



Australian Government
**Department of Industry,
Innovation and Science**

**Anti-Dumping
Commission**

Received

Anti-Dumping Commission Jan 14, 2022

中船澄西船舶修造有限公司
CHENGXI SHIPYARD CO.,LTD.

**Application for an accelerated review
of anti-dumping measures**

APPLICATION UNDER SECTION 269ZE OF THE *CUSTOMS ACT 1901*
FOR AN ACCELERATED REVIEW OF ANTI-DUMPING MEASURES

In accordance with section 269ZE of the *Customs Act 1901* (the Act), I request that the Commissioner of the Anti-Dumping Commission conduct an accelerated review of a dumping duty notice and/or countervailing duty notice (the notice(s)) insofar as it affects this exporter.¹

NB: Only a new exporter is eligible to apply for an accelerated review. A new exporter means that, in relation to goods the subject of an application for a dumping duty notice or countervailing duty notice or like goods, an exporter who did not export such goods to Australia at any time during the investigation period in relation to the application (ss 269ZE(1) and 269T(1) refers).

DECLARATION

I believe that the information contained in this application:

- provides reasonable grounds for an accelerated review of the dumping or countervailing duty notice(s) in so far as it relates to the applicant; and
- is complete and correct.

Signature:



Name:

Lu Ziyou

Position:

President, Company Legal Representative

Company:

Chengxi Shipyard Co., Ltd (“Chengxi”)

Date:

2022.1.14

¹ All legislative references are to the *Customs Act 1901*.

Signature requirements

Where the application is made:

By a company - the application must be signed by a director, servant or agent acting with the authority of the body corporate.

By a joint venture - a director, employee, agent of each joint venturer must sign the application. Where a joint venturer is not a company, the principal of that joint venturer must sign the application form.

On behalf of a trust - a trustee of the trust must sign the application.

By a sole trader - the sole trader must sign the application.

In any other case - contact the Anti-Dumping Commission's (Commission's) client support section for advice.

NB: Where an application is made by an agent acting with authority on behalf of a company, joint venture, trust or sole trader, an authority to act letter must be provided with this application.

Assistance with the application

The Commission's client support section can provide information about dumping and countervailing procedures and the information required by the application form. Contact the team on:

Phone: 13 28 46 or +61 2 6213 6000 (outside Australia)

Fax: (03) 8539 2499 or +61 3 8539 2499 (outside Australia)

Email: clientsupport@adcommission.gov.au

Other information is available from the Commission's website at www.adcommission.gov.au.

Required information

1. Provide details of the current anti-dumping measure(s) the subject of this review application, including:

- identify the notice(s) imposing measures that the applicant seeks an accelerated review of; and

This application concerns measures originally imposed on certain wind towers exported from China and Korea by way of Anti-Dumping Notice No. 2014/33 under Part XVB of the *Customs Act 1901* ("the Act") dated 10 December 2014, following an investigation by the Anti-Dumping Commission in Investigation 221. Please refer to *Attachment 1 - ADN 2014/33*.

The original notice was continued in relation to the goods exported from China by way of the public notice under subsection 269ZH(1) of the Act, following Continuation Inquiry 487. The continuation notice specified different variable factors in relation to the goods

exported from China. Please refer to *Attachment 2 – ADN 2019/33*.

The measure was then revoked by way of public notice under 269ZZM(4) of the Act on 9 July 2020, in so far as it relates to Shanghai Taisheng Wind Power Equipment Co., Ltd (“TSP”), following a review by the Anti-Dumping Review Panel (“the ADRP”). Please refer to *Attachment 3 - 269ZZM(4) notice for ADRP 2019/100*. The measure as set out in ADN2019/33 remains unchanged in relation to goods exported by other exporters from China, including with respect to Chengxi.

- a description of the goods to which the notice(s) relates.

A full description of the goods to which the notices relate is 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 scope are nacelles and rotor blades, regardless of whether they are attached to the wind tower. Also excluded are any internal or external components which are not attached to the wind towers or sections thereof.

2. Provide details of the name, street and postal address, of the applicant seeking the accelerated review;

Details of the applicant seeking the accelerated review is as follows:

Name	Chengxi Shipyard Co., Ltd.
Address	1 Hengshan Road Jiangyin City Jiangsu 214433 China

3. Provide details of the name of a contact person, including their position, telephone number and facsimile number, and e-mail address;

Chengxi has appointed the Moulis Legal to represent it and its related companies in this matter. Please refer to Attachment 4 – Chengxi ltr re ML representation. The details of the contact person at Moulis Legal is as follows:

Name	Charles Zhan
Position	Partner, Moulis Legal
Telephone Number	+61 2 6163 1000
Facsimile number -	+61 2 6162 0606
Email address	charles.zhan@moulislegal.com

4. Describe the applicant’s role in the exportation of the goods (e.g. producer or manufacturer, distributor or trader of the goods);

Chengxi is a manufacturer of the goods.

5. Confirm that the applicant is a ‘new exporter’, meaning, in relation to goods the subject of an application for a dumping duty notice or countervailing duty notice or like goods, an exporter who did not export such goods to Australia at any time during the investigation period in relation to the application (ss 269ZE(1) and 269T(1) refers).

Chengxi confirms that it is a “new exporter” within the meaning of the legislation. That is, Chengxi did not export the goods to Australia during 1 January 2012 to 30 June 2013, being the investigation period of Investigation 221.

6. Confirm whether the applicant has previously applied for an accelerated review in relation to the notices the subject of this application.

The applicant has not previously applied for an accelerated review in relation to the relevant notices.

7. Confirm whether the applicant is related to an exporter whose exports were examined in relation to the application for publication of the notice(s), and the nature of the relationship (s 269ZE(2)(b) refers).

In determining whether the applicant is an associate of an exporter whose exports were examined in relation to the application for publication of the notices(s), answer the following (s 269TAA(4) refers):

- (a) Are both natural persons?

If yes:

- (i) Are they members of the same family? Or;
- (ii) Is one of them an officer or director of a body corporate controlled, directly or indirectly, by the other?

- (b) Are both body corporates?

If yes:

- (i) Are both of them controlled by a third person (whether or not a body corporate)? Or;
- (ii) Do both of them together control, directly or indirectly, a third body corporate? Or;
- (iii) Is the same person (whether or not a body corporate) in a position to cast, or control the casting of, 5% or more of the maximum number of votes that might be cast at a general meeting of each of them?

- (c) Is one of them, being a body corporate, directly or indirectly, controlled by the other (whether or not a body corporate)?

- (d) Is one of them, being a natural person, an employee, officer or director of the other (whether or not a body corporate)?

- (e) Are they members of the same partnership?

NB: Please include appropriate evidence in support of your view that the applicant is or is not related to another company whose exports were examined in relation to the application for publication of the notice(s) (i.e. during the original investigation). This should include an overview of your

corporate structure, including entities that the applicant has an interest in and entities that have an interest in the applicant, list of directors and annual report(s) where applicable.

Chengxi confirms that it is not related to any exporter whose exports were examined in Investigation 221. Further, Chengxi confirms that neither itself nor any of its related companies exported the goods during the investigation period of Investigation 221.

As noted in the Commission’s final report for Investigation 221, the sole exporter of the goods from China was TSP.² The applicant is not related to TSP. This can also be supported by the verified information pertaining TSP in that investigation.³

As a further support of the applicant’s view, please see *Attachment 5 – Chengxi group chart and board of directors* [CONFIDENTIAL ATTACHMENT].

8. Provide a statement setting out the basis on which you consider the particular dumping or countervailing duty notice is inappropriate, so far as the applicant is concerned.

Chengxi considers that the current dumping duty notice is inappropriate so far as Chengxi is concerned, in several aspects.

Firstly, the current measure was originally imposed following Investigation 221. The sole exporters of the goods during the investigation period were TSP from China and Win&P from Korea. Following the Continuation Inquiry 487 and the subsequent ADRP review, both TSP and Win&P are exempt from the measure. The applicant did not export the goods to Australia at dumped prices that were considered to have caused material injury to the Australian industry during the investigation period. As such, the current measure is inappropriate so far as the applicant concerned.

Further, as mentioned above, dumping duty was continued and revised following Continuation Inquiry 487 for “all other exporters” from China at a duty rate of 10.9%. This decision was based on the Commission’s assessment of the information associated with the goods exported TSP during the inquiry period of 1 January 2017 to 30 June 2018:⁴

The Commission established an export price for uncooperative and all other exporters under subsection

² ADC Report 221, at page 9.

³ EPR221-009, at page 10.

⁴ ADC Report 487 at page 39.

269TAB(3), based on verified information from TSP Shanghai. The Commission established a normal value under subsection 269TAC(6), having regard to information verified with TSP Shanghai, but exclusive of any favourable adjustments...

The Commission has established a dumping margin of 10.9 per cent for uncooperative and all other exporters from China.

In comparison, the dumping margin determined in relation to the goods exported by TSP was 6.4%.

The normal value established for TSP was subsequent reviewed by the ADRP in ADRP Review 2019/100. In that review, the ADRP considered that “*the ascertainment of the normal value of TSP’s export for the original continuation inquiry... was not in accordance with the Act*”,⁵ and requested a recalculation of the normal value. The recalculated normal value resulted in “*significant negative dumping margin*”.⁶ This led to the ADRP’s recommendation to the Minister that the normal value calculation to be revised and for the Minister to not secure continuation of the dumping duty with respect to goods exported from China by TSP. The Minister accepted the recommendations in her section 269ZZM(4) notice published on 9 July 2020.

The ADRP and the Minister’s decision in relation to the dumping margin determination for TSP in Continuation Inquiry 487 is of direct relevance to the appropriateness of the dumping duty rate applicable for “all other exporters” from China, including the applicant. This is because, the latter is effectively based on the same information and methodology as applied for TSP in Report 487, that was then found to be erroneous by the ADRP and ultimately the Minister. As noted, the correction of the normal value calculation for TSP resulted in a significant reduction of the dumping margin, from 6.4% to a “*significant negative dumping margin*”. This indicates that, if the same correction was made with respect to the dumping margin calculation for “all other exporters” it would have also resulted in significant reduction of the 10.9% dumping margin. Chengxi respectfully submits that this also support its view that the current duty rate is inappropriate so far as Chengxi is concerned.

Impact of an all exporter review of measures

Where a review of measures applies to all exporters of the goods generally (that is, not a single exporter), the changes to the notice(s) that result from the review may apply to all relevant exporters of the goods, including past applicants for an accelerated review. This means that changes to a notice as an outcome of an all exporter review of measures may replace an earlier published outcome of an

⁵ ADRP Report 2019-100, para 112.

⁶ Ibid, para 114.

accelerated review.

**Lodgement
of the
application**

This application, together with the supporting evidence, must be lodged in the manner approved by the Commissioner under subsection 269SMS(2) of the Act. The Commissioner has approved lodgement of this application by either:

- preferably, email, using the email address clientsupport@adcommission.gov.au, or
- pre-paid post to:

The Commissioner of the Anti-Dumping Commission

GPO Box 2013

Canberra ACT 2601, or
- facsimile, using the number (03) 8539 2499 or +61 3 8539 2499 **(outside Australia)**

**Public
Record**

There is no legislative requirement to maintain a public record for accelerated reviews. However, in the interests of transparency, a public record for an accelerated review will be opened and accessible on the Commission's website at www.adcommission.gov.au. The public record will contain, among other things, a copy of the application, all submissions from interested parties and Commission reports.

At the time of making the application, the Commission requests both a confidential version (for official use only) and non-confidential version (public record) of the application be submitted. Please ensure each page of the application is clearly marked "FOR OFFICIAL USE ONLY" or "PUBLIC RECORD". The non-confidential application should enable a reasonable understanding of the substance of the information submitted in confidence, clearly showing the reasons for seeking the accelerated review, or, if those reasons cannot be summarised, a statement of reasons why summarisation is not possible. If you cannot provide a non-confidential version, contact the Commission's client support section for advice.