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# **ANTI-DUMPING NOTICE NO. 2018/115**

*Customs Act 1901 – Part XVB*

## **Wind Towers**

**Exported from the People's Republic of China  
and the Republic of Korea**

**Initiation of a Continuation Inquiry into  
Anti-Dumping Measures**

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

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

The anti-dumping measures are due to expire on 15 April 2019.<sup>1</sup>

### **1 The goods**

The goods subject to the anti-dumping measures and therefore this inquiry are:

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 scope 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 are also excluded.

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<sup>1</sup> On and from 16 April 2019, if not continued, the anti-dumping measures will no longer apply.

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 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.

These tariff classifications and statistical codes may include goods that are both the subject and not the subject of this investigation. 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 investigation.

There are two tariff concession orders (TCOs) for wind towers under tariff classification 7308: TCO 1761480, and TCO 1813104.<sup>2</sup>

## **2 Background to the anti-dumping measures**

The anti-dumping measures were initially imposed by public notice on 16 April 2014 following consideration of *International Trade Remedies Report No. 221* (REP 221). The investigation followed an application made by Keppel Prince Engineering Pty Ltd (KPE), supported by Ottoway Fabrication Pty Ltd (OF) and Crisp Bros. and Haywards Pty Ltd (Haywards) representing the Australian industry.

A history of the anti-dumping measures applying to the goods and the current measures are both summarised at [Attachment A](#).

## **3 Application for continuation of the anti-dumping measures**

On 23 April 2018, a notice<sup>3</sup> was published on the Anti-Dumping Commission (the Commission) website ([www.adcommission.gov.au](http://www.adcommission.gov.au)) inviting certain persons to apply for the continuation of anti-dumping measures regarding the goods exported to Australia from China and Korea in accordance with subsection 269ZHB(1) of the *Customs Act 1901* (the Act).<sup>4</sup>

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<sup>2</sup> Details of these TCOs are available on the Department of Home Affairs [website](#).

<sup>3</sup> Anti-Dumping Notice (ADN) No. 2018/65 refers.

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

On 22 June 2018, an application for continuation of the anti-dumping measures was received from KPE. The application is supported by OF and Haywards.

### **3.1 Australian industry producing like goods**

The application states that:

- KPE is a manufacturer and supplier of wind towers (the goods) to the Australian market. OF, and Haywards are also manufacturers and suppliers of the goods to the Australian market;
- the Australian market is supplied by KPE, OF, Haywards, and by imports; and
- the goods are supplied directly to the Original Equipment Manufacturer (OEM) or the engineering, procurement and construction (EPC) contractor as per project.

Based on information provided in the application and having regard to the previous investigation and publicly available information, I am satisfied that these statements in the application are supported by evidence. The requirements of subsection 269ZHB(1)(b)(ii) are therefore satisfied because KPE represents a portion of the Australian industry producing like goods to the goods covered by the anti-dumping measures. The application satisfies the requirements under subsection 269ZHB(1)(b)(i) as KPE's application under section 269TB resulted in the existing anti-dumping measures.

### **3.2 Application of law to facts**

Division 6A of Part XVB sets out, among other things, the procedures to be followed in dealing with an application for the continuation of anti-dumping measures. Pursuant to subsections 269ZHD(1) and 269ZHD(2), I must reject an application for the continuation of anti-dumping measures if I am not satisfied that:

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

### **3.3 Compliance with section 269ZHC**

I consider that the application complies with the requirements of section 269ZHC, in that it is in writing, in a form approved by me for the purposes of this section, contains the information that the form requires, is signed in the manner indicated by the form, and was lodged in a manner approved under section 269SMS, being by email to the Commission's email address provided in the instrument under section 269SMS.

### **3.4 Assessment under subsection 269ZHD(2)(b)**

#### KPE's claims

In its application, KPE claims, among other things:

- demand for the goods in the Australian market is greater than in the original investigation due to opportunities created through the Renewable Energy Target

(RET) and commitments from various state and territory governments. The Australian market appears to be increasingly attractive to exporters;

- since the anti-dumping measures were imposed on 16 April 2014, exports of the goods from China declined generally, noting Korea had ceased export since 2013;
- exports of the goods from China continued during the period from 2015 to 2018. With the existing distribution links into the Australian market, exports from China are likely to increase if the measures are revoked. Exports of the goods from Korea are likely to resume due to Korea's strong export focus and sophisticated global networks;
- the price of the goods is based on global project pricing, therefore increased competition in the market would continue to drive prices down. This in turn affects Australian industry's profitability and market share. Constant price pressures are present among OEMs, importers, and Australian industry; and
- the United States International Trade Commission (USITC) imposed anti-dumping measures on exports of the goods from China, Korea, and Vietnam, and has recently announced a review of those exports.

As part of its application, KPE provided in-depth analysis of market trends for the goods, demonstrating that China continues to export the goods to Australia. The analysis also suggested price pressure patterns in the market, and indicative prospects of exports from Korea to Australia if the measures are revoked. A non-confidential version of the application is available on the Commission's public record.

#### Consideration of reasonable grounds

The Commission has examined information it obtained from the Australian Border Force import database and has found that export volumes from China and Korea have declined significantly since the imposition of the original measures. Exports from China declined overall, but remained steady as a proportion of the market during the period from 2015 to 2018. The Commission notes that the goods exported from China are supplied by some of the same exporters and to some of the same customers as were active in the original investigation period. In contrast, exports from Korea ceased after 2013.

As outlined in REP 221 and a subsequent investigation concerning Vietnam (*Anti-Dumping Commission Report No. 405* refers), the wind tower industry in Australia is extremely competitive. Each wind tower project is unique and follows a tendering process that results in purchasing decisions based on a range of factors, including pricing, timely delivery and consistent product quality. The project-based nature of the market fosters collaboration between wind tower suppliers with participants in the global supply chain to deliver wind tower projects based on sustainable global supplier relationships, sufficient economies of scale and management of volatility that might occur in demand and supply.

In this environment, any pricing advantage achieved as a result of dumping will have a direct impact on the Australian industry's ability to win tenders for the supply of wind towers. It is therefore reasonable to conclude that the absence of the anti-dumping measures might result in the Australian industry facing pricing pressure (reducing prices to compete with dumped price offers) and loss of sales volume and other forms of injury (for example, the loss of tenders to dumped goods would impact on the economies of scale

that can be achieved by the Australian industry through a consistent throughput of towers in production).

### Conclusion

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

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

## **4 Continuation inquiry**

### **4.1 Inquiry Period**

For the purposes of this inquiry, I will use the period from 1 January 2017 to 30 June 2018 (the inquiry period) to determine whether the anti-dumping measures relating to the goods exported to Australia from China and Korea should:

- remain unaltered; or
- cease to apply to a particular exporter or to a particular kind of goods; or
- 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 date, 15 April 2019.

### **4.2 Public record**

I must maintain a public record for this inquiry. The public record must contain, among other things, a copy of all submissions from interested parties. Documents included in the public record may be examined at [www.adcommission.gov.au](http://www.adcommission.gov.au) or at the Commission's office by contacting the case manager on the details provided below.

### **4.3 Submissions**

Interested parties, as defined in subsection 269T(1), are invited to lodge written submissions concerning this inquiry, no later than the close of business on **22 August 2018**, being 37 days after publication of this notice. The Commission's preference is to receive submissions by email to [investigations1@adcommission.gov.au](mailto:investigations1@adcommission.gov.au).

Submissions may also be addressed to:

The Director, Investigations 1  
Anti-Dumping Commission  
GPO Box 2013  
Canberra ACT 2601

or faxed to +61 3 8539 2499.

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

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

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

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

#### **4.4 Statement of essential facts**

The dates specified in this notice for lodging submissions must be observed to enable me to report to the Assistant Minister for Science, Jobs and Innovation (the Assistant Minister)<sup>5</sup> within the legislative timeframe. The SEF will be placed on the public record by **3 November 2018**, or by such later date as I may allow in accordance with subsection 269ZHI(3).<sup>6, 7</sup>

The SEF will set out the essential facts on which I propose to base a recommendation to the Assistant Minister concerning the continuation of the measures. Interested parties are invited to respond to the issues raised within 20 days of the SEF being placed on the public record. Submissions received in response to the SEF within 20 days of the SEF being placed on the public record will be taken into account in completing my report and recommendation to the Assistant Minister.

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<sup>5</sup> On 20 December 2017, the Prime Minister appointed the Parliamentary Secretary to the Minister for Jobs and Innovation as the Assistant Minister for Science, Jobs and Innovation. For the purposes of this inquiry the Assistant Minister is the relevant decision maker.

<sup>6</sup> On 14 January 2017, the Parliamentary Secretary delegated the powers and functions of the Minister under section 269ZHI of the Act to the Commissioner of the Anti-Dumping Commission. Refer to ADN No. 2017/10 for further information.

<sup>7</sup> As this is a Saturday, the effective due date for the publication of the SEF will be the following business day (5 November 2018).

#### **4.5 Report to the Assistant Minister**

A recommendation to the Assistant Minister will be made in a report on or before **18 December 2018** (or such later date as I may allow in accordance with subsection 269HI(3)).

The Assistant Minister must make a declaration within 30 days after receiving the report, or due to special circumstances, such longer period, ending before the day the dumping duty notice is due to expire, as the Assistant Minister considers appropriate.

#### **4.6 Anti-Dumping Commission Contact**

Enquiries about this notice may be directed to the case manager on telephone number +61 3 9268 7969 by email at [investigations1@adcommission.gov.au](mailto:investigations1@adcommission.gov.au).

Dale Seymour  
Commissioner  
Anti-Dumping Commission

16 July 2018

## ATTACHMENT A

The following table summarises the history of the anti-dumping measures in respect of wind towers exported from China and Korea.

Case no. <sup>8</sup>	ADN No.	Date	Findings
Investigation No. 221	2014/33	16/04/2014	As a result of the investigation a dumping duty notice was published in respect of the goods, with dumping margins for China and Korea ranging between 15 per cent and 18.8 per cent

The following table summarises the anti-dumping measures currently applying to exports of the goods to Australia from China and Korea:

Country	Exporter	Duty Method	Effective Rate of Interim Dumping Duty
China	Shanghai Taisheng Wind Tower	<i>ad valorem</i>	15.0%
	Shanghai Taisheng Power Engineering Machine Co. Ltd	<i>ad valorem</i>	15.0%
	All other exporters	<i>ad valorem</i>	15.6%
Korea	Win and P. Ltd	<i>ad valorem</i>	17.2%
	All other exporters	<i>ad valorem</i>	18.8%

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<sup>8</sup> Reports and documents relating to these matters are available on the Commission public record at [www.adcommission.gov.au](http://www.adcommission.gov.au).