



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[C-122-868]

Utility Scale Wind Towers from Canada: Preliminary Affirmative Countervailing Duty Determination, and Alignment of Final Determination with Final Antidumping Duty Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that countervailable subsidies are being provided to producers and exporters of utility scale wind towers (wind towers) from Canada. The period of investigation is January 1, 2018 through December 31, 2018. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable [Insert date of publication in the *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Tyler Weinhold, Moses Song, and Yasmin Bordas, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-1121, (202) 482-7885, and (202) 482-3813, respectively.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 703(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation on August 6, 2019.¹ On September 13, 2019, in accordance with section

¹ See *Utility Scale Wind Towers from Canada, Indonesia, and the Socialist Republic of Vietnam: Initiation of Countervailing Duty Investigations*, 84 FR 38216 (August 6, 2019) (*Initiation Notice*).

703(c)(1)(A) of the Act and 19 CFR 351.205(b)(2), Commerce published its postponement of the deadline for the preliminary determination of the investigation, and the revised deadline is now December 6, 2019.² For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.³ A list of topics discussed in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov>, and to all parties in the Central Records Unit, room B8024 of the main Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>. The signed and electronic versions of the Preliminary Decision Memorandum are identical in content.

Scope of the Investigation

The products covered by this investigation are wind towers from Canada. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

In accordance with the *Preamble* to Commerce's regulations,⁴ the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, scope).⁵ No interested party commented on the scope of the investigation as it appeared in the *Initiation*

² *See Utility Scale Wind Towers From Canada, Indonesia, and the Socialist Republic of Vietnam: Postponement of Preliminary Determinations of Countervailing Duty Investigations*, 84 FR 48329 (September 13, 2019).

³ *See* Memorandum, "Decision Memorandum for the Preliminary Determination of the Countervailing Duty Investigation of Utility Scale Wind Towers from Canada," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

⁴ *See Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

⁵ *See Initiation Notice*, 84 FR at 38217.

Notice. Accordingly, Commerce is preliminarily not modifying the scope language as it appeared in the *Initiation Notice*. See Appendix I.

Methodology

Commerce is conducting this investigation in accordance with section 701 of the Act. For each of the subsidy programs found countervailable, Commerce preliminarily determines that there is a subsidy, *i.e.*, a financial contribution by an “authority” that gives rise to a benefit to the recipient, and that the subsidy is specific.⁶

Alignment

As noted in the Preliminary Decision Memorandum, in accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4), Commerce is aligning the final countervailing duty (CVD) determination in this investigation with the final determination in the companion antidumping duty (AD) investigation of wind towers from Canada based on a request made by the Wind Tower Trade Coalition (the petitioner).⁷ Consequently, the final CVD determination will be issued on the same date as the final AD determination, which is currently scheduled to be issued no later than April 20, 2020, unless postponed.

All-Others Rate

Sections 703(d) and 705(c)(5)(A) of the Act provide that in the preliminary determination, Commerce shall determine an estimated all-others rate for companies not individually examined. This rate shall be an amount equal to the weighted average of the estimated subsidy rates established for those companies individually examined, excluding any

⁶ See sections 771(5)(B) and (D) of the Act regarding financial contribution; *see also* section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

⁷ See Petitioner’s Letter, “Utility Scale Wind Towers from Canada: Request to Align Countervailing Duty Investigation Final Determination with Antidumping Duty Investigation Final Determination,” dated November 27, 2019.

zero and de minimis rates and any rates based entirely on facts otherwise available, as outlined under section 776 of the Act.

In this investigation, Commerce calculated an individually-estimated countervailable subsidy rate for the mandatory respondent, Marmen Inc., Marmen Énergie Inc., and Gestion Marmen Inc. (collectively, Marmen), that is not zero, *de minimis*, or based entirely on facts otherwise available. Because Marmen is the only mandatory respondent in this investigation and its individually-calculated rate is not zero, *de minimis*, or determined entirely under section 776 of the Act, Commerce has assigned Marmen’s rate as the estimated all-others rate.

Preliminary Determination

Commerce preliminarily determines that the following estimated countervailable subsidy rates exist:

Exporter/Producer	Subsidy Rate (Percent)
Marmen Inc., Marmen Énergie Inc., and Gestion Marmen Inc.	1.09
All Others	1.09

Suspension of Liquidation

In accordance with sections 703(d)(1)(B) and (d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise, as described in the scope of the investigation section, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the *Federal Register*. Further, pursuant to section 703(d)(1)(B) of the Act and 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the rates indicated above.

Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties in this preliminary determination within five days of its public announcement, or if there is no public announcement, within five days of the date of this notice in accordance with 19 CFR 351.224(b).

Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify the information relied upon in making its final determination.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last verification report is issued in this investigation. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline for submitting case briefs.⁸ Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain the party's name, address and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington,

⁸ See 19 CFR 351.309; see also 19 CFR 351.303 (for general filing requirements).

DC 20230, at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

International Trade Commission (ITC) Notification

In accordance with section 703(f) of the Act, Commerce will notify the ITC of its determination. Pursuant to 705(b)(2) of the Act, if the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether imports of the subject merchandise are materially injuring, or threaten material injury to, the U.S. industry.

Notification to Interested Parties

This determination is issued and published pursuant to sections 703(f) and 777(i) of the Act and 19 CFR 351.205(c).

Dated: December 6, 2019.

Jeffrey I. Kessler,
Assistant Secretary
for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The merchandise covered by these investigations consists of certain wind towers, whether or not tapered, and sections thereof. Certain wind towers support the nacelle and rotor blades in a wind turbine with a minimum rated electrical power generation capacity in excess of 100 kilowatts and with a minimum height of 50 meters 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.

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 buss 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 are included within the scope 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 merchandise.

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, unless those components are shipped with the tower sections.

Further, excluded from the scope of the antidumping duty investigations are any products covered by the existing antidumping duty order on utility scale wind towers from the Socialist Republic of Vietnam. See *Utility Scale Wind Towers from the Socialist Republic of Vietnam: Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order*, 78 FR 11150 (February 15, 2013).

Merchandise covered by these investigations is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheading 7308.20.0020 or 8502.31.0000. Wind towers of iron or steel are classified under HTSUS 7308.20.0020 when imported separately as a tower or tower section(s). Wind towers may be classified under HTSUS 8502.31.0000 when imported as combination goods with a wind turbine (i.e., accompanying nacelles and/or rotor blades). While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the investigations is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
 - II. Background
 - III. Scope of the Investigation
 - IV. Injury Test
 - V. Subsidies Valuation
 - VI. Analysis of Programs
 - VII. Recommendation
- [FR Doc. 2019-26945 Filed: 12/12/2019 8:45 am; Publication Date: 12/13/2019]