PUBLIC RECORD

Australian Government
Anti-Dumping Commission

CUSTOMS ACT 1901 - PART XVB

CONSIDERATION REPORT NO. 221

APPLICATION FOR A DUMPING DUTY NOTICE

WIND TOWERS

EXPORTED FROM

THE PEOPLE'S REPUBLIC OF CHINA

AND

THE REPUBLIC OF KOREA

26 August 2013

CONTENTS

ABBREVIATIONS

ACBPS	Australian Customs and Border Protection Service
ADN	Anti-Dumping Notice
The Act	*Customs Act 1901*
The applicants	A.C.N. 009 483 694 Pty Ltd and Keppel Prince Engineering Pty Ltd
China	The People's Republic of China
Commission	Anti-Dumping Commission
Commissioner	Anti-Dumping Commissioner
FOB	Free On Board
Korea	the Republic of Korea
Minister	the Minister for Home Affairs
the goods	the goods the subject of the application (also referred to as the goods under consideration or GUC)
USP	Unsuppressed Selling Price

1 SUMMARY AND RECOMMENDATION

1.1 Background

This Consideration Report (CON 221) details the Anti-Dumping Commission's (the Commission) consideration of an application for the publication of a dumping duty notice on wind towers (wind towers) exported to Australia from the People's Republic of China (China) and the Republic of Korea (Korea).

1.2 Application of law to facts

Division 2 of Part XVB of the *Customs Act 1901* (the Act)[1] sets out procedures for considering an application for a dumping duty notice.

1.2.1 The role of the Commission

The Commission is responsible for examining an application for a dumping duty notice. In this report, the following matters are considered in relation to the application:

- whether the application complies with s.269TB(4)[2];
- whether there is, or is likely to be established, an Australian industry in respect of like goods;
- whether there appear to be reasonable grounds for the publication of a dumping duty notice in respect of the goods the subject of the application.

1.2.2 The role of the Commissioner

The Anti-Dumping Commissioner (the Commissioner), after having regard to the Commission's report, must decide whether to reject or not reject the application for the publication of a dumping duty notice.

If the Commissioner decides not to reject the application, the Commissioner must give public notice of the decision providing details of the investigation.

1.3 Findings and conclusions

The Commission has examined the application for the publication of a dumping duty notice in relation to wind towers from China and Korea.

The Commission is satisfied that:

- the application complies with the requirements of s.269TB(4) (as set out in section 3 of this report);
- there is an Australian industry in respect of like goods (as set out in section 4 of this report); and
- there appear to be reasonable grounds for the publication of a dumping duty notice in respect of the goods the subject of the application (as set out in sections 5 and 6 of this report).

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[1] All references in this report to sections of legislation, unless otherwise specified, are to the *Customs Act 1901*.

[2] The terms "section", "s." and "subsection" are used interchangeably in this report.

1.4 Recommendation

The Commission recommends that the Commissioner decide not to reject the application.

If the Commissioner accepts this recommendation, to give effect to that decision, the Commissioner must give public notice of the decision indicating that the Commission will conduct an investigation into whether grounds exist to publish a dumping duty notice as sought in the application.

2 BACKGROUND

2.1 Application

On 6 August 2013, A.C.N. 009 483 694 Pty Ltd (Haywards) and Keppel Prince Engineering Pty Ltd (KPE) lodged an application requesting that the Minister for Home Affairs (the Minister) publish a dumping duty notice in relation to wind towers exported to Australia from China and Korea.

The applicants allege that the Australian industry has suffered material injury caused by wind towers exported to Australia from the nominated countries at dumped prices.

The applicants claim that material injury in respect of wind towers commenced impacting profits and profitability in 2010. The application identified the injurious effects as:

- loss of sales volume;
- loss of market share;
- price depression;
- price suppression;
- reduced profits; and
- reduced profitability.

2.2 The goods the subject of the application

2.2.1 Description

The applicants describe the goods as:

> *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 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. where the top of the tower and nacelle are joined) when fully assembled.

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.

The goods are referred to as wind towers in this report.

2.2.2 Product information

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.

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.

Physical properties of wind towers

Although wind towers are made to the purchasers' specifications on a project-by-project basis, all wind towers are large tubular steel towers that support wind turbine nacelles. Wind turbines convert the mechanical energy of wind to electrical energy and are comprised of three main components:

1. nacelle;
2. rotor; and
3. tower.

The nacelle houses the wind turbines main power generation components:

a) gearbox;
b) generator; and
c) other components.

The rotor typically consists of three blades and the hub.

The tower is the tall, steel structure that is 50 metres or more in height and is typically manufactured in large diameter cylindrical steel hollow sections which are fitted out with internal mechanical and electrical assemblies and components, with sections commonly between 15 to 30 metres in length. Diameters of the sections can vary from approximately 4.5 metres at the bottom to 1.5 metres at the top of the tower. Depending on the tower height specification, the tower can consist of multiple completed sections.

Steel flanges are welded to the end of each tower section so that they can later be bolted together using specified flange bolts, nuts and washers during the tower erection stage.

Internal brackets and bosses are welded (or attached via magnetised devices) to the internal tower walls to be used as attachment points for internal mechanical and electrical components.

Each tower section is put through a surface treatment program which is dictated by the original equipment manufacturer (OEM) specifications in order to protect the tower from environmental elements.

Tower sections are fitted out with internal mechanical components and safety devices, typically this includes:

- aluminium or galvanised steel platforms and hatches;
- ladders or an internal electrical lift;
- cable trays;
- safety fall arrest devices;
- internal lighting system, all 240 volt power and lighting materials; and
- main electrical power cables and associated materials, junction boxes and earth cables.

Base tower sections are fitted with a tower access door and associated hardware.

2.2.3 Product standards

Wind tower sections are manufactured from steel plate comprising a range of thicknesses as required by the OEM specification with is determined by site wind turbine nacelle and blade load characteristics. Typically, specified steel plate grades are either sourced from Australian suppliers to AS/NZS 3678-350 or overseas steel suppliers to EN 10025-3-S355 being the nearest equivalent local and overseas standards. However, the steel plate grade is specified by the OEM, and may not be limited to these standards.

Flanges are generally imported and are typically forged steel to S355 grades.

Door frames and internal steel bracket materials are determined by the OEM specification and may be supplied by Australian or overseas steel suppliers.

Shell plate and internal attachment weld procedures and welder qualification requirements are based on BS EN ISO 15614-1 2004 standards.

2.2.4 Tariff classification

The applicants submitted that the goods are classified to the following tariff subheadings in Schedule 3 to the *Customs Tariff Act 1995*:

- 7308.20.00; or
- 8502.31.10, when imported as part of a wind turbine (i.e. accompanying nacelles and/or rotor blades).

The tariff branch in Australian Customs and Border Protection Service (ACBPS) advised that steel towers for wind powered generators are classified to 7308.20.00. This applies to complete towers, unassembled or assembled and applies to a basic tower that includes doors, ladders, landings and embed or tower foundation.

Steel tower sections, including sections with doors etc., are classified to 7308.90.00, assembled or disassembled, providing there aren't enough in a shipment to be judged to be a complete tower. An assembled complete wind powered generator is a composite machine consisting of two or more machines fitted together to form a whole; wind engine, generator, gearbox, yaw controls etc. fitted in a steel tower and nacelle. Classification is to subheading 8502.31

Combinations of towers and tower sections may vary on a case by case basis for assessment of tariff classification. Classification may vary when there is more of one thing than another, for example a tower section and lift or a tower section with lift, electrical junction boxes and other equipment.

There are no tariff concession orders (TCOs) for towers under 7308. There are some TCOs under 8502 for wind turbine equipment, but none that specifically includes towers.

A customs duty rate of 4% applies to wind towers imported from China and Korea under tariff headings 7308.

2.3 Previous investigations

There have been no previous investigations of wind towers in Australia.

2.4 Consideration of the application

The Commissioner must examine an application for publication of a dumping duty notice upon its receipt and, within 20 days of lodgement (or 20 days of lodgement of further information in support of the application) decide whether or not to reject the application[3].

In relation to this application, this decision must be made no later than **26 August 2013**.

The Commissioner shall reject the application if he or she is not satisfied that:

- the application complies with s.269TB(4); or
- there is, or is likely to be established, an Australian industry in respect of like goods; or
- there appear to be reasonable grounds for the publication of a dumping duty notice in respect of the goods the subject of the application[4].

The above matters are examined in the following sections of this report.

[3] S.269TC(1)
[4] S.269TC(1)

3 COMPLIANCE WITH SUBSECTION 269TB(4)

3.1 Finding

Based on the information provided in the application, the Commission is satisfied that the application complies with s.269TB(4).

3.2 Legislative framework

Subsection 269TB(4) requires that the application must:

- be in writing; and
- be in an approved form; and
- contain such information as the form requires; and
- be signed in the manner indicated by the form; and
- be supported by a sufficient part of the Australian industry.

3.3 Approved form

The application is in writing, is in an approved form as required by the Form B108 application, is signed in the manner indicated in the form and contains such information as the form requires (as discussed in the following sections).

Confidential and public record versions of the application were submitted. The Commission considers that the public record version of the application contains sufficient detail to allow a reasonable understanding of the substance of the information within the confidential application.

3.4 Supported by Australian industry

An application is taken to be supported by a sufficient part of the Australian industry if the Commission is satisfied the persons who produce or manufacture like goods in Australia and who support the application:

- account for more than 50 per cent of the total production or manufacture of like goods by that proportion of the Australian industry that has expressed either support for or opposition to, the application; and
- account for not less than 25 per cent of the total production or manufacture of like goods in Australia.

3.4.1 The Commission's assessment

The application states that the Australian wind tower industry consisted of three Australian manufacturers, Hayward, KPE and RPG Aus Administration Pty Ltd (RPG). The applicants advised that on 4 February 2013, RPG and its controlled entities were wound up. The application has been made by the remaining two industry members.

The application notes that although there are public reports to suggest the existence of an additional Australian manufacturer, known as E&A Contractors Pty Ltd (ABN 46 126 470 942) (E&A), the applicants are unaware of any completed units of production by that entity during the nominated investigation period. The applicants stated that as a

prospective member of the Australian industry producing wind towers, at the time of this application E&A has expressed support for this application.

The Commission notes that available information shows that the key personnel and assets of RPG used to manufacture wind towers were purchased by E&A Contractors (E&A) in November 2012. The information also shows that E&A secured a contract for the supply of 20 wind towers in 2012/13. The Commission considers that based on the available information E&A is a part of the Australian industry manufacturing wind towers.

The applicants provided details of production for Hayward, KPE and RPG. Based on the information provided and taking into account information relating to E&A, the Commission considers the application is supported by a sufficient part (being Hayward and KPE) of the Australian industry.

4 LIKE GOODS AND THE AUSTRALIAN MARKET

4.1 Finding

Based on the information provided in the application, the Commission is satisfied that there is an Australian industry producing like goods to the goods the subject of the application.

The Commission is satisfied that the data provided within the application is sufficient for the purpose of analysing the injurious effects of the allegedly dumped imports on the Australian industry producing wind towers, (Section 6 refers).

4.2 Legislative framework

Like goods are defined in s.269T, the test for the production and manufacturing of like goods in Australia is defined in s.269T(2) and s.269T(3).

4.3 Locally produced like goods

The Commissioner must reject an application for a dumping duty notice if, inter alia, he or she is not satisfied that there is, or is likely to be established, an Australian industry in respect of like goods[5].

In making this assessment, the Commissioner must first determine that the goods produced by the Australian industry are "like" to the importer goods. Like goods are defined as:

> *goods that are identical in all respects to the goods under consideration or that, although not alike in all respects to the goods under consideration, have characteristics closely resembling those of the goods under consideration[6].*

4.3.1 Applicants' claims

The applicants stated that they manufacture wind towers matching the purchaser's specifications on a project-by-project basis and provided the following information.

(a) Physical likeness

Although wind towers are built to each OEM's particular specifications, both imported and those produced in Australia all share basic physical characteristics – all are tubular steel towers with components such as doors, ladders, flooring, cables and wiring, and lights typically attached to the inner diameter of the welded steel plates.

Wind towers vary in size and are built to a number of specifications, such as steel, welding, coating, and quality inspection standards that carry over from one OEM to the next. Therefore certain OEMs may have certain specifications that differ from the standard specifications, but the standards are general to the industry and have been adopted by most manufacturers.

Although every OEM has particular specifications it requires both overseas and Australian manufacturers to meet those standards for a particular wind project's wind towers.

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[5] s.269TC(1)
[6] s.269T(1)

(b) Commercial likeness

Australian industry wind towers compete directly with imported wind towers in the Australian market solely on price. All wind towers are sold directly to the OEM, which incorporates them into wind turbines.

(c) Functional likeness

Both the locally produced and imported wind towers have comparable or identical end-uses. All wind towers are used exclusively as part of wind turbines for supporting and elevating the nacelle and blades for the generation of electricity.

(d) Production likeness

Locally produced and imported wind towers are manufactured in a similar manner and via similar production processes. All wind towers are produced by similar production methods utilising carbon steel welded into sections, before transportation to the wind project site for final assembly into wind towers.

4.3.2 The Commission's assessment

The Commission has examined the evidence presented in the application and considers the Australian industry produces like goods to the goods the subject of the application.

Based on the information provided in the application, the Commission considers that the applicants have demonstrated that:

- the primary physical characteristics of imported and locally produced goods are similar;
- the imported and locally produced goods are commercially alike as they are considered in the tender process sold to common end users;
- the imported and locally produced goods are functionally alike as they have a similar range of end-uses; and
- the imported and locally produced goods are manufactured in a similar manner.

Therefore, at the consideration stage, the Commission is satisfied that the Australian industry produces like goods to the goods the subject of the application.

4.4 Manufactured in Australia

For goods to be regarded as being produced in Australia, they must be wholly or partly manufactured in Australia[7]. In order for the goods to be considered as partly manufactured in Australia, at least one substantial process in the manufacture of the goods must be carried out in Australia[8].

4.4.1 Applicants' manufacturing operations

The applicants described their manufacturing processes as follows.

Prior to commencing production, incoming steel plate is received and inspected for quality purposes. The first production activity is the processing of steel plate to specific sizes which fit individual strake dimensions (some producers outsource this process to other

[7] s.269T(2)
[8] s.269T(3)

service providers). The plate weld surface preparation is carried out next through bevel cutting the edges to precise weld procedure needs.

The next production activity involves the rolling of the processed plate into individual cylindrical steel cans or strakes, meeting the precise specification diameter and curvature needs. Longitudinal welds are then applied meeting the weld specification in order to join the two edges of the rolled can. Sequentially welded strakes are welded together at the horizontal weld seams until the right number of steel cans are joing to form a tower section. This is followed by the precise fitting up of steel flanges which must meet the required specification flanges tilt and flatness tolerances.

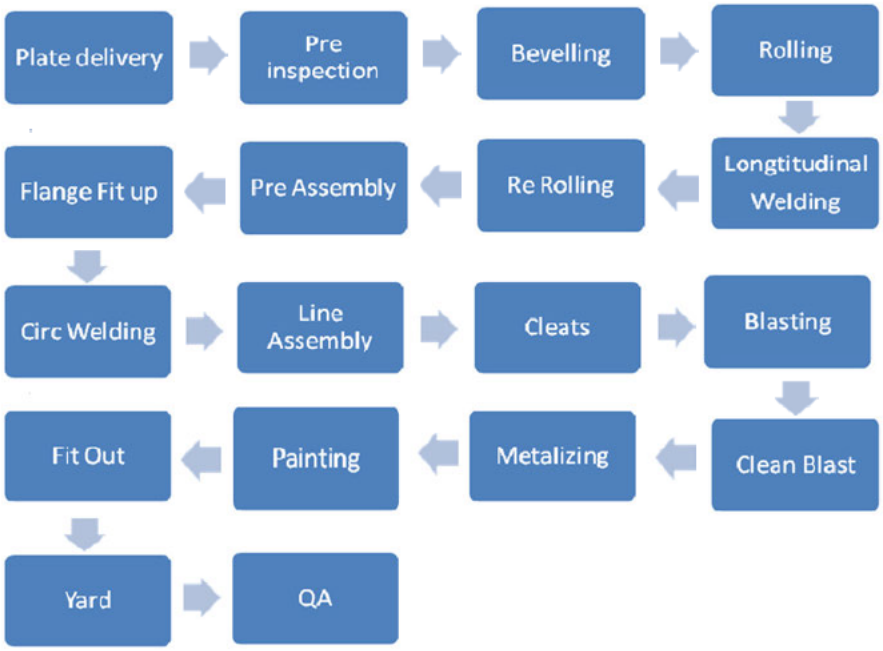
Prior to surface treatment, internal wall brackets and bosses are fitted to the inside walls of the tower sections so that internal galvanised or aluminium components can be fitted after the fabricated black steel sections are welded out according to the manufacturing plan. Non-destructive testing of all weld seams and welded components is undertaken with all results recorded on data collection sheets.

The first surface treatment activity is blasting in order to ensure that all steel surfaces are clean and well prepared for the painting process. If metalising to flanges or tower sections is required this process comes next and once dried to the required temperature the tower is ready for the painting application process. The internal walls of the tower sections are first, commonly with a minimum two coat process. The exterior wall paint application comes next, with sequential coats applied as per the specification to meet the exact dry film thickness. Commonly three exterior coats are applied in a humidified paint zone or booth which allows curing to occur at preset temperatures and humidity.

The internal fit out of mechanical parts forms the next process, with galvanised or aluminium platforms either bolted or welded in, along with ladders and cable trays and safety fall arest devices. All electrical main power cables, junction boxes and electrical lighting are usually installed next prior to readiness for delivery from the factory site.

In the final production phase the tower sections are washed and prepared for delivery with all internal cables and attachments tied down, transport saddles fitted at each end of the tower section to help protect the finished painted surface, along with brace bars to protect the towers during overland transport or shipping. End cover tarpaulins are fitted to prevent dust encroaching inside the tower sections during delivery and storage at site.

The diagram below sets out the production process:



The applicants submitted that it is common practice for the Australian industry to purchase most of its steel plate requirements from the Australian supplier, BlueScope Steel Limited (BlueScope). The applicants advised they have purchased all of their plate steel needs to date from BlueScope.

The Australian producers of wind towers fabricate, consolidate and weld all steel wind tower sections in Australia, and fit-out all internal electrical and mechanical components. These internal components may be fabricated by the Australian industry, or at times may be free issue by the OEM client for installation by the Australian industry.

Flanges are the only input into a wind tower that is consistently imported, with Korea being the main supplier.

4.4.2 The Commission's assessment

Based on the above description of the manufacturing process, the Commission is satisfied that there is at least one substantial process of manufacture performed in Australia and, therefore, that the goods may be taken to have been produced in Australia.

4.5 Australian Market

4.5.1 Background

The applicants submitted that the end uses for wind towers manufactured in Australia are identical to imported wind towers. Both sources of supply produce wind towers to identical manufacturing specifications, and both manufactured versions are used for the identical purpose of structural support to the wind tower nacelle and blades in order for the turbine to reach suitable wind zone heights, whilst also transporting collected energy up and down the tower to the connected transmission grid and allowing personnel access to the turbine for maintenance purposes.

4.5.2 Market segmentation and demand variability

The Australian wind tower market commenced operation in 2000 coinciding with changes in Government policy and legislation. When the market commenced, local wind tower manufacturers established operations close to high wind zones on the South Eastern areas of Australia at Portland (KPE), Adelaide (RPG now E&A) and Launceston (Hayward).

The wind tower market can be segmented into two wind farm segments according to scale:

1. Large scale commercial wind farms generating over 30MW of renewable energy; and
2. Community wind farms which are largely owned by local community members and are predominantly under 30MW with the number of wind towers less than 10.

The applicants supply to both these market segments and claim both are exposed to material injury by imported towers.

Demand for wind towers in Australia has fluctuated from 100 to 200 towers per year since the market commenced. However, the applicants claim that the Australian market for wind towers is expected to double during the next 2-3 years as renewable energy policy heads towards achieving a 20% renewable energy mix by 2020. In order to meet this

target the applicants estimate that approximately 400 wind towers per year would be required.

The broad driver of wind farm installations generally has been the growing international trend of nations increasing in-country supply of renewable energy sources. The primary driver of renewable energy demand has been Commonwealth Government legislation found in the *Renewable Energy (Electricity) Act 2000 (Cth)*, which requires electricity retailers to source an increasing proportion of their electricity from accredited renewable sources, via the Renewable Energy Target (RET).

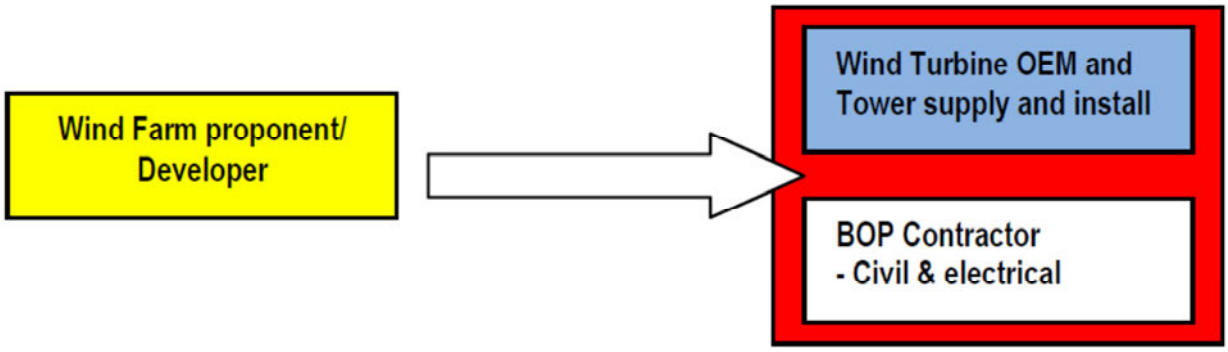
4.5.3 Marketing and distribution

The supply chain for wind towers has traditionally been controlled by the wind turbine OEMs whose clients are the wind farm proponents/developer. An alternate supply chain arrangement sometimes occurs whereby the wind tower supply component of the construction contract rests with the EPC (contracted Engineer Procurement and Construct firm).

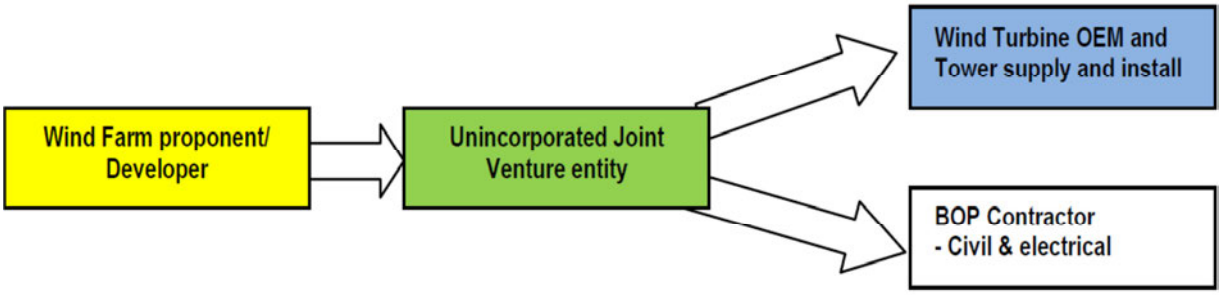
Three common contracting methods are:

a) separate contracts for the wind tower and turbine supply and installation, and the Balance of Plant (BOP);

b) EPC single contracting structure with one entity;

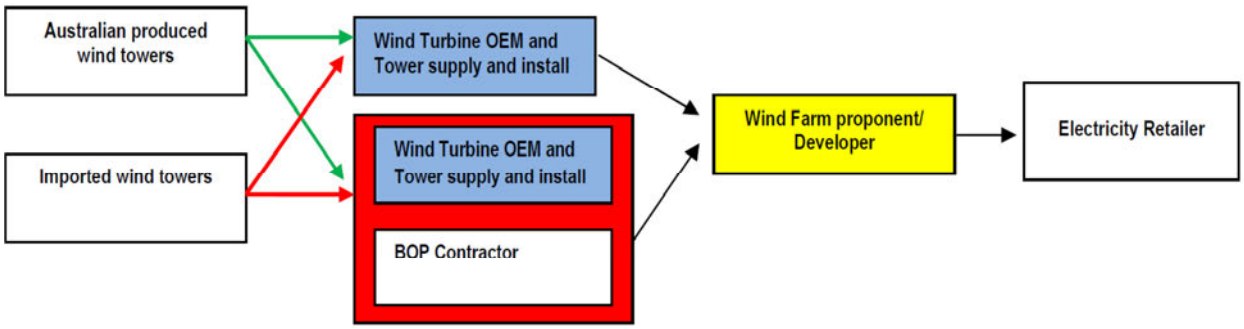


c) unincorporated joint venture whereby a wind farm developer enters into a single contract with a consortium structure.



Wind tower channel to the market

Depending on the contract model used, both Australian and overseas wind tower manufacturers supply wind towers directly to either the OEM turbine producer or the EPC firm.



The applicants advised that the total value of a wind tower constitutes approximately 8% of a fully constructed wind turbine[9]. A wind tower supply tender is placed with pre-qualified tower manufacturers, both locally and overseas. The tender may call for ex-works price offers or pricing delivered to site. Local currency is used for wind tower pricing. At times, tenders may call for offers based on a mix of free-issue material components, which may include any combination of the following inputs supplied by the OEM to be combined with the production components of the wind tower manufacturer:

- Steel plate;
- Flanges;
- Flange bolts;
- Paint;
- Mechanical internal components;
- Main electrical cables and allied components; and
- Lifts.

4.5.4 Alternative products

The applicants stated that there are no commercially significant market substitutes for wind towers in the Australian market with possible substitutes for wind towers being cylindrical concrete wind towers and lattice steel towers. The applicants further stated that given the Australian market's needs and preferences, neither of the two possible substitutes is considered an option.

4.5.5 Market size

4.5.5.1 The applicants' claims

The application estimates the size of the Australian market for wind towers using its knowledge of past tenders, its market intelligence and its own sales data. The applicants advised that no meaningful import data for wind towers is available from the Australian Bureau of Statistics (ABS) because the tariff classification applicable to the GUC is too

[9] Based on an average wind tower value of $500k and an average installed wind turbine value of $6m.

broad. As such, import data from the two countries nominated in the application is not available from the ABS.

4.5.5.2 Commission assessment

The Commission compared the estimated import volumes in the application to the data in ACBPS import data base. The Commission examined data up to August 2013 given that it appears it can take up to 20 months or longer for wind towers to be imported and supplied as discussed further below.

ACBPS import data generally does not distinguish between wind towers and wind turbines and the descriptions contained within ACBPS import data make it difficult to reasonably identify the GUC.

The applicants provided documents in support of their market estimates including information on tenders for wind towers and data from the Clean Energy Council.

The applicants have used the date the contract was awarded for the supply of the wind towers as the effective date of sale in their estimate of the market. The applicants advised that the date of sale used was obtained from contracts they had won, the date they were advised on contracts they had lost and an estimate based on the commission date for contracts they had not competed in.

The applicants further advised that the period between the awarding of a contract and the first placement of wind towers on the site may be from six months to a year and for a large project the towers could be supplied over a period of two years or longer as each stage was commissioned.

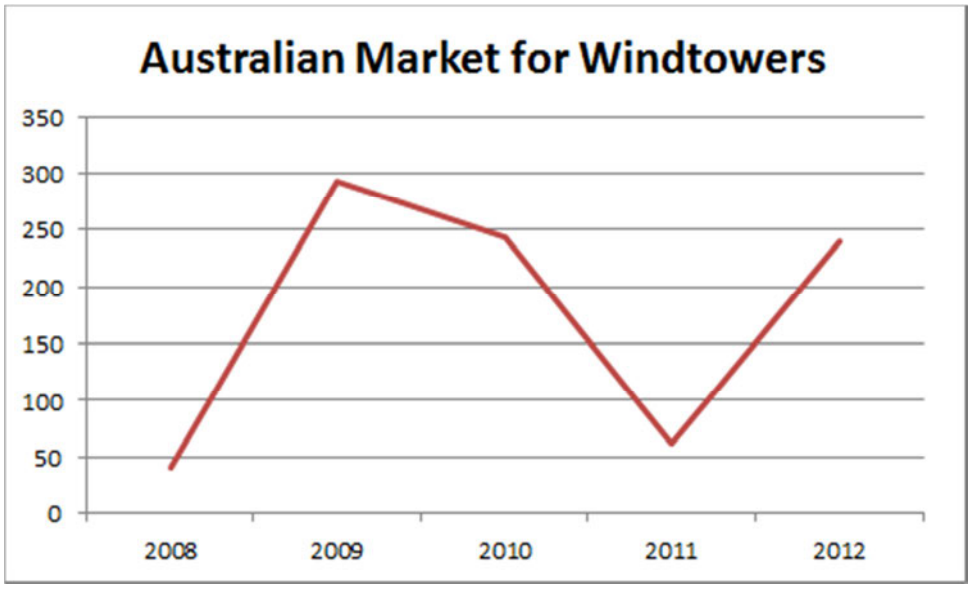
The Commission reviewed information available from the internet for wind towers in Australia. Aggregated data on wind farm projects is in the form of capacity in electricity generated and not the number of wind towers. Most wind farms have a web site that provides further information including the number of towers operating and proposed.

The Commission compared this information to that provided by the applicants and considers that in the absence of detailed import information, information provided by the applicants provides a reasonable estimate of imports and the Australian market.

The Commission considers that the date the contract was awarded should be regarded as the effective date of sale as it reflects when a sale was won or lost by the Australian industry. The Commission notes that there will be a time lag between the awarding of the contract and the physical supply of towers, whether the towers are imported or supplied by the Australian industry.

The following graph depicts the Commission's estimate of the Australian market based on the date of contract for supply for the wind towers using information provided in the application.

The Commission estimates that in calendar year 2012, the size of the Australian market for wind towers was approximately 240 towers.



The graph above shows that the total Australian market size for wind towers changed substantially each year since 2008.

The Commission's estimate of the Australian market for wind towers is at **Confidential Appendix 1.**

4.5.6 Australian industry information

4.5.6.1 General accounting / administration information

A.C.N. 009 483 694 Pty Ltd

A.C.N. 009 483 694 Pty Ltd is a private company with no subsidiaries or affiliated companies. It trades under two names:

- Haywards Steel Fabrication & Construction (Haywards); and
- Crisp Bros. Structural Steel & Metal Work (Crisp Bros).

The company comprises four workshops located across Tasmania. Each workshop is involved in various steel fabrication projects. However the wind towers, the like goods, are only manufactured at its Western Junction workshop under the business name Haywards.

Haywards' financial accounting period is from 1 July to 30 June. Haywards' audited financial statements and annual reports for the 2008 to 2012 financial years were provided, together with its chart of accounts.

Keppel Prince Engineering Pty Ltd (KPE)

KPE is 100% owned by its parent company, which forms the engineering arm of the ultimate holding company.

KPE consists of a number of business divisions, of which the "Darts Road" division is responsible for the production and sales of wind towers. When required other divisions such as "Administration", "Cranes" and "Quality & NDT" provide their services to assist with the manufacture of wind towers.

KPE's financial account period is from 1 January to 31 December. KPE's audited financial statements and annual reports for the 2008 to 2012 calendar years were provided, together with its chart of accounts.

4.5.6.2 Australian industry's sales and costs

The applicants provided information in the application, including a summary of domestic sales volumes and revenues as required in Confidential Appendices A2, A3, A4 and A6.1. Appendix A1 was provided to substantiate production volumes for the period 1 January 2012 to 31 December 2012.

The applicants advised they had not completed appendix A5, relating to internal transfers and sales of other production of like goods internal and appendix A6.2, relating to export sales as they had not made sales of those types.

The applicants completed a Confidential Appendix A6 cost to make and sell (CTMS) spread sheet for domestic sales (A6.1). The information provided in these appendices included production and sales volumes, manufacturing costs, selling (including distribution), general and administrative (SG&A) expenses for the period 2008 to 2012.

The Commission examined the information provided and the link between other appendices and considers the information reliable for the purposes of preliminarily assessing the economic condition of the industry in respect of wind towers.

4.5.6.3 Other economic factors

The applicants completed Confidential Appendix A7 showing movements in assets, capital investment, revenue, capacity, capacity utilisation, employment and wages.

4.5.7 Commission's assessment – Australian industry

Based on the information in the application, the Commission is satisfied that there is an Australian industry producing like goods to the goods the subject of the application and that the information contained in the application is sufficient for the purposes of a preliminary analysis of the economic condition of the industry in respect of wind towers from 2008 to 2012.

5 REASONABLE GROUNDS – DUMPING

5.1 Findings

Having regard to the matters contained in the application and to other information considered relevant, there appear to be reasonable grounds to support the claims that:

- wind towers have been exported to Australia from China and Korea at dumped prices;
- the individual total volume of wind towers that appears to have been dumped from China and Korea is each greater than 3% of the total Australian import volume of the goods, and therefore is not negligible.
- the estimated dumping margins for each of the nominated countries is greater than 2 per cent and are therefore not negligible.

5.2 Legislative framework

Article 5.2 of the World Trade Organisation (WTO) Anti-Dumping Agreement (AD Agreement) states that an application shall include evidence of dumping. It also states that simple assertion, unsubstantiated by relevant evidence, cannot be considered sufficient to meet this requirement, but such information must be reasonably available to the applicant.

Subsection 269TC(1) of the Act requires that the Commissioner must reject an application for a dumping duty notice if, inter alia, he or she is not satisfied that there appear to be reasonable grounds for the publication of a dumping duty notice.

Under section 269TG of the Act, one of the matters that the Minister must be satisfied of to publish a dumping duty notice is that the export price of goods that have been exported to Australia is less than the normal value of those goods. This issue is considered in the following sections.

5.3 Investigation period

The Commissioner must nominate an investigation period, being the period where exportations to Australia will be examined to determine if dumping has occurred. Normally the investigation period is twelve months. The applicants nominated an 18 month investigation period from 1 January 2012 to 30 June 2013.

The Commission considers that a number of factors suggest that an investigation period longer than 12 months is warranted:

- the long lead time between when a tender is called and when the wind towers are delivered. Wind towers may be delivered in staggered amounts for periods of up to three years depending on the size of the project;
- ensuring that there are exports where the date of sale (possibly the purchase order date) and the export of the wind towers occurs within the investigation period; and
- the ability to properly assess causal link between dumping and claimed injury through lost tenders over the period.

The Commission will also have to turn its mind to a number of related issues, such as:

- determining the date of sale (for example, purchase order date, contract date or invoice date)[10]; and
- how to treat wind towers that have been sold, but only partially constructed and yet to be delivered.

The Commission notes that for the tenders identified by the applicants, the time between the awarding of the tender and the commencement of delivery was generally longer than six months and that the delivery could be staggered over a period of time up to two years.

The Commission recommends that the Commissioner nominate an 18 month investigation period, from 1 January 2012 to 30 June 2013.

The Commission considers that this period will adequately capture the period of the tenders, the contract date and the exports of the wind towers associated with those tenders.

5.4 Export prices

5.4.1 The applicants' claims

The applicants stated that Australian Bureau of Statistics import data for the goods is not available due to the broad tariff classification of the goods. The applicants completed Confidential Appendix B.1 that showed calculated free on board (FOB) values for the imported goods based on deductive export values derived from market prices disclosed by customers.

FOB export prices for wind towers calculated by the applicants are confidential given that they are based on prices submitted by the applicants.

5.4.2 Commission's assessment

<u>China</u>

The selling price in Australia for the wind towers supplied to the Gullen Range Wind Farm is used as the starting point for the deductive export price from China. The selling price reflects a free into store (FIS) or delivered-to-site price.

The applicants deducted post FOB charges from the selling price to calculate a deductive FOB price. Post FOB charges included:

- Delivery from port to store and from store to the wind tower project site. The applicants based these costs on the port of importation and project site. Delivery costs were supported by the applicants own costing of delivery for the tender:
- port handling and clearance charges. The applicants based these charges on a quotation from a shipping agent;
- customs duty payable, calculated on the deductive FOB value; and
- ocean freight based on quotations.

The Commission considers that the selling price used is reasonable as it is based on the price submitted by the Australian industry for the same contract. Post export FOB

[10] The US Department of Commerce investigation used purchase order date as the date of sale.

charges are supported by documentary evidence and are reasonable based on information available to the Commission.

The Commission notes that the applicants have based the export price on the date the contract was awarded. As noted in the previous section there may be a time lag of up to nine months between the date the contracts are awarded and the date that the wind towers are imported and supplied.

The Commission examined the ACBPS data base and, notwithstanding the limitations previously noted, is satisfied that wind towers from China for the project have been imported into Australia.

Korea

The selling price in Australia for the wind towers supplied to the Mt Mercer Wind Farm from Korea is used as the starting point for the deductive export price from Korea. The selling price reflects a delivered FIS price.

The applicants deducted post FOB charges from the selling price to calculate a deductive FOB price. Deductions included:

- delivery from port to store and from store to the wind tower project site. The applicants based these costs on the port of importation and project site, delivery costs were supported by the applicants own costing of delivery for the tender:
- port handling and clearance charges. The applicants based these charges on a quotation from a shipping agent;
- customs duty payable, calculated on the deductive FOB value; and
- ocean freight, based on quotations.

The Commission considers that the selling price used is reasonable as it is based on the price submitted by the Australian industry for the same contract. Post export FOB charges are supported by documentary evidence and are reasonable based on information available to the Commission.

The Commission examined the ACBPS data base and, notwithstanding the limitations previously noted, is reasonably confident that wind towers from Korea for the project have been imported into Australia.

5.5 Normal values

5.5.1 China

The application submits that given the nature of the product, domestic selling prices are not readily available and that any domestic prices would be affected by a particular market situation.

Particular market situation

Background

China is treated as a market economy country under Australia's Anti-Dumping provisions. Australia's provisions are in accordance with the WTO AD Agreement and provide for the rejection of domestic selling prices in market economy countries where it can be established that the market situation in the exporting country renders domestic selling prices unsuitable for normal value purposes.

Generally, the Commission calculates the normal value of the goods as the price for like goods sold for home consumption in the country of export (s.269TAC(1))[11].

One of the exceptions to using domestic selling prices for determining normal values is set out in s.269TAC(2)(a)(ii), which broadly provides that the domestic selling prices are not an appropriate basis for normal value if the Minister is satisfied that:

> *".the situation in the market of the country of export is such that sales in that market are not suitable for use in determining a price under s.269TAC subsection (1)"* (i.e. a 'particular market situation' exists).

One of these situations may be where the domestic selling prices in the country of export have been materially affected by government influence rendering those prices unsuitable for use in establishing normal values.

The existence of a particular market situation potentially affects the approach that the Commission takes to calculating normal values under the Act in undertaking an assessment of whether goods have been exported to Australia at dumped prices.

The applicants' claims

The application states that domestic selling prices within the domestic Chinese wind towers market are artificially low due to government influence on raw material prices, in particular, plate product produced from hot rolled coil, coking coal and/or coke and scrap metal. As plate steel is the major raw material input into the production of wind towers, and contributes to at least 50% of the cost to make the goods, the applicants consider that domestic selling prices for wind towers are unsuitable for establishing normal values (under s.269TAC(1)) for the products exported from China, as a "*particular market situation*" exists in these markets.

To support the market situation claims, the applicants refer to International Trade Remedies Report No.177 (REP 177) for HSS[12] exported from China and other countries. In REP 177, it was determined that a market situation existed for HSS sold domestically in China and that normal values for HSS exported from China to Australia could not be determined under s. 269TAC(1). The applicants noted that the Minister accepted the recommendations that the selling prices for HSS sold in China were not suitable for the purpose of determining normal values on the basis of a "particular market situation" for HSS sold in China.

The applicants also refer to CON 198, the consideration of the application of BlueScope Steel Limited (BlueScope) for dumping duties for hot rolled plate steel exported from China, Indonesia, Japan, Korea and Taiwan, where BlueScope claimed that plate steel prices in China are significantly lower than global plate steel prices. BlueScope presented evidence in support of that contention, which was accepted as providing reasonable grounds, at the application consideration stage, for claiming that Chinese domestic selling prices for plate steel are not suitable for determining normal values under subsection 269TAC(1).

The applicants noted the conclusion in REP 177:

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[11] This price is subject to adjustments under s269TAC(8) to ensure any differences do not affect the comparison with the export price.

[12] The Minister accepted findings and recommendations as contained in REP 177. The Minister affirmed the finding that there was a market situation in China as recommended in REP 203.

"that that the GOC [Government of China] has exerted numerous influences on the Chinese iron and steel industry, which are likely to have materially distorted competitive conditions within that industry and affected the supply of HSS, HRC, narrow strip and upstream products and materials"[13].

The applicants submitted that wind towers are also a product affected by the GOC distortions within the Chinese steel industry as they are a downstream product produced from steel plate, as an upstream product.

The applicants further submitted that the GOC has heavily influenced the Chinese domestic market for wind towers through programs identified in REP 177.

1. *Structural adjustment*
   - The National Steel Policy;
   - National and regional Five-Year Plans and guidelines; and
   - BluePrint for Steel Industry Adjustment and Revitalisation.

2. *Guiding industry mergers and restructuring*

   Concentration of Chinese iron and steel producers through mergers and acquisitions that are aimed at achieving the GOC's objective of the top 10 producers accounting for 70 per cent of production by 2010.

3. *Export measures on coke*
   - Measures on coke "that appear to be consistent with the NSP (National Steel Policy) to restrict coke;
   - Coke represents a significant proportion (over 20 per cent) of the cost of cast steel (being first used to smelt iron, and this iron is then used to produce steel);
   - Steel represents the major cost of HRC;
   - Verified information on Chinese exporters shows that HRC and/or narrow strip represents in excess of 90 per cent of the total cost to make HSS; and
   - The cost of coke represented a significant proportion of the cost of the HRC or narrow strip, and therefore the HSS.

4. *Subsidisation*

   The provision of steel raw material products in the production of HSS at less than adequate remuneration identified as Program 1.

The applicants submitted that the raw materials that benefit from less than adequate remuneration are also inputs into the production of wind towers.

The applicants concluded that as plate steel is the major raw material input into the production of wind towers, and contributes at least 50% to the cost to make the goods, then domestic selling prices for wind towers in China are artificially low due to government influence on raw material prices (i.e. plate product produced from hot rolled coil, coking coal and/or coke and scrap steel).

The applicants considered that selling prices for wind towers are therefore unsuitable for establishing normal values under subsection 269TAC(1) and have established normal values using a constructed price methodology.

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[13] REP 177, p166.

Normal value – Commission's assessment

In the absence of suitable domestic sales, the applicants have constructed a domestic selling price taking into account the technical specifications for the Gullen Range wind towers using the timing of the equivalent export sale used for the deductive export price.

The constructed price comprised the following components:

- Steel costs for the towers based on the amount of steel required and a quotation for the steel grade from a Chinese steel trader;
- Flange costs based on quotations obtained;
- Labour and overhead costs based on market intelligence and a study into steel fabrication costs in China;
- Blast and paint costs based on industry costs adjusted for Chinese labour rates;
- Mechanical and electrical internals based on industry costs discounted for estimated Chinese costs;
- Internal freight in China from factory to port based on quotations obtained; and
- Rate of profit based on industry experience of a required rate of return and supported by the study into steel fabrication costs in China.

The issue of a market situation in China was considered in REP 177 in regards to HSS exported from China during the investigation period of July 2010 to June 2011. In REP177 it was established that:

- the Government of China (GOC) has exerted numerous influences on the Chinese iron and steel industry, which are likely to have materially distorted competitive conditions within that industry and affected the supply of hollow structural sections (HSS), hot roll coil (HRC), narrow strip, and upstream products and materials;
- the GOC influences in the Chinese iron and steel industry have created a 'market situation' in the domestic HSS market, such that sales of HSS in that market are not suitable for determining normal value under s.269TAC(1).

In REP 203 the reinvestigation affirmed the finding of the original investigation (REP 177) that because of the situation in the iron and steel market, which includes HSS producers, domestic sales in that market are not suitable for use in determining normal values under s.269TAC(1) of the Act.

The issue of a market situation in China was also considered in REP190 in regards to aluminium zinc coated steel and zinc coated (galvanised) steel. In REP190 it was found that the price of HRC and other major raw material in China was influenced by the GOC throughout the investigation period of July 2011 to June 2012. Direct intervention by the GOC in the form of imposition of taxes, tariffs, export quotas and other indirect measures including the GOC's overarching macroeconomic policies and plans, such as the National Steel Policy, a Blueprint for Steel Industry Adjustment and Revitalisation Directory Catalogue and 12th Five Year Plan have impacted on the supply and distorted the cost of the raw materials coke, coking coal, iron ore and scrap metal, which in turn has distorted the price of HRC. It was considered that the most influential factors were the: 40% export tax on coke and scrap metal; and the 0% VAT rebates on HRC, coke, coking coal and iron ore.

The Commission is also considering the issue of a market situation in its current investigation into hot rolled plate steel (plate steel) exported from China. In SEF 198 the Commission preliminarily found that the price of HRC and other major raw material in

China was influenced by the GOC throughout the investigation period of January 2012 to December 2012. Direct intervention by the GOC in the form of imposition of taxes, tariffs, export quotas and other indirect measures including the GOC's overarching macroeconomic policies and plans, such as the National Steel Policy, a Blueprint for Steel Industry Adjustment and Revitalisation Directory Catalogue and 12th Five Year Plan have impacted on the supply and distorted the cost of the raw materials coke, coking coal, iron ore and scrap metal, which in turn has distorted the price of HRC.

The Commission notes that the GOC, in submissions to the plate steel investigation, stated that plate steel is used by a number of sectors and identified that domestic demand for steel was also driven by other consumers such as nuclear power plants, wind farms, hydro-power facilities, ports, ships, railways, transportation, mining machinery, medical equipment, construction machinery and housing.

The application contains sufficient information and evidence to support the claims that the market situation findings in previous and current investigations are relevant and applicable to the Chinese plate steel market which is the major raw material input into the production of wind towers. Therefore the Commission considers that there are reasonable grounds, at the consideration stage, for claiming that Chinese domestic selling prices for plate steel are not suitable to determine normal values under s. 269TAC(1).

An examination of the information used to support the applicants' constructed normal values for wind towers sold in China appears to be reasonable.

The applicants have supported estimates with information that is reasonably available to them and, where assumptions have been made, have explained the basis for those assumptions. Where appropriate, the applicants have used data from independent sources and made adjustments to costs (i.e. labour costs) to reflect their understanding of market conditions in China.

The Commission has compared the constructed normal value costs to those of industry costs and notes that for all costs, including steel, internals, labour and overheads these costs are substantially less than industry costs.

5.5.2 Korea

The applicants claim that as wind tower sales are project driven and differ in their technical properties between projects, domestic selling prices are not readily available or suitable for establishing normal values. Instead the application has constructed domestic selling prices having regard to the technical specifications and timing of the equivalent export sale used for the deductive export price.

The constructed normal value included the following:

- Steel costs for the towers based on the amount of steel required and a quotation for the steel grade from a Korean steel trading site;
- Flange costs based on quotations obtained;
- Labour and overhead costs based on a cost benchmarking model;
- Blast and paint costs included in fabrication costs;
- Mechanical and electrical internals based on industry costs discounted for estimated Korean costs;
- Internal freight in Korea from factory, estimated costs; and
- An estimate of profit expected to be achieved on domestic sales in Korea.

Commission's assessment

No evidence was provided to support the estimated rate of profit on domestic sales of wind towers in Korea. As a result, the applicants profit estimate has been deducted from the proposed constructed normal value for assessing whether reasonable grounds exist to demonstrate that the goods were exported at dumped prices.

For all other items, the Commission considers that based on the information submitted in the application, the applicant's construction of normal values for wind towers sold in Korea appears to be reasonable. The applicants have supported their estimates with information that is reasonably available to it and, where assumptions have been made, has explained the basis for those assumptions. Where appropriate, the applicants have used data from independent sources and made adjustments to costs (i.e. labour costs) which reflect their understanding of market conditions in Korea.

The Commission has compared the constructed normal value costs to those of industry costs and notes that for all costs, including steel, internals, labour and overheads these costs are substantially less than industry costs.

5.6 Import volumes – nominated countries

From the information available to the Commission, it appears that imports of wind towers from each of the nominated countries represented more than 3% of the total import volume of wind towers in the period examined (1 January 2012 to August 2013) and are therefore not negligible volumes as defined in s.269TDA.

5.7 Dumping margins

The applicants calculated a dumping margin of 43.8% for China and 67.6% for Korea.

The Commission calculated a dumping margin of 43.9% for Korea after adjusting for profit for the normal value as noted above. The Commission calculated a dumping margin for China of 43.8%.

The dumping margins calculated are not negligible.

The Commission is satisfied that, based on the information submitted in the application, the applicants has demonstrated that there appear to be reasonable grounds for concluding that wind towers have been exported to Australia from China and Korea at dumped prices.

The Commission's assessment of dumping is at **Confidential Appendix 2.**

6 REASONABLE GROUNDS – MATERIAL INJURY CAUSED BY DUMPED IMPORTS

6.1 Findings

Having regard to the information contained in the application and to other information considered relevant, the Commission is satisfied that the applicants, who comprise a sufficient part of the Australian industry appear to have experienced injury in terms of:

- loss of sales volumes;
- loss of market share;
- price depression;
- reduced revenues;
- reduced profits;
- reduced profitability; and
- reduced capacity utilization.

6.2 Legislative framework

Subsection 269TC(1) requires that the Commissioner must reject an application for a dumping duty notice if he or she is not satisfied that there appear to be reasonable grounds for the publication of a dumping duty notice.

Under section 269TG, one of the matters that the Minister must be satisfied of to publish a dumping duty notice is that, because of the dumped goods, material injury has been or is being caused or is threatened to the Australian industry producing like goods.

6.3 Approach to injury analysis

The injury analysis in this section is based on the financial information, information on contracts and undercutting submitted by the applicants.

Wind towers are made to the purchasers' specifications on a project-by-project basis. Therefore, no two wind tower projects are identical. However, each wind tower must accord with the OEM's specifications regardless of its origin.

The tender for wind towers may call for ex-works price offers, or pricing delivered to site. Local currency is used for wind tower pricing. However, at times tenders call for offers based on a mix of free-issue material components.

Given the uniqueness of each tender, the Commission does not consider it appropriate to examine and assess injury indicators by comparing costs and selling prices over a fixed injury period. Further, the time lag between the awarding of the tender and the actual delivery of the wind towers may result in injury being experienced a considerable time after the tender has been lost.

These particular issues present some unique challenges to assessing material injury. The Commission does not consider it appropriate, at the consideration stage, to assess on reasonable grounds the injurious effects of the alleged dumping using trend analysis over a fixed injury assessment period. Instead, the injury and causal link assessment would be more meaningful if each tender was examined individually in the first instance, followed by an overall assessment as to whether injury caused by dumping is material.

Therefore, the injury analysis detailed in this section primarily based on information in respect of specific tenders, but also considers general financial information submitted by the applicants.

6.4 The applicants' injury claims

The applicants claimed that material injury in respect of wind towers commenced impacting profits and profitability in 2010. The application identified the injurious effects as:

- loss of sales volume;
- loss of market share;
- price depression;
- price suppression;
- reduced profits; and
- reduced profitability.

6.5 Volume effects

The application submits that dumped prices contributed to industry being unsuccessful in winning tenders which resulted in lost sales volumes and reduced market share. The applicants claim to have lost the following tenders between 2010 and 2012 to dumped imports:

- 2010 - 31 wind towers to the Gunning project in NSW awarded to Korean exporters.
- 2012 - 56 wind towers to the Gullen Range project in NSW awarded to Chinese exporters;
- 2012 - 70 wind towers to the Snowtown II project in South Australia awarded to Chinese exporters; and
- 2012 - 64 wind towers to the Mt Mercer project in Victoria awarded to Korean exporters.

The applicants were successful in winning 17 of the 73 wind towers for tender for Gullen Range and available information shows that E&A was awarded 20 of the 90 towers for tender for Snowtown II.

The Commission notes that based on the information provided in the application that the Australian industry had the capacity to supply wind towers for the projects it claimed were lost to the allegedly dumped imports.

The information on the market contained in the application shows that there were 240 wind towers that were open to tender and awarded in 2012. The available information shows that suppliers from China were successful in winning the contracts for 126 wind towers (51% of the available tenders), suppliers from Korea for 64 wind towers (26% of tenders) and the Australian industry for 50 wind towers (21% of tenders).

6.5.1 Conclusion – volume effects

Based on this analysis, there appears to be reasonable grounds to support the claim that the allegedly dumped imports have caused injury to the Australian industry in the form of lost sales volume and market share by displacing the sales volume of the Australian industry.

6.6 Price effects

6.6.1 The Commission's assessment

The applicants claimed to have suffered price undercutting and price depression in 2011 and 2012 when they had to benchmark their bids against the dumped import prices of bids from China and Korea.

The applicants provided documentation on individual tenders that detail revised offers to the nominated projects and the source of the price pressures.

Contracts won by industry

In the case of tenders awarded to industry members, documentation contained in the application shows industry's final and successful tender offers were lower than their initial tender prices offers. However whilst there appears to be evidence to link these price reductions to price pressures from overseas suppliers there does not appear to be sufficient evidence to link the corresponding price offers of wind towers from China and Korea.

The Commission considers that there is evidence to show that the industry suffered undercutting on the Gullen Range project where it was awarded 17 of the towers and that this undercutting was linked to competing bids of wind towers from China.

Contracts lost by industry

The Commission considers that there is evidence to show that industry members competed against Chinese exporters for the Gullen Range and Snowtown II projects. Information contained in the application showed significant undercutting by price offers from Chinese exporters and as a consequence resulted in reduced tender offers by industry applicants which were ultimately unsuccessful.

The application also included information relating to the Mt Mercer project which showed that industry members' tender offers were undercut by competing bids of wind towers from Korea.

6.6.2 Conclusion – price effects

Based on this analysis, there appear to be reasonable grounds to support the claim that the allegedly dumped imports have caused injury to the Australian industry in the form of price depression by undercutting the applicant's tendered price offers.

6.7 Profit and profitability effects

The applicants claim to have suffered reduced profits and profitability caused by price undercutting and lost tenders to dumped imports from China and Korea.

Tenders can range in size from two towers to one hundred and forty towers as in 2011. Three of the tenders in 2012 ranged from 64 to 90 towers. The applicants submitted an average value for wind towers of $500,000 which would value a tender in 2012 at $30 million to $45 million.

Therefore, the loss of tender contracts to dumped Chinese and Korean imports is representative of reduced potential revenue and profits. Likewise given the infrequent nature of the contracts the loss of the tender will also affect capacity utilisation for the manufacturer.

Similarly reduced prices caused by undercutting on a successful tender will affect sales revenue, profits and profitability.

The Commission considers that the loss of the tenders in 2012 has had an injurious effect on the industry due to the size of the individual tenders and the revenue associated with those tenders.

In assessing the lost tenders the Commission has taken into account the expected revenue from those tenders, given the time lag between the contract date of sales in 2012 and the expected invoiced date in 2013 when the wind towers were supplied.

6.7.1 Conclusion – profit and profitability effects

Based on this analysis, there appears to be reasonable grounds to support the claim that the allegedly dumped imports have caused injury to the Australian industry in the form of reduced profits and profitability.

6.8 Other economic factors

The applicants completed Confidential Appendix A7 for the period 2009 to 2012. The applicants claim to have experienced injury in respect of the following factors:

- return on investment;
- persons employed and their wages; and
- assets invested.

The Commission has examined the data provided in the application and notes that return on investment, persons employed and their wages and assets invested have decreased over the period. However based on the available information to date it does not appear reasonable at the consideration stage to link this injury to the allegedly dumped imports.

The Commission intends to examine these claims further with industry during the investigation.

The Commission notes that the data shows a reduction in revenue and in capacity utilisation. As noted above the Commission considered that the loss of a tender contract is likely to have an injurious effect on revenue. Likewise given the infrequent nature of the contracts the loss of the tender will also affect capacity utilisation for the manufacturer.

6.8.1 Conclusion – other economic factors

Based on this analysis, there appears to be reasonable grounds to support the claim that the allegedly dumped imports have caused injury to the Australian industry in the form of reduced revenue and a reduction in capacity utilisation.

6.9 Factors other than dumping

The applicants noted that the strong Australian dollar has made imported wind towers more affordable but submitted that if the strong Australian dollar was the only factor affecting the affordability and price competitiveness of imported wind towers, then it would expect to see strong gains in market share from other import sources besides China and Korea. The applicants stated that the impact of the strong Australian dollar does not detract from the submission that dumping has caused material injury to the Australian industry.

The applicants noted that demand for the supply of wind towers in the Australian market is driven by government renewable energy policy that saw the Australian market contract in 2010 and 2011. The applicants submitted that notwithstanding the contraction in the size of the Australian market, the Australian industry lost market share to dumped imports in 2010, but recovered market share in 2011, through significant price undercutting, before again losing market share in a growing market in 2012.

The applicants stated that they have always satisfied the prequalification standards of its OEM clients for quoted Australian wind farm projects and submitted that the issue of qualification has never been a factor causing it not to be awarded a project.

The applicants submitted that the factors other than dumping did not detract from the conclusion that material injury is based on the price, volume and profit factors caused by the dumped imports.

The Commission has noted the changes in the market and has assessed the industry market share taking into account those changes. The Commission also notes that contract and tender documents submitted by the applicants as part of the application show that the applicants were considered as viable suppliers for those tenders and appear to have met any prequalification standards required.

6.10 Conclusion on material injury caused by dumped imports

Based on the preliminary analysis detailed above, there appear to be reasonable grounds to support the claim that the applicants have experienced injury in the form of:

- loss of sales volumes;
- loss of market share;
- price depression;
- reduced revenue;
- reduced profits;
- reduced profitability; and
- reduced capacity utilization.

The degree of injury experienced by the applicants in terms of volume, price, profit and revenue factors appears to be material.

The Commission's assessment of the injurious effect of the allegedly dumped imports on the Australian wind tower industry is at **Confidential Appendix 3.**

On the available information, the injury caused by the alleged dumping appears to be material and caused by wind towers exported to Australia from China and Korea.

7 CONCLUSION

The Commission has examined the application and is satisfied that:

- the application complies with subsection 269TB(4); and
- there is an Australian industry in respect of like goods; and
- there appear to be reasonable grounds for the publication of dumping duty in respect of the goods the subject of the application.

Accordingly, the Commission recommends that the Commissioner not reject the application for the publication of a dumping duty notice and to give public notice of the decision as required under subsection 269TC(1).

The Commission recommends that the Commissioner specify an investigation period to determine whether dumping has occurred be from **1 January 2012 to 30 June 2013**.

The Commission will examine the Australian market and the economic condition of the industry from 1 January 2008 for the purposes of injury analysis.