



Anti-Dumping Notice No. 2017/78

Public notice under subsection 269TC(4) of the *Customs Act 1901*

Certain Wind Towers

Exported from the Socialist Republic of Vietnam

Initiation of an Investigation into Alleged Dumping

Customs Act 1901 – Part XVB

I, Dale Seymour, the Commissioner of the Anti-Dumping Commission, have initiated an investigation following an application lodged by Keppel Prince Engineering Pty Ltd and Ottoway Fabrication Pty Ltd, manufacturers of certain wind towers ('wind towers or sections thereof' or 'the goods') in Australia. The application seeks the publication of a dumping duty notice in respect of the goods exported to Australia from the Socialist Republic of Vietnam (Vietnam).

The application alleges that the goods have been exported to Australia from Vietnam at prices less than their normal value and that the dumping has caused material injury to the Australian industry through:

- loss of sales volume;
- loss of market share;
- loss of sales revenue;
- price depression;
- price suppression;
- reduced profit;
- reduced profitability;
- reduced capacity utilisation;
- constrained capital investment; and
- reduced return on investment.

The non-confidential version of the application, which contains the basis of the alleged dumping and injury, is available on the public record.

Particulars of the reasons for the decision to initiate this investigation are in *Anti-Dumping Commission Consideration Report No. 405 (CON 405)*, which is available on the public record.

The date of initiation of this investigation is the date of publication of this notice, which is 8 June 2017.

The goods

The goods the subject of this application 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.”

Further information regarding the goods is outlined below:

“Wind Towers are designed to support the nacelle (an enclosure for an engine) and rotor blades for use in 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. whether 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. Several wind tower sections are normally required to form a completed wind tower.

An “embed”, or TBR (tower base ring), is the term used to describe the foundation section of the wind tower. This section is manufactured the same as a tower section only it is a lot shorter in height, usually comprising one or two steel plates rolled into barrels and joined with flanges attached. This section is usually cast into the ground a part of the towers foundation structure.

Wind towers and sections thereof (whether exported assembled or unassembled) are included within the scope of the goods the subject of this application whether or not they are joined with non-subject merchandise, such as nacelles or rotor blades, and whether or not they have internal or external components attached to the subject goods, or include an embed, being a tower foundation section.

Wind towers for different wind farm projects may or may not require a foundation section (embed) depending on the tower specifications.”

Goods excluded from this application are:

- nacelles and rotor blades, regardless of whether they are attached to the wind tower; and
- any internal or external components which are not attached to the wind towers or sections thereof.

Tariff classification

The goods are generally, but not exclusively, classified to the following tariff classifications in Schedule 3 to the *Customs Tariff Act 1995*:

Tariff classification (Schedule 3 of the Customs Tariff Act 1995)				
Tariff code	Stat Code	Unit	Description	Duty rate
7308			<i>Structures (Excluding prefabricated buildings of 9406 and parts of structures (for example, bridges and bridge-sections, lock-gates, towers, lattice masts, roofs, roofing frameworks, doors and windows and their frames and thresholds for doors, shutters, balustrades, pillars and columns), or iron or steel; plates, rods, angles shapes, sections, tubes and the like, prepared for use in structures, or iron or steel:</i>	
7308.20.00			- <i>Towers and lattice masts</i>	5% DCS: 4% DCT: 5%
	03	T	<i>Tubular, whether or not tapered</i>	
	04	T	<i>Other</i>	
7308.90.00			- <i>Other</i>	5% DCS: 4% DCT: 5%
			<i>Columns, pillars, posts and beams, girders, bracing gantries, brackets, struts, ties and similar structural units:</i>	
			<i>.Rolled formed structures:</i>	
	52		<i>...Hot rolled</i>	
	53		<i>..Plated or coated with zinc or aluminium-zinc alloys, of a thickness less than 1.2 mm</i>	
	54		<i>..Plated or coated with zinc or with aluminium-zinc alloys, of a thickness of 1.2 mm or more</i>	
	55		<i>..Other</i>	
	56		<i>.Other</i>	
	63		<i>Sectional components, prepared for use in towers and lattice mats</i>	
	65		<i>Other</i>	

8502			<i>Electric Generating Sets and Rotary Converters:</i>	
8502.31			--Wind-powered:	5% DCS: 4% DCT: 5%
8502.31.10	31	No	--AC generating sets of an output exceeding 500kVA	

These tariff classifications and statistical codes may include goods that are both subject and not subject to this investigation. The listing of these tariff classifications and statistical codes are for convenience or reference only and do not form part of the goods description. Please refer to the goods description for authoritative detail regarding goods the subject of this investigation.

Investigation process

The investigation period is 1 January 2015 to 31 December 2016. I will examine exports to Australia of the goods during this period to determine whether dumping has occurred. I will examine details of the Australian market from 1 January 2013 for injury analysis purposes.

Where the Assistant Minister for Industry, Innovation and Science and the Parliamentary Secretary to the Minister for Industry, Innovation and Science (the Parliamentary Secretary)¹ is satisfied, as to goods of any kind, that:

- (a) the amount of the export price of the goods that have already been exported to Australia is less than the normal value of those goods, and the amount of the export price of like goods that may be exported to Australia in the future may be less than the normal value of the goods; and
- (b) because of that, material injury to an Australian industry producing like goods has been or is being caused or is threatened, or the establishment of an Australian industry producing like goods has been or may be materially hindered;

the Parliamentary Secretary may, by public notice, impose interim dumping duties.²

Where there are grounds for the Parliamentary Secretary to publish a dumping duty notice in respect of the goods, I will examine whether the trade in the dumped goods may give rise to retrospective notices being published pursuant to section 269TN of the *Customs Act 1901* (the Act), and make recommendations to the Parliamentary Secretary accordingly.

¹ On 19 July 2016, the Prime Minister appointed the Parliamentary Secretary to the Minister for Industry, Innovation and Science as the Assistant Minister for Industry, Innovation and Science. For the purposes of this investigation the Minister is the Parliamentary Secretary to the Minister for Industry, Innovation and Science.

² In accordance with section 269TG of the *Customs Act 1901*.

Public record

I must maintain a public record of each investigation. Documents included in the public record are available at www.adcommission.gov.au or can be examined at the Commission's office by contacting the Case Manager on the details provided below.

The public record will contain, among other things, a copy of the application, CON 405 and copies of all non-confidential submissions from interested parties. Letters and electronic mail are generally regarded as submissions if they contain information relevant to the investigation.

Lodgement of submissions

Interested parties, as defined in subsection 269T(1) of the Act, are invited to lodge submissions concerning the publication of the dumping duty notice sought in the application, no later than the close of business on **15 July 2017**,³ addressed to:

The Director
Investigations 3
GPO Box 2013
Canberra ACT 2601
AUSTRALIA

or by email to operations3@adcommission.gov.au or by fax to +61 3 8539 2499.

Interested parties wishing to participate in the investigation must ensure that submissions are lodged by the due date. Interested parties should note that I am not obliged to have regard to a submission received after the date above if, to do so would, in my opinion, prevent the timely placement of the statement of essential facts on the public record.

Interested parties should also note that I am directed to consider the matters set out in the *Customs (Extensions of Time and Non-cooperation) Direction 2015* in certain circumstances.⁴ This is available at www.legislation.gov.au.

Interested parties may reply to matters raised by other parties during the course of the investigation and in response to the statement of essential facts.

Interested 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:

- (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

³ As this is a non-business day, the effective date is taken to be the following business day, 17 July 2017.

⁴ Certain powers and functions under the *Customs (Extensions of Time and Non-cooperation) Direction 2015* have been delegated to the Anti-Dumping Commission's General Managers (Anti-Dumping Notice No. 2017/10, available at www.adcommission.gov.au, refers).

- (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 "FOR OFFICIAL USE ONLY".

Interested parties must lodge a non-confidential version or a summary of their submission in accordance with the requirement above (clearly marked "PUBLIC RECORD").

Provisional measures

Pursuant to section 269TD of the Act, I will make a preliminary affirmative determination (PAD) provided I am satisfied that there appears to be sufficient grounds for the publication of a dumping duty notice or there appears that there will be sufficient grounds for the publication of a dumping duty notice subsequent to the importation of the goods into Australia. This can occur no earlier than day 60 of an investigation.

In accordance with section 269TD of the Act, the Commonwealth may apply provisional measures, including the taking of securities under section 42 of the Act, in respect of interim dumping duty that may become payable on the goods, where a PAD has been made.

Where a PAD is not made 60 days after initiation of the investigation, the *Customs (Preliminary Affirmative Determinations) Direction 2015* (the PAD Direction) directs me to publish a status report providing reasons why a PAD was not made. The PAD Direction is available on the Federal Register of Legislation website, www.legislation.gov.au.

Statement of Essential Facts

The dates specified in this notice for lodging submissions must be observed to enable me to report to the Parliamentary Secretary within the legislative timeframe. In accordance with section 269TDAA of the Act, a statement of essential facts will be placed on the public record by 26 September 2017, or by such later date as allowed in accordance with section 269ZHI of the Act.⁵

The statement will set out the essential facts on which I propose to base my recommendations to the Parliamentary Secretary. Interested parties are invited to lodge submissions in response to the statement within 20 days of the statement being placed on the public record.

⁵ On 14 January 2017, the Parliamentary Secretary delegated the powers and functions of the Minister under section 269ZHI of the Act to the Commissioner of the Anti-Dumping Commission. Refer to Anti-Dumping Notice No. 2017/10 for further information.

Submissions received in response to the statement of essential facts within 20 days of that statement being placed on the public record will be taken into account in completing the report and recommendation to the Parliamentary Secretary.

Report to the Parliamentary Secretary

A recommendation to the Parliamentary Secretary will be made in a report on or before 10 November 2017 (or such later date as allowed under section 269ZHI of the Act), on the basis of the examination of exportations of the goods to Australia during the investigation period, unless I terminate the investigation.

The Parliamentary Secretary must make a declaration within 30 days after receiving the report, or such longer period as the Parliamentary Secretary considers appropriate.

Anti-Dumping Review Panel

Certain persons will have the right to seek review with the Anti-Dumping Review Panel in accordance with Division 9 of Part XVB of the Act of either a decision by me to terminate the investigation, or a decision of the Parliamentary Secretary to publish or not to publish a dumping duty notice after considering my report.

Anti-Dumping Commission Contact

Enquiries about this notice may be directed to the Case Manager on telephone number +61 2 6213 6387 or by email at operations3@adcommission.gov.au.

Dale Seymour
Commissioner
Anti-Dumping Commission

8 June 2017