



Australian Government
Anti-Dumping Review Panel

Customs Act 1901
Notice under section 269ZZI

Wind Towers exported from the People's Republic of China and the Republic of Korea

The Anti-Dumping Review Panel received applications from Win&P., and both Senvion Australia Pty Ltd and Senvion Systems SE (collectively Senvion) for review of a decision by the Parliamentary Secretary to publish a dumping duty notice in respect of Wind Towers exported from the People's Republic of China and the Republic of Korea

The grounds raised by these applications for the decision under review not being the correct or preferable decision include but are not limited to:

- The Anti-Dumping Commission (ADC) erred in failing to carry out a currency conversion of the export price on the date of sale instead of performing the currency conversion when the goods were exported from Korea;
- The ADC erroneously included embedment in its dumping investigation, which is not covered by the description of the Goods Under Consideration;
- The ADC failed to adequately take into consideration factors other than price, which if considered, would conclude that dumping in respect of exports from Korea would not be found to have caused material injury to the Australian industry;
- The ADC failed to take into consideration the workings of the tendering process for selecting wind tower suppliers, in that there was inadequate consideration of whether the Australian industry would have been awarded the tender to supply wind towers in the absence of dumping;
- The ADC erred in the finding that the amounts of the administrative, general and selling ("SG&A") costs should be those amounts based on the export of the goods under consideration, instead of being those based on the assumption that the goods, instead of being exported, had been sold for home consumption in the ordinary course of trade in the country of export;
- The ADC erred with respect to the SG&A calculation that it be based on a revenue allocation method, regardless of whether such costs were associated with the sale of the goods under consideration;
- The ADC erred in the finding that certain research and development (R&D) expenses should be allocated to and included in the SG&A of the goods under consideration, where they were not associated with the sale of goods under consideration;
- The ADC erred in the finding that certain foreign exchange gains and losses should be allocated to and included in the SG&A of the goods under consideration, or should not be adjusted out of the normal value determined under Section 269TAC(2)(c) of the goods, where they were not associated with the export sale of the goods under consideration; and
- The ADC erred in the finding that the amount of profit for the purpose of determining the normal value of the goods under consideration was to be determined using the profit rate of the "Fabricated and Processed Metal Products (excludes machinery and furniture)", as published by the Korean Statistical Information Service in 2010.

The Parliamentary Secretary's decision was published in the Australian newspaper on 16th April 2014.

The goods to which these applications relate are classified to tariff subheadings 7308.20.00 (statistical code 02) and 7308.90.00 (statistical code 49) in Schedule 3 of the *Customs Tariff Act 1995*.

The Anti-Dumping Review Panel proposes to conduct a review of these decisions. Interested parties may make submissions to the Panel within **30 days** after the date of publication of this notice.

Submissions may be emailed to ADRP_support@customs.gov.au, or sent by facsimile to (02) 6275 6784. Submissions may also be posted to the Anti-Dumping Review Panel, c/o Legal Services Branch, Australian Customs and Border Protection Service, 5 Constitution Avenue Canberra City ACT 2601. Persons wishing to make further inquiries about this review should telephone (02) 6275 5868. Copies of the applications for review which set out the full grounds for seeking review, and other documents on the public file of the review are available from www.adreviewpanel.gov.au.

The reports of the original investigation are available on the Anti-Dumping Commission website at www.adcommission.gov.au

Michael Moore
Anti-Dumping Review Panel