



INVESTIGATION 405

ALLEGED DUMPING OF CERTAIN WIND TOWERS EXPORTED FROM THE SOCIALIST REPUBLIC OF VIETNAM

VISIT REPORT – EXPORTER AND RELATED COMPANIES

**CS WIND CORPORATION (THE EXPORTER)
CS WIND VIETNAM LIMITED LIABILITY CO.
PNC GLOBAL CO. LTD**

**THIS REPORT AND THE VIEWS OR RECOMMENDATIONS CONTAINED THEREIN
WILL BE REVIEWED BY THE CASE MANAGEMENT TEAM AND MAY NOT REFLECT
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1 BACKGROUND

On 8 June 2017, the Commissioner of the Anti-Dumping Commission initiated an investigation into the alleged dumping of wind towers (the goods) exported to Australia from the Socialist Republic of Vietnam (Vietnam). The background to the initiation of this investigation is contained in Anti-Dumping Notice (ADN) No. 2017/78.

Following initiation of the investigation, a search of the Australian Border Force (ABF) import database indicated that certain wind towers were exported from Vietnam to Australia during the period 1 January 2015 to 31 December 2016 (the investigation period).

The Anti-Dumping Commission (the Commission) sought the cooperation of CS Wind Corporation (CS Wind Korea) through the completion of an Exporter Questionnaire regarding the goods. CS Wind Korea supplied the required information on behalf of itself and its subsidiaries, CS Wind Vietnam Limited Liability Company (CS Wind Vietnam) and PNC Global Co., Ltd (PNC Global Korea).

The verification team conducted verification visits in Vietnam and the Republic of Korea (Korea) to verify the sales data of CS Wind Korea and the cost data of the subsidiaries of the CS Wind group of companies that were involved in the production of the wind towers exported to Australia and sold domestically.

The role of each entity in the production and sale of the goods was determined by the verification team as follows:

1. CS Wind Korea, the marketer and beneficial owner of the goods (from raw materials to finished goods), until such time as ownership is transferred to the buyer of the wind towers.
2. CS Wind Vietnam, which assembles/manufactures the wind towers on an arm's length toll processing basis on behalf of CS Wind Korea.
3. PNC Global Korea, a related company which sources, coordinates and supplies certain wind tower internals on an arm's length transaction basis to CS Wind Korea.

2 THE GOODS AND LIKE GOODS

2.1 The goods exported to Australia

During the investigation period, CS Wind Korea exported certain wind towers (the goods) to Australia. The goods CS Wind Korea exported to Australia during the investigation period include certain utility scale wind towers, whether or not tapered, and sections thereof (whether exported or assembled or unassembled), and whether or not including an embed being a tower foundation section.

CS Wind Korea advised the Commission that two different wind tower designs were exported to Australia during the investigation period. CS Wind Korea also exported embeds (also known as tower foundations or tower base rings) to Australia during the Investigation period.

2.2 Like goods sold on the domestic market

CS Wind Korea advised that it sold wind towers on the domestic market in Vietnam during the investigation period. However, CS Wind Korea claimed that there were no comparable goods sold on the domestic market in Vietnam on the basis of differences in tower designs, including height, weight, circumference and the tower internals.

2.3 Model matching

There were two types of wind towers sold for export to Australia and one type of embed. Despite CS Wind Korea selling like goods on the domestic market, the verification team were unable to make a specification adjustment to adjust for the differences in characteristics between the domestic and export goods to ensure a proper comparison.

As there is absence of relevant sales on the domestic market, normal values have been constructed under subsection 269TAC(2)(c) using the costs to make the goods exported to Australia, plus selling, general and administrative (SG&A) costs applicable to the goods sold domestically, and an additional amount for profit.

2.4 Like goods – preliminary assessment

The verification visit notes that wind towers vary from project to project and have different technical properties. Nevertheless, all wind tower sections share common characteristics, have comparable end use applications and are produced in a similar manner. As such, the verification team therefore considers that the goods manufactured for the domestic market are like goods in accordance with subsection 269T(1) of the *Customs Act 1901* (the Act).¹

¹ References to any section or subsection in this report relate to provisions of the Act, unless specifically stated otherwise.

3 VERIFICATION OF EXPORT SALES TO AUSTRALIA

3.1 Verification of Australian sales to audited financial statements

The verification team verified the completeness and relevance of CS Wind Korea's Australian sales listing by reconciling it to its audited financial statements in accordance with ADN. No 2016/30.

The verification team did not identify any issues during this process. Details of this verification process are contained in the verification work program, and its relevant attachments, at **Confidential Attachment 1**.

3.2 Verification of Australian sales to source documents

The verification team verified the accuracy of CS Wind Korea's Australian sales listing by reconciling it to source documents in accordance with ADN No. 2016/30.

3.2.1 Incoterms

During this process the verification team identified some discrepancies between the sales listing and commercial invoices regarding the incoterms for certain sales. Invoices issued by CS Wind Korea were not sufficiently detailed to indicate the terms of sale. As such, the verification team relied upon other source documentation, including that issued by CS Wind Vietnam, to establish the terms of sale and amended the Australian sales listing accordingly.

3.2.2 Export price not inclusive of total value of goods exported to Australia

The visit team amended the exporters' sales data to include values for what the exporter had classified as "additional items" which were not originally reported as sales of the goods during the investigation period.

The verification team used invoices and other source documents relating to these sale items to add the relevant value of these sales to the Australian export sales listing, since the wind towers under consideration required the additional items to satisfy the project requirements.

Details of this verification process are contained in the verification work program, and its relevant attachments, at **Confidential Attachment 1**.

3.3 The exporter

As noted in the Commission's Dumping and Subsidy Manual (the Manual), the Commission generally identifies the exporter as a principal in the transaction, located in the country of export from where the goods were shipped, that gave up responsibility by knowingly placing the goods in the hands of a carrier, courier, forwarding company, or its own vehicle for delivery to Australia; or a principal in the transaction, located in the country of export, that owns, or previously owned, the goods but need not be the owner at

the time the goods were shipped. Typically, the manufacturer of the goods who knowingly exported the goods will be the exporter.

Based on an analysis of the terms under which CS Wind Korea made Australian export sales of the goods during the investigation period, the verification team considers CS Wind Korea to be the exporter of the goods to Australia during the investigation period.

3.4 The importers

The verification visit team analysed the terms under which CS Wind Korea made its export sales of the goods to Australia during the investigation period. Based on this analysis, and of the ABF import data the verification team considers that one of the customers listed in the Australian sales spreadsheet was the beneficial owner of the goods at the time of importation. In respect of the other customer, the verification team considers while it is listed in the Australian sales listing, it is another, related company of that customer, based in Australia, that was the beneficial owner of the goods at the time of importation, and therefore the 'importer' of the goods.

3.5 Related party customers

Based on CS Wind Korea's response to the Exporter Questionnaire, verified sales data and audited financial statements, the verification team did not identify any information that might suggest that CS Wind Korea was related to any Australian importers.

3.6 Arms length

In respect of Australian sales of the goods made by CS Wind Korea to the importers during the investigation period, the verification team found no evidence that:

- there was any consideration payable for, or in respect of, the goods other than their price; or
- the price was influenced by a commercial or other relationship between the buyer, or an associate of the buyer, and the seller, or an associate of the seller; or
- the buyer, or an associate of the buyer, was directly or indirectly reimbursed, compensated or otherwise received a benefit for, or in respect of, the whole or any part of the price.²

The verification team therefore considers that all export sales to Australia made by CS Wind Korea during the inquiry period were arms length transactions.

² Section 269TAA of the Act refers.

3.7 Export price – preliminary assessment

The verification team is satisfied that the export sales listing, as amended, is complete, relevant and accurate and recommends that the export price be determined:

- under subsection 269TAB(1)(a), as the price paid by the importer to the exporter less transport and other costs arising after exportation; or
- under subsection 269TAB(1)(c), as the price Minister determines having regard to all the circumstances of the exportation (in this case, paid by the customer identified in the Australian sales listing to the exporter).

The verification team's preliminary export price calculations are at **Confidential Appendix 1**.

Export prices were calculated at free alongside ship (FAS) terms.

4 COST TO MAKE AND SELL

4.1 Verification of costs to audited financial statements

When attempting to verify the completeness and relevance of the cost to make and sell (CTMS) spreadsheets, the verification team identified a number of issues with how this information had been prepared by CS Wind Korea.

These issues included the use of cost information (as opposed to invoice pricing) when recording purchases of goods and services from subsidiaries under the tolling arrangements and how CS Wind Korea had allocated a number of indirect expenses related to the operation of its subsidiaries. The verification team also identified some instances where relevant materials had not been included in CS Wind Korea's cost information.

4.1.1 Recording of purchases under the tolling arrangements

The CTMS data provided to the verification team by CS Wind Korea, for both domestic and Australian sales, recorded the cost of goods and services supplied by its two subsidiaries, CS Wind Vietnam and PNC Global Korea, at their cost rather than the price invoiced to, and paid by, CS Wind Korea under the tolling or purchase arrangements.

The verification team observed that the invoice pricing between the related parties under the tolling arrangements reflected the fully absorbed cost to make.³ The verification team further observed that the prices paid by CS Wind Korea under the tolling arrangements were referred to for the purposes of financial reporting.

The verification team therefore considers that the invoice price under the tolling arrangement is the relevant cost of the goods for the purposes of calculating CS Wind Korea's CTM.

4.1.2 Allocation of indirect expenses of the CS Wind group

In support of its approach to constructing the CTMS for their domestic and Australian sales, CS Wind Korea provided the verification team with a work pack containing a number of screenshots from the CS Wind group accounting system to demonstrate that these reallocation of indirect costs were justified. These screenshots showed that some of the costs in question were related to subsidiaries not involved in the production of the goods under consideration in this investigation. However, the nature of the excluded costs and the extent to which these were related to CS Wind Korea's various subsidiaries was not adequately explained. Moreover, the verification team observed that these costs had been allocated to the goods under consideration for the purposes of financial reporting.

³ For one project, the verification team observed that the sale of internals from PNC Global Korea were made at a loss. In this instance, the verification team adopted PNC Global Korea's costs to produce the internal components as CS Wind Korea's purchase cost.

Accordingly, the verification team concluded that the excluded costs should be allocated to the goods for the purpose of this investigation.

4.1.3 Flange Bolts

During the course of the verification of PNC Global Korea's CTMS information, the verification team became aware that certain sales and cost information relating to flange bolts on the Ararat project had not been included in either the sales or cost information.

In response to this issue, CS Wind Korea indicated that this information had been omitted on the basis that the flange bolt costs did not relate to the 'goods' as per the goods description. CS Wind Korea was also able to demonstrate that the flange bolts represented components that were not attached to the wind towers or sections thereof and therefore fell outside of the goods description.

4.1.4 SG&A

CS Wind calculated SG&A figures for the purpose of reporting CTMS based on financial data relating to the calendar year 2016. The verification team requested that SG&A calculations be updated to include 2015 SG&A figures to cover the whole of the investigation period on the basis that some SG&A costs were expected to have been incurred during 2015.

CS Wind Korea submitted that given all domestic and Australian sales of the goods were made in 2016, only SG&A expenses from 2016 should be considered when determining the CTMS for these sales. CS Wind Korea also submitted that it would be practically impossible to calculate the SG&A for 2016 sales based on 2015 data, due to the lack of basis for attribution and allocation.

For the purpose of this verification report and for constructing normal value under subsection 269TAC(2)(c) of the Act, a rate of SG&A for 2016 only has been adopted.

4.1.5 Verification of costs to audited financial statements - conclusion

The verification team prepared a revised set of CTMS information for Australian and domestic sales to address the issues identified above. This revised CTMS information enabled the verification team to verify the completeness and relevance of CS Wind Korea's CTMS spreadsheet by reconciling each cost element to audited financial statements in accordance with ADN No. 2016/30.

Details of this verification process are contained in the verification work program, and its relevant attachments, at **Confidential Attachment 1**.

4.2 Verification of costs to source documents

The verification team was able to verify the accuracy of the CTMS spreadsheet to source documents in accordance with ADN No. 2016/30. The verification team did not identify any issues.

Details of the verification process are contained in the verification work program, and relevant attachments, at **Confidential Attachment 1**.

4.3 Related party purchases

Based on the company's response to the Exporter Questionnaire and documentation supplied for the purpose of the verification visit, the verification team identified that a raw material supplier (PNC Global Korea) and a finished goods constructor (CS Wind Vietnam) were subsidiaries of, and therefore related to, CS Wind Korea.

The verification team observed that generally the input prices for the purchases made by CS Wind Korea were generally the fully absorbed cost to make from the relevant parties.

The verification team therefore considers that where the price paid for the material and services by CS Wind Korea reflects the fully absorbed cost to make to be at arms length and suitable to use in constructing the normal value. Where the price paid was not reflective of fully absorbed costs, the verification team has used the actual fully absorbed costs, as discussed in sections 4.1.1 above.

4.4 Cost to make and sell – summary

Having revised and verified CS Wind Korea's CTMS information to audited financial statements and source documents, the verification team is satisfied that the revised CTMS information is complete, relevant and accurate. The revised CTMS information is at **Confidential Appendix 2**.

5 VERIFICATION OF DOMESTIC SALES

5.1 Verification of domestic sales to audited financial statements

The verification team verified the completeness and relevance of CS Wind Korea's domestic sales listing by reconciling it to audited financial statements in accordance with ADN No. 2016/30.

The verification team did not identify any issues during this process. Details of this verification process are contained in the verification work program, and its relevant attachments, at **Confidential Attachment 1**.

5.2 Verification of domestic sales to source documents

The verification team verified the accuracy of CS Wind Korea's domestic sales listing by reconciling it to source documents in accordance with ADN No. 2016/30. The verification team did not identify any significant issues during the downwards verification of domestic sales.

Details of the verification process are contained in the verification work program, and relevant attachments, at **Confidential Attachment 1**.

5.3 Related party customers

According to CS Wind Korea's response to the Exporter Questionnaire, no sales were made to domestic related parties during the investigation period. The verification team did not identify any information that might suggest that CS Wind Korea was related to any of its domestic customers.

5.4 Arms length

In respect of domestic sales of the goods made by CS Wind Korea to its customers during the investigation period, the verification team found no evidence that:

- there was any consideration payable for, or in respect of, the goods other than its price; or
- the price was influenced by a commercial or other relationship between the buyer, or an associate of the buyer, and the seller, or an associate of the seller; or
- the buyer, or an associate of the buyer, was directly or indirectly reimbursed, compensated or otherwise receive a benefit for, or in respect of, the whole or any part of the price.

5.5 Ordinary course of trade

Section 269TAAD provides that if like goods are sold in the country of export at a price less than the cost of such goods, and are unrecoverable within a reasonable period, then they are taken not to have been sold in the ordinary course of trade (OCOT).

The verification team compared the revenue (i.e. net sales value) for each domestic sale of wind towers to the corresponding quarterly domestic CTMS to test whether those sales were profitable.

Where the volume of unprofitable sales exceeded 20 per cent for a particular model, the verification team tested the recoverability of the unprofitable sales by comparing the revenue for each transaction to the corresponding weighted average CTMS over the review period. Those sales found to be unrecoverable were considered not to be in the ordinary course of trade.

5.6 Suitability of domestic sales

As discussed in section 2.2 above, the verification team has constructed normal values rather than using domestic sales.

5.7 Domestic sales – summary

The visit team found the price paid for the goods in domestic sales was established satisfactorily. Based on the information provided by CS Wind Korea, and the verification processes conducted on site, the verification team is satisfied that the domestic sales listing is complete, relevant and accurate, and sales that were arm's length transactions in the ordinary course of trade. However, the verification team does not consider that the sales are suitable or relevant for the purposes of subsection 269TAC(1). This is on account of the different technical specifications, as discussed in sections 2.3 of this report.

The domestic sales listing is at **Confidential Appendix 3**.

6 ADJUSTMENTS

To ensure the normal value is comparable to the export price of the goods exported to Australia at FAS terms, the verification team has considered the following adjustments to normal values pursuant to subsection 269TAC(9).

6.1 Transport bracing costs

The company has claimed that the cost of transport bracing for domestic sales should be a downward adjustment to normal value. The verification team was able to verify the cost information provide by CS Wind Korea in support of this adjustment claim, however, CS Wind Korea was unable to evidence that the costs were specific to the projects claimed. As such, this claim was not accepted by the verification team.

6.2 Export Inland transport

As export sales were made on an FAS basis and normal value construction was also calculated on an FAS basis due to the tolling contract being for construction services and including shipment to the FAS point, the verification team has not needed to make an adjustment for inland transport.

6.3 Credit Expense

The verification team accepts that the credit expense related to the sale of goods in the domestic market is a genuine cost difference between domestic and export sales. The verification team verified these expenses and has applied a downward adjustment to the normal value for these costs. The verification team also applied an upward adjustment to the normal value for these costs.

6.4 Adjustments - conclusion

The verification team is satisfied that there is sufficient and reliable information to justify the following adjustments to the normal value under subsection 269TAC(9). The verification team considers these adjustments are necessary to ensure a fair comparison of normal values and export prices.

Adjustment Type	Deduction/addition
Credit expense	Deduct the credit expense for domestic sales
Credit expense	Add the credit expense for export sales

The verification team’s preliminary adjustment calculations are included in normal value calculations at **Confidential Appendix 4**.

7 NORMAL VALUE

7.1 General

As discussed in section 2.3, the verification team considers that differences in the technical specifications of the goods exported and those sold domestically in Vietnam mean that the domestic prices of wind towers are unable to meaningfully be adjusted to make them comparable with export prices. Subsection 269TAC(2)(c) allows for the normal value of the goods to be constructed when there is an absence of relevant sales. The verification team considers that normal values should be constructed in accordance with subsection 269TAC(2)(c) of the Act using:

- the cost to make the exported goods;
- the SG&A that would be incurred on the assumption that the exported goods are sold on the domestic market; and
- an amount for profit on the assumption that the exported goods are sold on the domestic market.

7.2 Cost to make of the exported goods

As noted in the Manual, the cost to make will normally be based on the information in the exporter's records where they are kept in accordance with the generally accepted accounting principles in the country of export and reasonably reflect the competitive market costs of production.

As discussed in section 4 above, the verification team observed that the input prices for the purchases made by CS Wind Korea were the fully absorbed cost to make from the relevant parties.

The verification team therefore considers the prices paid for the material and services by CS Wind Korea to be the cost of production or manufacture of the goods and are suitable to use in constructing the cost to make of the goods pursuant to subsection 269TAC(2)(c)(i)P.

7.3 Selling, general and administrative expenses

In constructing a normal value, the amount for SG&A is worked out in accordance with Regulation 44 of the *Customs (International Obligations) Regulation 2015* (the Regulations).

CS Wind Korea supplied a workbook, which sought to allocate costs on a pro-rata basis between goods sold domestically, exported to Australia and third country. The workbook identified some minor costs which were specific to a region and not allocated across all sales. In addition, CS Wind Korea, identified some costs which it considered to be irrelevant to the sale of wind towers (consisting of impairment losses on subsidiaries and impairment losses on intangible assets), which it did not include in its SG&A allocation.

The visit team is satisfied that it was appropriate to exclude these costs and that the costs were appropriately allocated and are suitable for use in the dumping margin calculation.

In this instance, the verification team has sufficient information to establish SG&A using the information set out in the exporter's records.

7.4 Determination of profit

In constructing a normal value, the amount for profit is worked out in accordance with Regulation 45 of the Regulations.

The primary method the Commission must use is the profit achieved for sales of like goods sold by the exporter in the ordinary course of trade (OCOT). The verification team found that none of the domestic sales were in the OCOT. As such, the verification team was unable to calculate profit under Regulation 45(2).

Where this it is not possible to calculate profit under the primary method, the Regulations set out three alternative methods for profit determination, which are:

- by identifying the actual amounts realised by the exporter or producer from the sale of the same general category of goods in the domestic market or the country of export - Regulation 45(3)(a); or
- by identifying the weighted average of the actual amount realised by other exporters from the sale of like goods in the domestic market of the country of export - Regulation 45(3)(b); or
- subject to Regulation 45(4), by using any other reasonable method and having regard to all relevant information - Regulation 45(3)(c).

As stated in the Manual, there is no requirement to test for OCOT in any of the three alternatives for profit determination in Regulation 45, nor will the Commission read any OCOT requirement into them. The Manual also recognises that, in some instances, it may be appropriate to include a zero rate of profit.

As the verification team was unable to determine a profit based under any of the options available under the Regulation, the verification team considers it appropriate to use a zero rate of profit in the calculation of normal value.⁴

7.5 Conclusion

The verification teams consider that information gathered from CTMS, as amended, at Section 4 can be used to establish normal values under s.269TAC(2)(c) of the Act. With regard to the Regulations and information verified during the visit, the verification team considers that, in these circumstances, it is appropriate to include a zero amount for profit.

In using costs as the basis for normal values, the verification team considers that certain adjustments, in accordance with subsection 269TAC(9) of the Act, are necessary to ensure fair comparison of normal values with export prices, as outlined in Section 6 above.

Normal value calculations are at **Confidential Appendix 4**.

⁴ As per Regulation 45(3)(c) and Regulation 45(4).

8 DUMPING MARGIN

The dumping margin has been assessed by comparing invoiced Australian export prices to the corresponding constructed normal value for the investigation period, in accordance with subsection 269TACB(2)(a).

The dumping margin in respect of the goods exported to Australia by CS Wind Korea for the investigation period is **2.6%**.

Details of the preliminary dumping margin calculation are at **Confidential Appendix 5**.

9 APPENDICES AND ATTACHMENTS

Confidential Appendix 1	Australian export sales
Confidential Appendix 2	Domestic and Australian Export CTMS
Confidential Appendix 3&4	Domestic sales and Normal Value
Confidential Appendix 5	Dumping margin
Confidential Attachment 1	Verification work program, with attachments