



Customs Act 1901

Customs (Preliminary Affirmative Determinations) Direction 2015

**Wind Towers exported to Australia
from the Socialist Republic of Vietnam**

Investigation No. 405

Day 60 Status Report

Introduction

The purpose of this Status Report is to set out the reasons why I, Dale Seymour, the Commissioner of the Anti-Dumping Commission, have not made a preliminary affirmative determination (PAD) under subsection 269TD(1) of the *Customs Act 1901* (the Act) on 7 August 2017, being 60 days after the initiation of the investigation into the alleged dumping of wind towers or sections thereof (the goods) exported to Australia from the Socialist Republic of Vietnam (Vietnam).

This report and the findings contained herein reflect the status of the investigation at day 60. My findings may change as a result of further information, submissions, analysis or verification. Accordingly, I, at any time from day 60 onwards during the investigation, may make a PAD if I am satisfied of the requirements set out in subsection 269TD(1) of the Act.

Background

On 8 June 2017, I initiated an investigation into the alleged dumping of the goods following an application by Keppel Prince Engineering Pty Ltd (KPE) and Ottoway Fabrication Pty Ltd (OF) under section 269TB of the Act. Further details can be found in the public notice published on 8 June 2017, (refer to Anti-Dumping Notice No. 2017/78) available at www.adcommission.gov.au.

Under subsection 269TD(1) of the Act, I may make a PAD at any time, not earlier than 60 days after I initiate an investigation for the publication of a dumping duty notice, if I am satisfied that:

- there appear to be sufficient grounds for the publication of such a notice; or
- it appears that there will be sufficient grounds for the publication of such a notice subsequent to the importation into Australia of such goods.

In accordance with the *Customs (Preliminary Affirmative Determinations) Direction 2015* (the Direction), 60 days after the initiation of such an investigation I must either make a PAD or provide a Status Report outlining the reasons why I have not made a PAD.

Reasons for publishing a status report

In deciding whether to make a PAD on day 60 of this investigation, I have, in accordance with subsection 269TD(2) of the Act, had regard to:

- KPE and OF's application;
- submissions received concerning the publication of a dumping duty notice in response to the initiation of the investigation; and
- responses to importer and exporter questionnaires.

Based on the above information, I am not making a PAD because I am not satisfied, under subsection 269TD(1)(a) of the Act, that there appears to be sufficient grounds for the publication of a dumping duty notice.

In particular, at the time of publication of this Status Report, the Anti-Dumping Commission (the Commission) has not completed its preliminary consideration of whether the goods were dumped in Australia, in part owing to the complexity of the goods and the arrangements under which they are produced and sold. The Commission is currently considering information provided by two participating importers who imported the goods from Vietnam during the investigation period¹ and the only cooperating exporter (CS Wind Vietnam) that will assist in determining whether, and the extent to which, the goods were dumped, and in calculating preliminary dumping margins.

Further, the Commission is examining:

- competing claims as to whether the Australian industry experienced material injury during the investigation period and if so, whether the material injury was caused by allegedly dumped goods; and
- the role of various parties in the exportation and importation of the goods from Vietnam to Australia.

Therefore, at the time of making this report, I am unable to determine that there appear to be sufficient grounds to establish that:

- the goods exported to Australia have been dumped (at above negligible levels in accordance with section 269TDA); and
- dumped goods are causing material injury to the Australian industry.

Other considerations

Relevant matters – subsection 269TD(2)(b)

In accordance with the Direction, and for the purposes of subsection 269TD(2)(b) of the Act, I have considered the desirability of providing relief to an injured Australian industry as quickly as possible, where warranted. I have decided it is not warranted to make a PAD at this stage, because I am not satisfied that there appears to be sufficient grounds to establish that the goods are dumped, or to establish a causal link between the dumped goods and material injury for the reasons outlined above.

¹ 1 January 2015 to 31 December 2016

Reconsideration of making a PAD – section 269TDAA

After publishing this report, I must reconsider whether to make a PAD at least once prior to the publication of the Statement of Essential Facts (SEF) required under section 269TDAA of the Act. The SEF is due to be published on 26 September 2017. Prior to, or in the SEF, I will advise whether or not I made a PAD subsequent to this report and the reasons for my decision.

Anti-Dumping Commission Contact

Enquiries about this report may be directed to the case manager on telephone number +613 6213 6387 or email at investigations3@adcommission.gov.au.

A handwritten signature in black ink, appearing to read "Dale Seymour". The signature is written in a cursive style with a long, sweeping tail on the final letter.

Dale Seymour
Commissioner
Anti-Dumping Commission

7 August 2017