



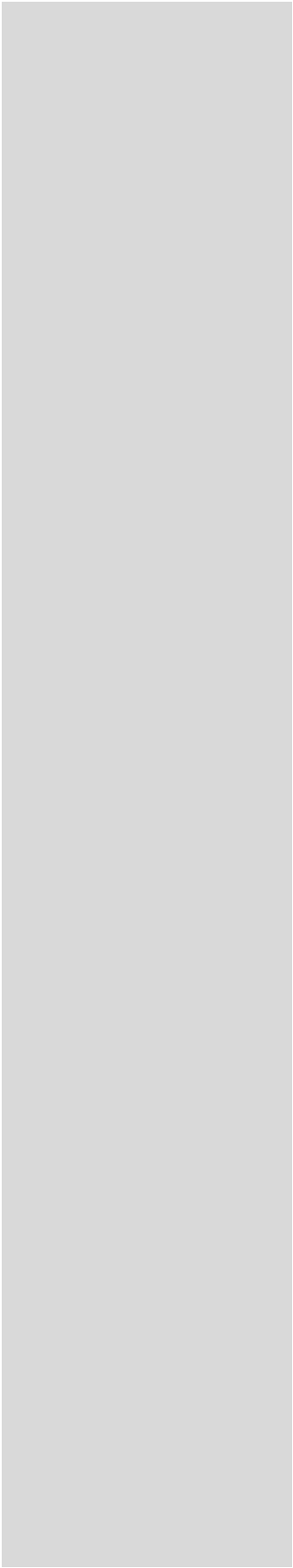
Australian Government
**Department of Industry,
Innovation and Science**

**Anti-Dumping
Commission**

Received

Anti-Dumping Commission 11/03/2022

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:

 : Peter Li
: 2022.03.08
14:17:05 +08'00'

Name:

Position:

General Manager - Overseas Marketing

Company:

Penglai Dajin Offshore Heavy Industry Co., Ltd

Date:

8 March 2022

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

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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
 - a description of the goods to which the notice(s) relates.
2. Provide details of the name, street and postal address, of the applicant seeking the accelerated review;
3. Provide details of the name of a contact person, including their position, telephone number and facsimile number, and e-mail address;
4. Describe the applicant's role in the exportation of the goods (e.g. producer or manufacturer, distributor or trader 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).
6. Confirm whether the applicant has previously applied for an accelerated review in relation to the notices the subject of this application.
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).

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In determining whether the applicant is an associate of an exporter whose exports were examined in relation to the application for publication of the notice(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.

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.

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 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

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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.

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APPLICATION FOR ACCELERATED REVIEW

PENGLAI DAJIN OFFSHORE HEAVY INDUSTRY CO., LTD.

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

The current measures were imposed pursuant to Anti-Dumping Notice No. 2014/3. The goods subject to these duty notices 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.

The following descriptions are excluded from measures:

- 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.

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

Company Name: Penglai Dajin Offshore Heavy Industry Co., Ltd. "Penglai Dajin"

Address: No. 81, Zhenxing Road, Penglai Economic Development Zone, Yantai City, Shandong Province, China.

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

Exporter contact

Name: [REDACTED]

Position: [REDACTED]

Phone: [REDACTED]

Email: [REDACTED]

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Consultant contact

Name: Mr John Bracic

Company: J.Bracic & Associates Pty Ltd

Phone: +61 (0)499 056 729

Email: john@jbracic.com.au

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

Penglai Dajin is a manufacturer and exporter of the goods subject to review.

- 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).**

Penglai Dajin confirms that it has not exported the subject goods to Australia during the original investigation period, and as such, was not investigated or provided opportunity to participate in the original investigation.

This is supported by the fact that Penglai Dajin was not nominated as a potential exporter in the original application for the imposition of dumping duties. Further, the Commission's Final Report 241 confirms that it only identified one exporter from China, being Shanghai Taisheng Wind Power Equipment Co., Ltd. ("TSP Shanghai").

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

Penglai Dajin has not previously applied for an accelerated review.

- 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).**

Penglai Dajin confirms that it is not related to any exporter whose exports were examined during the original investigation period. As noted above, the Commission identified TSP Shanghai as the only exporter of the subject goods during the original investigation period.

Penglai Dajin's parent company, [REDACTED] [name of company and shareholding], and confirms that there is no ownership or related party association with TSP Shanghai. Penglai Dajin provides an affiliate structure as attached at **Annex 1** as a supporting document, and also provides its parent company's official website [<http://www.dajininvest.cn/>] to verify the accuracy of the above information.

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? NO**

If yes:

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- 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? YES
- If yes:
- i. Are both of them controlled by a third person (whether or not a body corporate)? Or; NO
 - ii. Do both of them together control, directly or indirectly, a third body corporate? Or; NO
 - 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)? NO
- (d) Is one of them, being a natural person, an employee, officer or director of the other (whether or not a body corporate)? NO
- (e) Are they members of the same partnership? NO

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.

Penglai Dajin seeks an accelerated review of the notice as it is currently subject to the country-wide combined dumping duty rate of 10.9%. This dumping duty rate reflects the dumping margin determined for non-cooperating exporters following the expiry review completed in 2019 (Review 487), and which was based on the following:

- ascertained export price was based on *'verified information from TSP Shanghai'*; and
- ascertained normal value was based on *'information verified with TSP Shanghai, but exclusive of any favourable adjustments. In addition, uplift to plate steel has been based on all plate steel purchased from Chinese suppliers by TSP Shanghai for both domestic and exported wind towers during the inquiry period'*.

Given the methods used to determine the ascertained variable factors for non-cooperating exporters, the interim dumping duty of 10.9% imposed on all non-cooperating exporters (including new exporters such as Penglai Dajin which were not subject to investigation) is clearly inappropriate, overstated and hindering Penglai Dajin's ability to export the subject goods at fair and accurate export prices.

Therefore, Penglai Dajin requests an accelerated review so that the Commission can determine ascertained variable factors based on its own domestic sales, costs and other relevant financial information.

Benchmark steel costs

To demonstrate a change in variable factors relevant to Penglai Dajin's exports, the chart below is presented to show the relative movement in quarterly steel plate prices covering Review 487 and the likely review period for Penglai Dajin's accelerated review. The chart shows that steel plate prices have increased sharply since mid-2020, reaching highs in September quarter 2021.

[Chart redacted]

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The movement in the price of steel plate reflects a 46% increase between the average price during the review period for Review 487, and the proposed contemporary review period (1 July 2020-31 December 2021). Penglai Dajin considers that this further supports its view that the ascertained variable factors determined in Report 487 are outdated.

In addition to the above, Penglai Dajin would like to provide the following factual information and observations on the Australian domestic tower industry and market:

1. Subcategorizations of towers

Towers can be further divided into two kinds: onshore wind towers and offshore wind towers. Since the original investigation and the expiry review, [REDACTED]

[REDACTED] [Details of export and domestic sales]

Onshore towers and offshore towers are two entirely different products. Accordingly, Penglai Dajin considers that offshore wind towers may not fall with the parameters of the goods subject to measures, and at the very least, are not “like goods” to the subject exported goods.

These views are based on the following highlighted differences between onshore wind towers and offshore wind towers:

- 1) The application differs. Onshore wind towers are located on land only, while offshore wind towers are located at sea. Please see the below screenshots from [REDACTED] for an illustrative purpose.

[Images redacted]

- 2) Onshore and offshore towers are deemed as different products from both the customers’ and producers’ views: The customers have an expectation of how the wind tower will be used. When placing orders, customers will express their preferences and opinions, which would be clearly specified either in the communications or in the technical specifications, and will provide different instructions accordingly. So, from customers’ (such as [REDACTED]) and producers’ perspective, onshore/offshore wind towers are completely different. Please see below a screenshot of email exchanges sent from a customer to Penglai Dajin, where it explicitly states that they would like to order offshore towers.

[Email correspondence redacted]

- 3) The certification of offshore tower is an independent certification process from the onshore one.
- 4) Manufacturing facilities and production processes also differ between onshore and offshore towers. By way of example, anti-corrosion treatment differs, since offshore tower is placed at sea and requires a stricter requirement for corrosion resistance. Also, offshore towers tend to have larger diameter, so the facilities and manufacturing equipment being used in production would also differ from those used in onshore tower production.

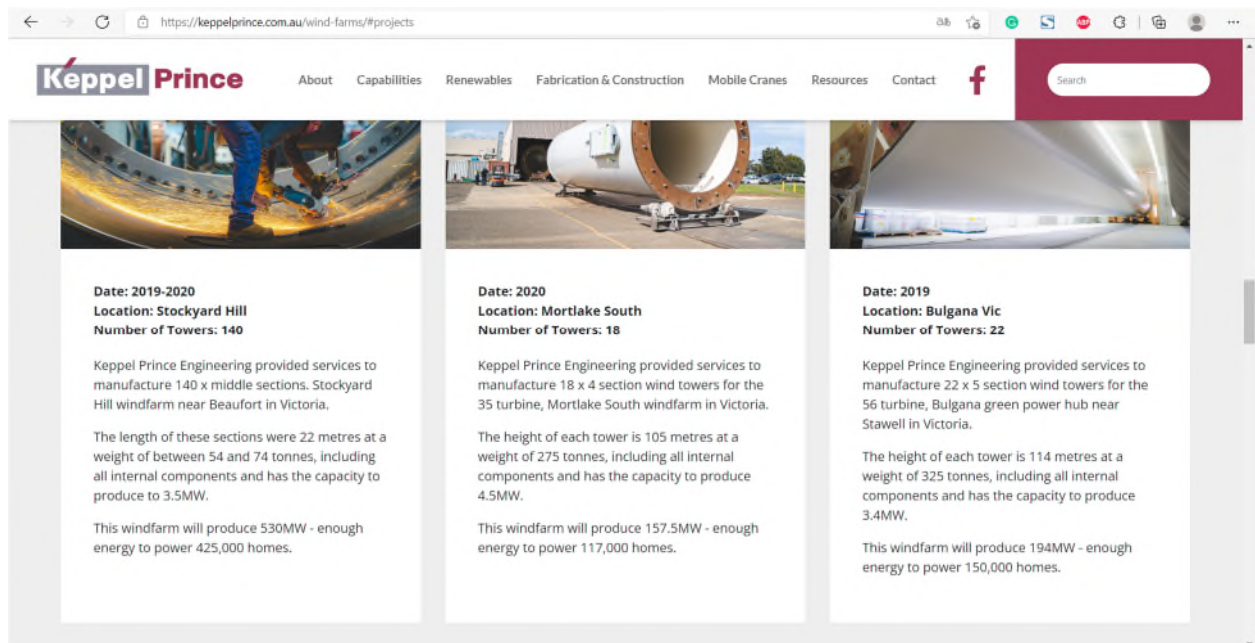


Some photos for offshore towers-bottom sections

- 5) Selling price and cost are also different.
- 6) Interchangeability: The two types of wind towers are not interchangeable. For example, the electrical systems incorporated into the turbines and surroundings are different for onshore and offshore towers, in order to better fit the surrounding environment.

2. Production capacity of the Australian producers

In addition, the petitioner has limited production capacity, and cannot produce the offshore wind tower and any large-diameter/heavy towers. Penglai Dajin believes that their capacity can hardly satisfy the market demand.



Therefore, Penglai Dajin requests that the Commission in the first instance, consider and confirm whether offshore wind towers fall within the goods definition of the dumping duty notice. Given the truncated timeframe of the accelerated review, Penglai Dajin will in any case provide requested information covering both onshore and offshore wind towers. In the event

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that the Commission considers offshore wind towers to form part of the goods description, Penglai Dajin requests the Commission to have regard to their clear physical, production and commercial differences in determining that the offshore wind towers are not like goods for the purposes for the establishing normal values pursuant to subsection 269TAC(1) of the *Customs Act 1901*.