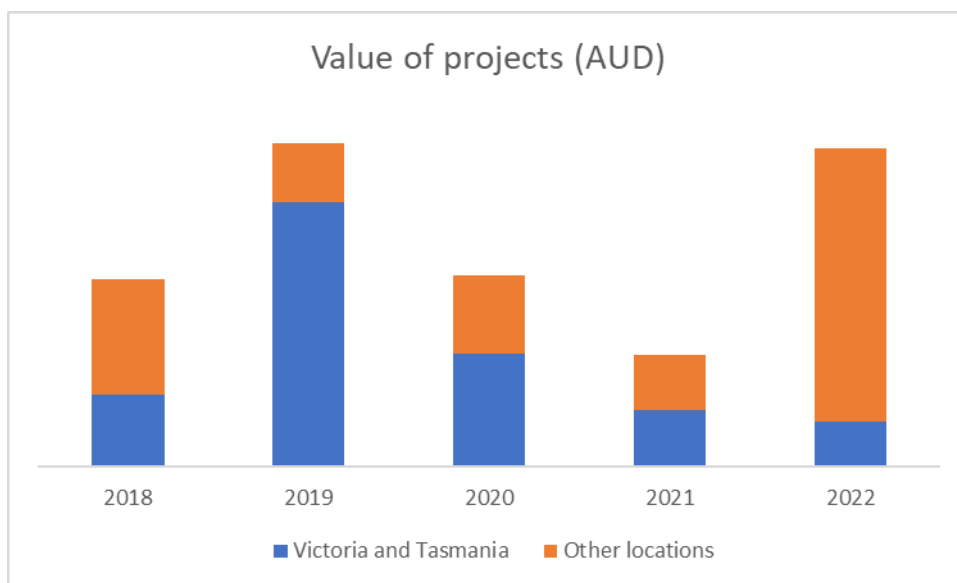


Figure 17: Approximate value of wind tower projects by geographic segment⁹⁷

Figure 17 shows that:

- the value of projects supplied in Victoria and Tasmania peaked in 2019, at which time these projects accounted for the vast majority of all projects in Australia
- from the peak in 2019 both the value and share of the total market for Victoria and Tasmania has been in decline.

The commission considers that since the peak observed in 2019 the Australian industry has had a shrinking pool of projects that it could reasonably be expected to supply. This is due to the logistical issues and prohibitive transport costs associated with the manufacture and supply of wind towers interstate. The commission considers these factors to be unrelated to the presence or absence of measures.

6.7.4 Procurement considerations

The commission has received a submission from the GOC where it highlighted that some of the reasons preventing OEMs/developers awarding projects to the local producers is their limited capacity and capability to meet the customer’s qualitative and quantitative requirements.⁹⁸ When it comes to wind tower procurement priorities for OEMs and developers, the key considerations are:

- product quality
- technical expertise
- timeliness and reliability in project delivery
- ability to meet installation requirements

⁹⁷ Confidential Attachment 3.

⁹⁸ [EPR 621](#), document no 9, p 4.

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- logistical efficiency.

The GOC asserts that these factors are ranked above the price of the tower itself.

From the conduct of this inquiry, along with information obtained in previous investigations, inquiries and reviews, the commission understands that price, although an important consideration, is only one aspect in an OEM's decision to award tenders to a particular supplier. As the commission found in CON 487, the manufacturing of wind towers requires rigorous quality controls with OEMs requiring potential suppliers to satisfy qualification standards. This is done through a pre-qualification process, with potential suppliers being evaluated against requirements including:

- safety
- quality
- capability
- delivery
- cost.

During the CON 487 inquiry period, KPE was a pre-qualified supplier to all major OEMs. However, the commission understands that currently KPE is not pre-qualified with any OEMs. The commission considers that this is another factor impacting KPE's ability to successfully tender for wind tower projects. The lack of pre-qualification limits KPE's ability to tender for and be responsive to upcoming projects. The pre-qualification process and project phases is outlined in sections 4.3.1 and 4.3.2 of REP 487.⁹⁹

6.7.5 Imports not subject to measures taking market share

The commission used ABF import data to analyse changes in the pattern of imports since 1 January 2018. The commission's analysis is presented in Figure 18.

⁹⁹ [EPR 487](#), document no. 19

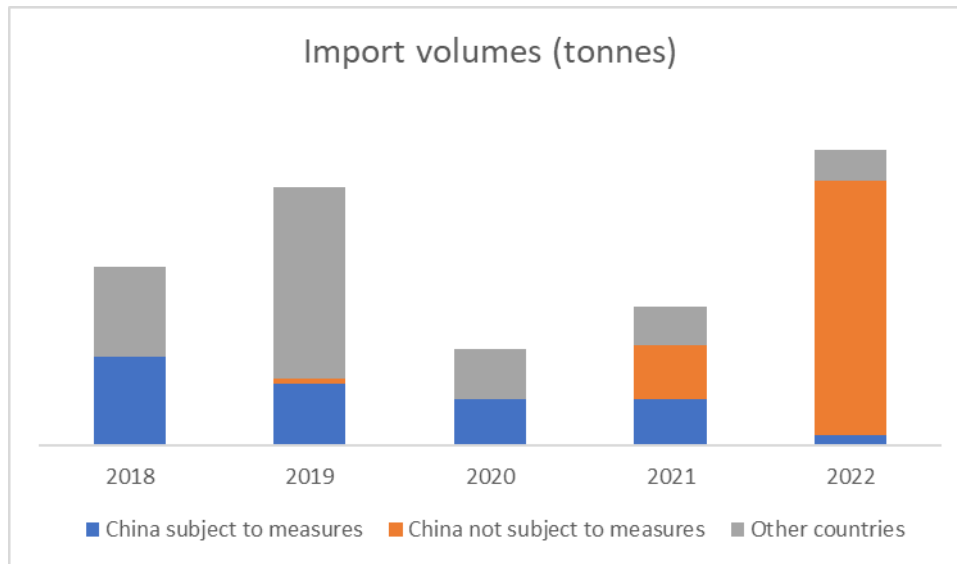


Figure 18: Import volumes by source (tonnes)¹⁰⁰

The volume of imports from China that are subject to measures has been in decline over the period assessed. In the period up to and including 2020, imports from countries not subject to measures made up the majority of imports. After 2020 there is a noticeable change in the pattern of imports into the Australian market, with imported goods from China that are not subject to measures emerging as the dominant source of imports. This change coincides with the removal of measures from TSP. Once the Minister accepted the ADRP review recommendation in April 2020, TSP gained the ability to factor the absence of duties into its tender pricing from that date.

The commission has also conducted a landed price comparison for all imports, factoring international transport and insurance costs into an average landing price per tonne.¹⁰¹ This analysis found that exempt exporters have been the cheapest suppliers over the majority of the period, with:

- imports from TSP having the lowest landed price in 2019 and 2022 and
- imports from Vietnam having the lowest landed price in 2020 and 2021.

This analysis indicates non-subject exporters are price leaders in the Australian wind tower market and possess a pricing advantage over subject exporters. The commission acknowledges that while average wind tower section price per tonne is affected by differences in design requirements, the annual sample size of wind tower imports is large enough to make landed price per tonne comparison meaningful.

Following on from the discussion of geographical constraints above, the commission has also analysed import volumes by source for Victoria and Tasmania. The commission's analysis is in Figure 19.

¹⁰⁰ Confidential Attachment 3.

¹⁰¹ Confidential Attachment 3.

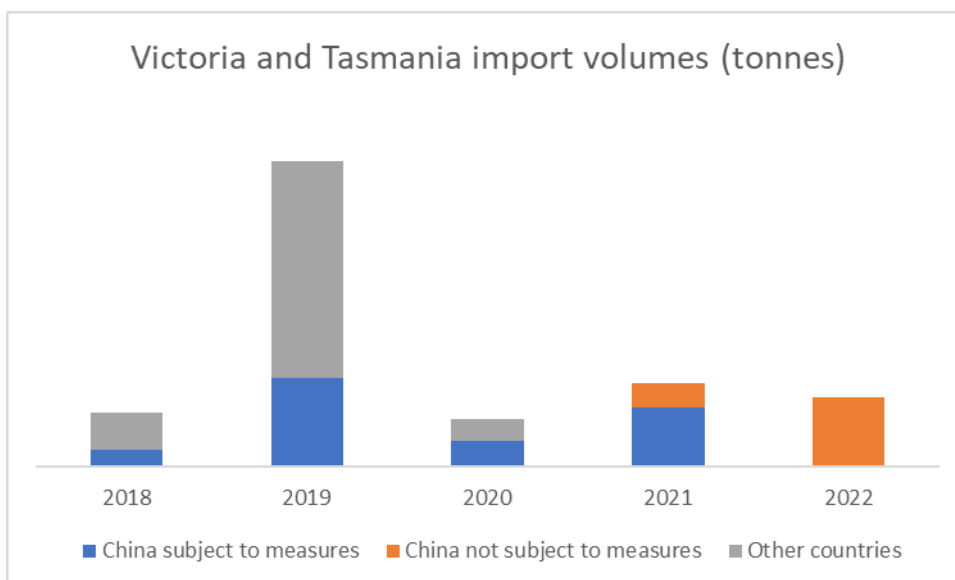


Figure 19: Victoria and Tasmania import volumes by source (tonnes)¹⁰²

Figure 19 demonstrates a similar trend to the total market shown in Figure 18, with the emergence of non-subject exporters as the dominant supplier in the Victorian and Tasmanian wind tower market. As of 2022, these exporters not subject to measures held 100% of the market share for the Victorian and Tasmanian segment of the market.

The commission’s view is the removal of measures on the small number of subject exporters will have little impact on the financial performance of the Australian industry. The majority of imports over the period examined were not subject to measures and had a lower landed price than imports from exporters subject to the measures. In particular, the commission notes that Victorian projects transitioned solely to being supplied by TSP. These are the projects that the Australian industry has any reasonable prospect of supplying, and KPE is unable to compete with undumped imports in the absence of government-mandated local content requirements.

6.7.6 Conclusion

The Australian industry was last successful in winning a tender to supply wind towers in May 2020, and last manufactured wind towers in October 2020. Since that time manufacturing by the Australian industry has been dormant.

This has coincided with significant changes in the market for wind towers that have been detrimental to the Australian industry. The 2 most significant factors since the measures were last continued are the absence of further wind tower projects via the VRET auctions and the exemption from anti-dumping measures of TSP. In addition, wind towers have continued to increase in size, further challenging the Australian industry’s capability, and more projects have emerged in locations where it is not logistically feasible for the Australian industry to supply, such as the MacIntyre wind farm precinct in Queensland.¹⁰³

¹⁰² Confidential Attachment 3.

¹⁰³ [EPR 615](#), document no. 9, attachment 1

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In the original investigation and subsequent continuation, price was considered the key differentiating factor that OEM decision makers considered when selecting a wind tower supplier. As a result, the negative price effects associated with dumped goods from Chinese exporters were considered to be the main source of injury to Australian industry, or the main contributor to likely future injury. In light of recent developments in the wind tower industry, the commission now considers that sources of injury other than dumped goods are the main contributors to the material injury suffered by Australian industry over the current period examined. Price is of comparable importance to OEMs as other manufacturing factors, including capacity and section size constraints.

From Figure 18, in 2021 there was a significant volume of imports that were subject to a 10.9% rate of duty at the time of importation. Noting that Australian industry was unable to secure contracts for supply of wind towers since 2020, the commission considers that the Australian industry was not competitive with Chinese imports regardless of the price adjustment resulting from the measures.

The commission considers that the inability of the Australian industry to compete is either a function of non-price factors such as capability and logistical limitations, or a lack of price competitiveness even when the effect of the measures is considered. The presence of measures has not improved the financial performance of the Australian industry as injury is being caused by other factors. This is most clearly demonstrated through the entirety of Victorian and Tasmanian projects in 2021 and 2022 being serviced by Chinese exporters not subject to measures,¹⁰⁴ in a region where Australian industry has a proximity advantage over exporters.

In addition, the injury incurred by the Australian industry occurred during a period with a low proportion of subject imports, being less than 15% of the overall wind towers market.¹⁰⁵ As detailed in section 6.5.2, almost the entirety of exports to Australia were not subject to measures. From the assessment of the market, the commission considers that the Australian industry's economic performance during the period examined has not been impacted by dumped exports from China.

The commission considers that in the absence of measures, the Australian industry will continue to face the same challenges that have led to the deterioration in its economic condition since the measures were last continued. In this context, the commission does not consider that the expiration of the measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, the material injury that the measures are intended to prevent.

6.8 Conclusion

Taking the above analysis into account, the Commissioner is satisfied that there is sufficient evidence to support a finding that exports of wind towers from China are likely to continue upon the expiration of the measures.

¹⁰⁴ Confidential Attachment 3.

¹⁰⁵ Ibid.

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In addition, the Commissioner is satisfied that the expiry of the measures would be likely to lead to a continuation of dumping of wind towers from China.

The Commissioner is not, however, satisfied that there is sufficient evidence to support a finding that material injury is *likely* to be caused by future exports at dumped prices upon the expiration of the measures.

In summary, the Commissioner has found that:

- the Australian industry has experienced a deterioration in economic performance since 2020 which is unrelated to dumping of goods from China
- there have been a number of factors other than dumping which have arisen since 2020
- these factors other than dumping appear to have had a significant impact on the economic condition of the Australian industry
- factors other than dumping are likely to continue to have a significant impact on the economic condition of the Australian industry.

The Commissioner accepts that, should the measures be allowed to expire, it is likely that wind towers will be exported to Australia at dumped prices in the future. However, the Commissioner is not satisfied that future exports of dumped goods will be likely to cause material injury to the Australian industry. The commission considers that any injury experienced by the Australian industry would likely be due to other factors as detailed in this report, and these will continue to impact the Australian industry in the future.

As a result, the Commissioner is not satisfied that the expiration of the measures would lead, or would be likely to lead, to a continuation of the material injury that the anti-dumping measures are intended to prevent.

7 PROPOSED RECOMMENDATIONS

On the basis of the reasons contained in this SEF, and in accordance with section 269ZHF(2), the Commissioner is satisfied that the expiration of the anti-dumping measures applicable to wind towers exported to Australia from China would not lead, or would not be likely to lead, to a continuation of, or a recurrence of, the dumping and material injury that the anti-dumping measures are intended to prevent.

As such, the Commissioner proposes to recommend that the Minister, in accordance with section 269ZHG(1)(a), **declare** that he has decided not to secure the continuation of the anti-dumping measures relating to wind towers exported to Australia from China with effect from 17 April 2024.

The dumping duty notice would therefore expire on 16 April 2024.

APPENDICES AND ATTACHMENTS

Non-confidential Appendix A	State and Federal Government Renewable Energy Targets
Confidential Attachment 1	Australian Market
Confidential Attachment 2	Economic condition of the Australian Industry
Confidential Attachment 3	Will material injury continue or recur
Confidential Attachment 4	Keppel Prince Engineering Pty Ltd Manufacturing Presentation

APPENDIX A: AUSTRALIAN STATE AND FEDERAL GOVERNMENT RENEWABLE ENERGY TARGETS

Commonwealth

Program Name	Type	Dates	Details
Nationally Determined Contribution under Article 4, Paris Agreement, UN Framework Convention on Climate Change ¹⁰⁶	International Agreement - Emissions Reduction Target	16/06/2022	<ul style="list-style-type: none"> - Net zero by 2050 - 43% below 2005 levels by 2030
Capacity Investment Scheme ¹⁰⁷	Investment Scheme (Federal + State)	08/12/2022	<ul style="list-style-type: none"> - The Capacity Investment Scheme will involve competitive tenders seeking bids for clean renewable generation and storage projects to fill expected reliability gaps. Projects selected through open tenders will be offered long-term Commonwealth underwriting agreements for an agreed revenue 'floor' and 'ceiling'. - Funding through the 2023-24 Budget for initial tenders under the Capacity Investment Scheme (CIS). - In 2023 the program will deliver a joint CIS/NSW Electricity infrastructure Roadmap tender, and tenders in South Australia and Victoria for dispatchable renewable generation and storage. - Ultimately aims to provide at least \$10 billion of investment and add 6 GW to support electricity grid reliability and security.

¹⁰⁶ <https://www.dceew.gov.au/climate-change/international-commitments>

¹⁰⁷ <https://www.energy.gov.au/government-priorities/energy-supply/capacity-investment-scheme>

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Program Name	Type	Dates	Details
Safeguard Mechanism (Crediting) Amendment Bill 2023 ¹⁰⁸	ETS	01/07/2023	<ul style="list-style-type: none"> - The Safeguard Mechanism has been reformed to put Australia’s largest industrial emitters on a pathway to net zero by 2050, commencing on 1 July 2023. Funding of \$8.6 million in the 2023-24 Budget will support implementation and review of the Safeguard Mechanism reforms. - This may drive further investment in renewables.
Offshore Electricity Infrastructure Act 2021 ¹⁰⁹	Legislative groundwork	02/06/2022	<ul style="list-style-type: none"> - Granted Major Project Status (regulatory ‘facilitation’ to help avoid delays) - Facilitates and regulates the development of electricity infrastructure in Commonwealth waters. - Funding of 14.5 million in the 2023-4 budget to accelerate the Offshore Renewable Growth Strategy and regulatory approvals.¹¹⁰ - Aug 2022, Minister announced 6 proposed regions for offshore renewable energy developments around Australia. - Declared an area of the Bass Strait as Australia’s first offshore wind zone. - Fed gov has also proposed declaring an offshore wind zone in the Southern Ocean off the coast of Portland [between Warrnambool and Port MacDonnell SA] (consultation is ongoing / finishes 31 Aug 2023).¹¹¹

¹⁰⁸ https://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Bills_Search_Results/Result?bld=r6957

¹⁰⁹ <https://www.energy.vic.gov.au/renewable-energy/offshore-wind-energy>

¹¹⁰ <https://www.energy.gov.au/government-priorities/australias-energy-strategies-and-frameworks/powering-australia>

¹¹¹ <https://consult.dcceew.gov.au/oei-southern-ocean>

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Program Name	Type	Dates	Details
National Reconstruction Fund ¹¹²	Independent financier operating commercially to deliver a positive return through: - Loans - Equity investment - guarantees	Announced on 25 Oct 2022 for the 2022-23 budget	- \$15 billion to establish the National Reconstruction Fund (up to \$3 billion in finance to renewables and low emission technologies)

Victoria

Program Name	Type	Dates	Details
Renewable Energy (Jobs and Investment) Act 2017 ¹¹³	Renewable Energy Target (RET) + Funding for specific projects	2017	- 40% by 2025, 50% by 2030 [intention to go to 65% by 2030 and 95% by 2035] – net zero by 2045. - VRET 1+2 Auctions with local provision mandates (must use 60% local content or more). - To provide 2.6 GW of energy storage capacity by 2030 and 6.3 GW by 2035.
Energy Innovation Fund ¹¹⁴	Rounds of Funding for Specific Projects	February 2021	- Rd1 was limited to offshore wind, \$40 mil for three projects: - Seadragon OS WF - Great Southern OS WF - Star of the South OS WF - Rd2 was available to any RE type that can support net-zero by 2045 and went to: - Two bio-energy projects - A large-scale battery - A renewable hydrogen project

¹¹² <https://www.industry.gov.au/news/national-reconstruction-fund-diversifying-and-transforming-australias-industry-and-economy>

¹¹³ <https://www.energy.vic.gov.au/renewable-energy/victorian-renewable-energy-and-storage-targets>

¹¹⁴ <https://www.energy.vic.gov.au/grants/energy-innovation-fund>

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Program Name	Type	Dates	Details
State Electricity Commission of Victoria ¹¹⁵	Investment	2022	<ul style="list-style-type: none"> - \$21 million to prepare the SEC for its new role in Vic’s energy market, including setting up a presence in Morwell and Melbourne, with an additional \$24 million to be provided in 2023/24. - The SEC will ultimately invest an initial \$1 billion towards delivering 4.5 gigawatts of power through renewable energy and storage projects, by: <ul style="list-style-type: none"> - being an active energy market participant, working with industry to invest in and speed up the delivery of renewable energy. - pushing more renewable energy into the system, reducing wholesale prices. - working with industry to create thousands of jobs in renewable energy – in solar, wind, storage and emerging energy solutions; and, - investing in training, skills, and generating the renewable energy workforce of the future.
Vic RE Zones (VREZ) ¹¹⁶	RE Zones		<ul style="list-style-type: none"> - AEMO’s integrated system plan has identified 6 VIC REZs. - \$480 million from the REZ Fund has been invested in 12 Stage One projects to strengthen and modernise the state’s grid. - 21 potential longer-term investments in REZ infrastructure require further assessment and community and stakeholder consultation (Stage 2 projects).

¹¹⁵ <https://www.vic.gov.au/state-electricity-commission-victoria>

¹¹⁶ <https://www.energy.vic.gov.au/renewable-energy/renewable-energy-zones>

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Program Name	Type	Dates	Details
Vic Offshore Wind Policy Directions Paper ¹¹⁷	Roadmap + targets	March 2022	<ul style="list-style-type: none"> - Vision for establishing first offshore wind sector - Targets of 2 GW by 2032, 4 GW by 2035 and 9 GW by 2040. - Funding for three projects as part of Rd1 of the Energy Innovation Fund (above)

South Australia

Program Name	Type	Dates	Details
RET ¹¹⁸	RET		- 100% renewable by 2030

New South Wales

Program Name	Type	Dates	Details
Net Zero Industry and Innovation Program ¹¹⁹	RET	October 2021	<ul style="list-style-type: none"> - Reduce emissions by 50% by 2030 - Reduce emissions by 70% by 2035 (compared to 2005 levels) - Net zero by 2050
NSW Electricity Infrastructure Roadmap – Electricity Infrastructure Investment Act 2020 ¹²⁰	Roadmap + Round based funding for RE projects	November 2020	<ul style="list-style-type: none"> - incentivise private investment by providing certainty of ROI through Long-term Energy Service Agreements (bi-annual tenders for RE projects) - 12GW new renewable energy - Creation of 5 RE zones - 2021-22 NSW Budget allocated a total of \$380 million to deliver the roadmap, including \$164 million over four years for capital works.

¹¹⁷ https://www.energy.vic.gov.au/_data/assets/pdf_file/0029/580619/Offshore-Wind-Policy-Directions-Paper.pdf

¹¹⁸ <https://www.safa.sa.gov.au/environmental-s-governance/energy>

¹¹⁹ https://www.energy.nsw.gov.au/sites/default/files/202208/2021_10_NSW_NetZero_Industry_Innovation_Program_FINAL.pdf

¹²⁰ <https://www.energy.nsw.gov.au/nsw-plans-and-progress/major-state-projects/electricity-infrastructure-roadmap>

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Queensland

Program Name	Type	Dates	Details
Queensland Energy and Jobs Plan ¹²¹	RET	28/09/2022	<ul style="list-style-type: none"> - 70% target by 2032, 80% by 2035 [net 0 by 2050] - 25 GW of wind/solar by 2035 - 90% lower electricity emissions by 2035/36 (on 2005 levels) - Go from 3 GW of wind/solar (2022 level) to 13 GW of wind/solar by 2030 [a percentage change of 21% renewable energy to 60% renewable], QLD is investing \$36 billion (from 2022 to 2030) to meet these targets. - By 2035, 25 GW, 80% renewable and \$62 billion investment (from 2022) [a large proportion of this will be the Pioneer-Burdekin hydro project however]
Queensland Renewable Energy and Hydrogen Jobs Fund ¹²²			<ul style="list-style-type: none"> - \$4.5 billion to WLD publicly owned energy corporations to increase ownership of commercial RE (including wind) - Investment proposals must demonstrate commercial value - Investments must create new and ongoing employment opportunities in QLD - Projects announced-to-date include: <ul style="list-style-type: none"> - Wambo wind farm - Tarong west wind farm - Central QLD wind farms (prospectively: Banana Range wind farm + Boulder Creek wind farm)

¹²¹ <https://www.epw.qld.gov.au/energyandjobsplan/about>

¹²² <https://www.treasury.qld.gov.au/programs-and-policies/queensland-renewable-energy-and-hydrogen-jobs-fund/>

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Program Name	Type	Dates	Details
QREZ – building 3 QLD Renewable Energy Zones ¹²³	Investment in specific projects	August 2020	<ul style="list-style-type: none"> - \$145 million for the establishment of 3 QLD RE zones - Includes the first stage of the Northern QREZ (a \$40 mil investment to support Neoen’s Kaban Green Power Hub wind farm) – wind farm worth over \$370 mil. - The renewable energy zones have received registrations of interest for projects totalling close to 70 billion in investment if developed.
Powering Queensland Plan		June 2017	- Investment of \$1.16 billion to ensure QLD secure/sustainable electricity

Tasmania

Program Name	Type	Dates	Details
Tasmania Renewable Energy Target ¹²⁴	RET	November 2020	<ul style="list-style-type: none"> - 200% of 2020 levels by 2040 - 150% of 2020 levels by 2030

Western Australia

Program Name	Type	Dates	Details
Government Emissions Interim Target	Emissions Reduction Target	September 2022	- 80% below 2020 levels by 2030 (applying to all gov agencies in state)

¹²³ <https://www.epw.qld.gov.au/about/initiatives/renewable-energy-zones/rez-roadmap>

¹²⁴ https://www.stategrowth.tas.gov.au/recfit/renewables/tasmanian_renewable_energy_target