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The Director
Investigations 1
Anti-Dumping Commission
55 Collins Street
Melbourne
Victoria 3000

By email

Dear Director

Win&P., Ltd – wind towers exported from China and Korea Comments with respect to continuation inquiry

As you know we represent Win&P., Ltd (“Win&P”) for this continuation inquiry.

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Anti-dumping measures are currently imposed on exports of the goods to Australia¹ by exporters from China and Korea, including by Win&P.² Now, the Anti-Dumping Commission (“the Commission”) is considering whether those measures, varied as might be considered relevant, should continue to apply.

Our client has not been an active participant in the Australian market since 2014.³ Nonetheless, it is cognisant of both international and domestic trends in the wind tower industry. In light of Win&P’s strong belief that the continuation of the measures does not appear to be warranted, and in the interests of full cooperation with this inquiry, it has provided the Commission with its Exporter

¹ See Investigation 221.

² The current anti-dumping measures imposed on Win&P are at the level of 17.2%.

³ Win&P’s last participation in the Australian market was the supply of wind towers to the 2014 Bald Hills wind farm project.

Questionnaire (“EQ”) response, and now takes this opportunity to offer its comments in the Commission’s present continuation inquiry.

A Introduction

The basis for this continuation inquiry is the application received from Keppel Prince Engineering Pty Ltd (“KPE”), supported by Ottaway Fabrications Pty Ltd and Haywards Pty Ltd.⁴ The application, following invitation by the Commission,⁵ applied for the continuation of measures as they relate to the goods exported from China and Korea.

As the application was not rejected, the Commission is now required to consider whether:

the expiration of the measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping or subsidisation and the material injury that the anti-dumping measure is intended to prevent⁶

Win&P has provided its Exporter Questionnaire response, and trust that the Commission will make its variable factors determination in due course. To assist the Commission in its consideration of material injury issues, Win&P comments as follows.

B Win&P chose not to be involved in the Australian market

The wind tower market has developed substantially since the imposition of measures in April 2014. The increased importance placed on renewable energy and renewable technology has resulted in an increase in the number of renewable energy projects globally. Win&P, along with other industry participants, has seen a growth in opportunity across these different markets. Although country markets fluctuate based on domestic conditions and policy determinations, there have been generally consistent upward trends in demand and supply across the developed world. And this, certainly, has been the case in Australia.⁷

Prior to the imposition of measures, Win&P had supplied wind towers for two wind power projects in Australia – Mt Mercer⁸ and Bald Hills.⁹ This has been the full extent of Win&P’s involvement in the Australian market.

Win&P has had the opportunity to export to Australia during the review period but, to be clear, it has *chosen* not to do so.

1 Australian request for tenders during the review period

During the review period, Win&P was approached by [CONFIDENTIAL TEXT DELETED – Australian customer/s identity], OEMs active in Australia and globally, with requests for tenders. These approaches related to:

- [CONFIDENTIAL TEXT DELETED – Australian projects].

⁴ See Doc 001 – Application.

⁵ See ADN 2018/65.

⁶ See Section 269ZHF(2) Customs Act 1901.

⁷ Noting that, in Win&P’s understanding, the increase in supply has been largely satisfied by overseas manufacturers, given that the Australian industry has enjoyed collaborative projects with those manufacturers and as a result has operated largely at full capacity levels.

⁸ This Servion project required Win&P supply 64 wind towers and 64 foundations in 2013.

⁹ This Servion project required Win&P supply 42 wind towers in 2014.

[CONFIDENTIAL TEXT DELETED – Australian project and Win&P’s commercial considerations for tender strategy].

[CONFIDENTIAL TEXT DELETED – Australian project and Win&P’s commercial considerations for tender strategy]. That tender bid was unsuccessful. Based on feedback from the customer, Win&P understands that it was unsuccessful because it was not price competitive with the other tender bids received. [CONFIDENTIAL TEXT DELETED – details of feedback regarding competitiveness of Win&P’s offer].

2 There is already strong competition in the Australian market

It is Win&P’s experience that there is strong price competition in the Australian market contributed by Chinese and Vietnamese exporters. From Win&P’s perspective, the prices of Chinese exporters are comparatively low, with the companies bidding at levels [CONFIDENTIAL TEXT DELETED – range] lower than the levels at which Win&P would consider bidding. Win&P understands that this competition is a consequence of the cost advantages that Chinese exporters enjoy, coupled with reduced demand in the Western regions of the Chinese market and from the US.

For the Commission’s understanding, this phenomenon is not exclusive to the Australian market - it can also be seen in other regions. From Win&P’s experience, this is also the case in Chile, for example. An exception is the United States, where Chinese exporters are currently subject to anti-dumping measures. We note that there are no anti-dumping measures imposed on exports by Win&P except for those imposed by the Australian investigating authorities.¹⁰

By choice, Win&P has not been willing to compete with these large Chinese exporters only based on price, and this would have been the case even without the anti-dumping measures in place. [CONFIDENTIAL TEXT DELETED – Win&P’s commercial considerations]. Win&P has made the conscious choice not to compromise its own price. It did not “follow down” the prices of in the Australian market during the review period, and it does not plan to “follow down” the prices in the future.

In the Korean domestic market, [CONFIDENTIAL TEXT DELETED – Win&P’s competitive edge in Korea domestic projects as compared to Chinese producers]. The Korean market dynamics, as explained, therefore allow Win&P to compete more successfully overall. Similarly, Win&P is very active in the growing US market, which is of restricted value to Chinese exporters due to the extreme level of anti-dumping measures imposed.¹¹

With alternate market opportunities available, and a strong demand for wind towers globally, Win&P has no need, or desire, to “follow down” the prices, particularly as this would be to the financial detriment of Win&P

C Win&P does not have the capacity to export to the Australian market

Win&P has been operating at high capacity over the review period. This is expected to increase to full capacity in the near future, and to continue until [CONFIDENTIAL TEXT DELETED – time period]. As explained further in sections D and E, changes in public policy have increased demand for renewable energy. This has resulted in high demand for Win&P’s products, and is expected to continue in the medium to long term. The ability to organise its production capacity and production schedule is a vital consideration in Win&P’s future business strategy.

¹⁰ We note that the dumping finding arrived at with respect to Win&P was strongly disputed by Win&P both during Investigation 221 and in Anti-Dumping Review Panel Review 15.

¹¹ The AD measures imposed vary from 45 to 70%, and CV measures imposed vary from 21 to 34%, please see https://www.usitc.gov/investigations/701731/2012/utility_scale_wind_towers_china_and_vietnam/final.htm

Win&P has received high demand from the Korean domestic market and from the US in particular.

D Korean Government policy will increase renewable energy projects

It is already the case that Win&P is supplying wind towers to domestic projects. Please see Attachment 1 for Win&P's current production load. **[CONFIDENTIAL ATTACHMENT]**

The South Korean Government has recently announced its policy to move the country away from nuclear power and to support an increase in renewable energy and liquefied gas, in an effort to boost clean and safe energy for the country.¹² This has resulted in an increase in the number of renewable energy projects, with Win&P well-placed to supply its wind towers to a number of large projects.

The biggest of these is the Seonam Sea, South West Offshore Project. This project is to be implemented over three stages.¹³ The first stage is already underway, with the second and third stages expected to be completed by 2030. In addition, there are a number of offshore projects that will be located near Jeju Island.

Based on the circumstances of the Korean market, these are often offshore projects. Offshore projects have different characteristics to those onshore, based on different environmental considerations. Typically, the scale of these projects, in terms of the number of towers deployed and the wind towers themselves, are much larger than onshore projects. The towers must be transported **[CONFIDENTIAL TEXT DELETED – market intelligence regarding special feature of the Korean offshore projects]**. This all requires considered planning, from a capacity and logistics perspective – more so than onshore towers. Furthermore, transportation and handling costs for these offshore towers will also be significantly higher, which provides natural advantages to domestic producers such as Win&P which is strategically located near to some of the offshore project sites.

At this stage, Win&P expects to be closely involved in a number of these projects, due to its experience in these types of projects, its previous relationships with the customers and its closer proximity to the locations of the projects. All of these things provide Win&P with a comparative advantage compared with its competitors.

Involvement in these projects is an important aspect and top commercial priority of Win&P's current and future strategy.

E US market presents substantial opportunity for Win&P

The United States market is comparatively similar to the Australian market, with OEMs such as **[CONFIDENTIAL TEXT DELETED – customer identities]** also active participants.

As explained, Win&P has seen a rise in demand in the US market. Currently, the US market has high demand for renewable energy projects. This is enhanced by federal incentives in the form of the wind "Production Tax Credit" ("PTC").¹⁴ The PTC provides a financial incentive for new renewable energy projects. The current PTC is due to expire by 2020, with construction on the eligible projects required to have commenced by 31 December 2019 to qualify.¹⁵

¹² See <https://www.reuters.com/article/us-southkorea-nuclear-president-idUSKBN19A04Q>.

¹³ See <http://www.kowp.co.kr/company/establish04.asp>.

¹⁴ See <https://www.energy.gov/savings/renewable-electricity-production-tax-credit-ptc>.

¹⁵ See [https://en.wikipedia.org/wiki/United_States_Wind_Energy_Policy#Wind_Production_Tax_Credit_\(PTC\)](https://en.wikipedia.org/wiki/United_States_Wind_Energy_Policy#Wind_Production_Tax_Credit_(PTC)).

Win&P has successfully won tender bids for a number of US projects, which includes the [CONFIDENTIAL TEXT DELETED – details of US project and Win&P’s capacity].

For the US market, Win&P is involved, or looking to be involved, in the following ongoing and upcoming projects:

Company	Project	Number of towers	Status
[CONFIDENTIAL TABLE DELETED]			

It is Win&P’s understanding that [CONFIDENTIAL TEXT DELETED – US projects details]. Please refer to Attachment 1 for Win&P’s US production load. [CONFIDENTIAL ATTACHMENT] [CONFIDENTIAL TEXT DELETED – comments regarding Win&P’s sales and production condition and strategy and the current and prospective demand].

F Win&P did not dump into the US market

During the review period, Win&P sold the subject goods to [CONFIDENTIAL TEXT DELETED – customer] for its [CONFIDENTIAL TEXT DELETED – name of US project]. It was successful in this tender against tower manufacturers from Korea, Vietnam and the United States itself (among others). Win&P understands that while its price was a consideration, it was also selected on the basis for being capable of meeting the other tender requirements – such as its previous experience with the [CONFIDENTIAL TEXT DELETED – customer], meeting the customer’s [CONFIDENTIAL TEXT DELETED – specific project requirements] request and its ability to supply that project with a short lead time.

In its EQ response Win&P has provided information on its third country export sales, analogous to the information required by an Australian sales spreadsheet.

We make the following observations based on the information provided:

- Win&P’s sales to the US were on average profitable.
- Win&P’s sales to [CONFIDENTIAL TEXT DELETED – customers] in the US market, both being active participants in the Australian market, show a no-dumping margin,¹⁶ based on constructed normal value methodology.¹⁷

With current and future capacity taken up by orders from the US at profitable levels, and Win&P’s competitive edge in the booming Korean domestic market, there is neither incentive nor capacity for Win&P to enter the Australian market, much less at a injurious “dumping” price level.

G Conclusion

Australia is the only country in which Win&P has anti-dumping measures imposed against its exports. The calculation and imposition of these measures were strongly disputed by Win&P during the original investigation and in the subsequent review by the Anti-Dumping Review Panel.

At present, Win&P expects to be running at [CONFIDENTIAL TEXT DELETED – utilisation level] capacity, based on existing orders, until at least [CONFIDENTIAL TEXT DELETED – period]. Considering the Korean domestic renewable energy policies, and those of the other major markets that Win&P presently supplies, Win&P expects high demand for renewable energy to continue in the

¹⁶ The dumping margin remains *de minimis* for Win&P’s overall US sales to all customers during the inquiry period.

¹⁷ [CONFIDENTIAL TEXT DELETED – information used for margin calculation purpose]

medium to long term. With this expectation, Win&P does not have the desire, nor the capacity, to enter the Australian market and "follow down" the prices of cheaper exporters. Given that the Korean, US and other markets are both familiar and available to Win&P, and given that it already has orders in place in those markets and can tender for future projects in those markets, it is not logical for Win&P to supply to the Australian market at injuriously dumped prices.

For these reasons we submit that there can be no grounds to continue the measures as they relate to Win&P.

Yours sincerely



Charles Zhan
Senior Associate



Macky Markar
Lawyer