



ANTI-DUMPING NOTICE NO 2022/035

Application for an Accelerated Review no 602 of a dumping duty notice applying to certain wind towers exported to Australia from the People's Republic of China by Penglai Dajin Offshore Heavy Industry Co., Ltd.

Customs Act 1901 (Cth) – Part XVB

Introduction

I, Dr Bradley Armstrong PSM, the Commissioner of the Anti-Dumping Commission (the Commissioner), have commenced an accelerated review of the anti-dumping measures applying to certain wind towers exported to Australia from the People's Republic of China (China), in so far as they relate to new exporter Penglai Dajin Offshore Heavy Industry Co., Ltd (the applicant).

The lodgement date of **11 March 2022** is the commencement date of the accelerated review.¹

The goods

The goods subject to anti-dumping measures (the goods), in the form of a dumping duty notice (the notice), are outlined in the table below:

Full description of the goods the subject of the application²

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.
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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.
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¹ Section 269ZF(2) of the *Customs Act 1901* (Cth) states that an application for accelerated review is taken to have been lodged when the application is first received by a commission staff member doing duty in relation to applications for accelerated reviews. Section 269ZF(3) states that the day on which an application is taken to be lodged must be recorded on the application. Unless stated otherwise, all legislative references in this notice are to the *Customs Act 1901* (Cth).

² See Anti-Dumping Notice (ADN) nos 2013/68 & 2018/115.

Further information

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.

Further details on the goods and existing measures are available on the Dumping Commodity Register on the commission's website at www.adcommission.gov.au

Accelerated reviews

The legislative framework that underpins the making of, and my consideration of, an application for accelerated review of dumping duty and countervailing duty notices is contained in Divisions 1 and 6 of Part XVB.

If I do not reject an application or terminate an accelerated review, pursuant to sections 269ZG(1) and (2) I must, no later than 100 days after the application is lodged, provide the Minister for Industry, Energy and Emissions Reduction a report recommending:

- (a) that the dumping duty notice and countervailing duty notice the subject of the application remain unaltered; or
- (b) that the dumping duty notice and countervailing duty notice the subject of the application be altered so as to apply to the applicant as if different variable factors had been fixed;

and set out my reasons for so recommending.

In relation to this application, this recommendation must be made no later than **19 June 2022**.³

There is no legislative requirement to maintain a public file for accelerated reviews. However, in the interests of transparency, a public record will be maintained. This notice, along with a non-confidential version of the application, response to the exporter questionnaire and any non-confidential submissions that are received, will be published on the public record, available at www.adcommission.gov.au

Submissions

Written submissions concerning this accelerated review must be lodged by **27 May 2022** via email to investigations3@adcommission.gov.au

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:

³ As this date falls on a Sunday, the recommendation is due on Monday 20 June 2022.

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- (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 "**OFFICIAL: Sensitive**" on each page. A non-confidential version, or a summary, of the submission must also be lodged, clearly marked "**PUBLIC RECORD**" on each page.

Circumstances in which an accelerated review may be sought

Section 269ZE sets out the circumstances in which an accelerated review may be sought. If the circumstances of section 269ZE(2) are met, I may reject the application.

Requirement	Finding
Applicant meets the definition of new exporter (section 269ZE(1)). ⁴ To fall within the definition of a new exporter, the period within which the applicant must not have exported the goods to Australia is 1 January 2012 to 30 June 2013 (the investigation period for the original investigation).	There is no evidence of exports by the applicant during the investigation period for the original investigation. The commission's search of the Australian Border Force's import database did not identify the applicant as a supplier of the goods during this period. Accordingly, I consider that the applicant is a new exporter for the purposes of the accelerated review.
Declaration has not already been made in respect of the applicant under section 269ZG(3)(b) (section 269ZE(1)).	No such declaration has been made.
The applicant did not refuse to cooperate in relation to the application for publication of the notices (section 269ZE(2)(a)).	There is no evidence of exports by the applicant during the investigation period for the original investigation and, therefore, the commission did not seek cooperation from the applicant during the original investigation as the applicant would not have been identified as an exporter. Accordingly, the applicant did not refuse to cooperate with the original investigation.

⁴ A new exporter is defined in section 269T(1) as, in relation to the goods the subject of the application for a dumping 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. Section 269T(1) also defines 'application' in relation to a dumping duty notice or a countervailing duty notice as meaning an application for the publication of such a notice.

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Requirement	Finding
<p>The applicant is not related to an exporter whose exports were examined in relation to the application for publication of the notices (section 269ZE(2)(b)).</p> <p>Section 269ZE(4) provides that, for the purposes of section 269ZE, an exporter is taken to be related to another exporter if the two exporters are associates of one another under section 269TAA(4).</p>	<p>The applicant provided an affiliate structure for its parent company and submits that there is no ownership or related party association with any exporters from the original investigation.</p> <p>The commission examined publicly available information and reviewed data from the original investigation to ascertain the existence of any relationship or connection between the applicant and an exporter whose exports were examined during the original investigation. The commission also examined the applicant's related entities against the ABF import database. This analysis is outlined in Confidential Attachment 1.</p> <p>The commission found no evidence to suggest that the applicant is related to an exporter whose exports were examined during the original investigation.</p>

For the reasons set out above, I consider that the application complies with section 269ZE(1). As there are presently no grounds to reject the application under section 269ZE(2), I have not rejected it.

Application for accelerated review – compliance with section 269ZF

Section 269ZF(1) requires that an application for accelerated review must:

- be in writing and be lodged in a manner approved under section 269SMS (section 269ZF(1));
- contain a description of the goods to which the dumping duty notice and the countervailing duty notice relates (section 269ZF(1)(a)); and
- contain a statement of the basis on which the exporter considers that the particular notice is inappropriate so far as the exporter is concerned (section 269ZF(1)(b)).

Requirement	Finding
Lodged with the Commissioner in writing and in a manner approved under section 269SMS	The application was in writing and lodged in a manner approved in an instrument made under section 269SMS, being by email to the commission's nominated email address.
Contains a description of the goods to which the dumping duty	The application contained a description of the goods to which the dumping duty notice relates.

notice and countervailing duty notice relates	
Contains a statement of the basis on which the applicant considers that the particular notice is inappropriate in so far as the exporter is concerned	<p>The applicant has stated that it considers the notices inappropriate on the basis that it is currently subject to the 'all other exporters' rate of dumping and countervailing duty.</p> <p>The applicant did not export the goods during the original investigation period and as such it did not participate. The applicant therefore seeks an individual determination of its ascertained variable factors based on its own domestic sales, costs, and other relevant information.</p>

Based on the information submitted by the applicant, I consider that the application complies with section 269ZF(1).

Conclusion

I am satisfied, on the basis of currently available information in the application, that:

- the circumstances in which an accelerated review can be sought under section 269ZE(1) have been satisfied;
- the conditions for rejection under section 269ZE(2) are not satisfied; and
- the application satisfies the requirements of section 269ZF.

In view of the above, I have decided not to reject the application. I have made my decision based on all currently available information. If, during the accelerated review, evidence becomes available that satisfies me that the requirements of either section 269ZE(2) or section 269ZE(3) are met, I may reject the application or terminate the accelerated review.

The review period for the accelerated review is set as 1 January 2021 to 31 December 2021.

Securities

When an application for an accelerated review of a dumping duty notice or countervailing duty notice is lodged, section 269ZH(a) provides that no interim duty can be collected from the applicant in respect of consignments of goods, to which the application relates, entered for home consumption after the application is lodged and until the completion of the review.

However, pursuant to section 269ZH(b), the Commonwealth may require and take securities under section 42 in respect of interim dumping duty and interim countervailing duty that may be payable on importation of the goods to which the application relates.

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I declare that the Commonwealth will require and take securities, as shown in **Confidential Table 1**, under section 42 in respect of interim dumping duty that may be payable on the importation of the goods to which the application under section 269ZE(1) relates.

The interim dumping duty that has been determined is an amount worked out in accordance with the ad valorem method pursuant to section 5(2) of the *Customs Tariff (Anti-Dumping) Regulation 2013*.

Contact

Enquiries about this notice may be directed to the Case Manager by email to investigations3@adcommission.gov.au

Dr Bradley Armstrong PSM

Commissioner of the Anti-Dumping Commission

2 May 2022

Appendices and attachments

Confidential Table 1	Ascertained variable factors and rates of duty for the collection of securities
Confidential Attachment 1	Commission analysis of data from the ABF import database