WT 2023 IN

OTTAWA, November 2, 2023

STATEMENT OF REASONS

Concerning the final determinations with respect to the dumping and subsidizing of

CERTAIN STEEL UTILITY WIND TOWERS AND SECTIONS ORIGINATING IN OR EXPORTED FROM THE PEOPLE'S REPUBLIC OF CHINA

DECISION

Pursuant to subsection 41(1)(b) of the *Special Import Measures Act*, the Canada Border Services Agency made final determinations on October 18, 2023 respecting the dumping and subsidizing of certain steel utility wind towers and sections originating in or exported from China.

Cet *Énoncé des motifs* est également disponible en français.
This *Statement of Reasons* is also available in French.

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SUMMARY OF EVENTS

[1] On March 1, 2023, the Canada Border Services Agency (CBSA) received a written complaint from Marmen Inc. (Trois-Rivières, QC) and Marmen Énergie Inc. (Matane, QC) (collectively "Marmen") (hereinafter, "the complainant") alleging that imports of certain steel utility wind towers and sections (wind towers) originating in or exported from the People's Republic of China (China) have been dumped and subsidized. The complainant alleged that the dumping and subsidizing have caused injury and are threatening to cause injury to Canadian producers of wind towers.

[2] On March 22, 2023, pursuant to paragraph 32(1)(a) of the *Special Import Measures Act* (SIMA), the CBSA informed the complainant that the complaint was properly documented. On March 31, 2023, the CBSA informed the Government of China (GOC) that a properly documented complaint had been filed. The GOC was provided with the non-confidential version of the subsidy complaint and was invited for consultations pursuant to Article 13.1 of the *Agreement on Subsidies and Countervailing Measures*, prior to the initiation of the subsidy investigation. The CBSA did not receive any request for consultations.

[3] The complainant provided evidence to support the allegations that wind towers from China have been dumped and subsidized. The evidence also disclosed a reasonable indication that the dumping and subsidizing have caused injury and/or are threatening to cause injury to the Canadian industry producing like goods.

[4] On April 21, 2023, pursuant to subsection 31(1) of SIMA, the CBSA initiated investigations respecting the dumping and subsidizing of wind towers from China.

[5] Upon receiving notice of the initiation of the investigations, the Canadian International Trade Tribunal (CITT) commenced a preliminary injury inquiry, pursuant to subsection 34(2) of SIMA, into whether the evidence discloses a reasonable indication that the dumping and subsidizing of the above-mentioned goods have caused injury or are threatening to cause injury to the Canadian industry producing the like goods.

[6] On June 20, 2023, pursuant to subsection 37.1(1) of SIMA, the CITT made a preliminary determination that there is evidence that discloses a reasonable indication that the dumping and subsidizing of wind towers from China have caused injury or are threatening to cause injury to the domestic industry.

[7] On July 20, 2023, as a result of the CBSA's preliminary investigations and pursuant to subsection 38(1) of SIMA, the CBSA made preliminary determinations of dumping and subsidizing of wind towers originating in or exported from China.

[8] On the same date, pursuant to subsection 8(1) of SIMA, provisional duty was imposed on imports of dumped and subsidized goods that are of the same description as any goods to which the preliminary determinations apply, and that are released during the period commencing on the day the preliminary determinations were made and ending on the earlier of the day on which the CBSA causes the investigations in respect of any goods to be terminated pursuant to subsection 41(1) of SIMA or the day the CITT makes an order or finding pursuant to subsection 43(1) of SIMA.

[9] Based on the available evidence, the CBSA is satisfied that wind towers from China have been dumped and subsidized. Therefore, on October 18, 2023, the CBSA made final determinations of dumping and subsidizing pursuant to paragraph 41(1)(b) of SIMA in respect of those goods.

[10] The CITT's inquiry into the question of injury to the Canadian industry is continuing, and it will issue its decision by November 17, 2023. Provisional duty will continue to be imposed on the subject goods from China until the CITT renders its decision.

PERIOD OF INVESTIGATION

[11] The Period of Investigation (POI) is April 1, 2021 to March 31, 2023.

PROFITABILITY ANALYSIS PERIOD

[12] The Profitability Analysis Period (PAP) is April 1, 2021 to March 31, 2023.

INTERESTED PARTIES

Complainant

[13] The name and address of the complainant is as follows:

Marmen Inc.
557 des Érables Street
Trois-Rivières (QC) G8T 8Y8

Marmen Énergie Inc.
1905 Av. du Phare O
Matane (QC) G4W 3N1

[14] Marmen was founded in 1972. Marmen is a manufacturing partner of Original Equipment Manufacturers (OEM) in the aviation, oil and gas, hydropower, steam and gas turbines, mining and steel mills, wind power, nuclear power, infrastructure, space, defense and military industries.[1]

[1] Exhibit 2 (NC) – WT Complaint – para. 7

Other Producers

[15] The complainant stated that they are the only producer of wind towers in Canada.[2] The CBSA conducted independent research, but could not identify any other producers in Canada.

Trade Unions

[16] The complainant stated that their employees are not represented by a trade union.[3] As Marmen is the only known producer of wind towers in Canada, there are no known trade unions.

Importers

[17] At the initiation of the investigations, the CBSA identified 36 potential importers of the subject goods from CBSA import entry documentation and from information submitted in the complaint. All of the potential importers were asked to respond to the CBSA's importer Request for Information (RFI).[4] Two importers provided a response to the importer RFI, Siemens Gamesa Renewable Energy Limited ("Siemens")[5] and Vestas Canadian Wind Technology Inc. ("Vestas Canada")[6].

Exporters

[18] At the initiation of the investigations, the CBSA identified 83 potential exporters of the subject goods from CBSA import entry documentation and from information submitted in the complaint. All of the potential exporters were asked to respond to the CBSA's dumping, subsidy, and section 20 RFIs.[7]

[19] Three exporters responded to the CBSA's RFIs. The CBSA received RFI responses from a producer/exporter named CS Wind China Co., Ltd. ("CSWC")[8], its related vendor, CS Wind Corporation ("CSWK") and its related input supplier, CS Trading (Lianyungang) Co., Ltd ("CSWT") (collectively "CS Wind"); a producer/exporter named Penglai Dajin Offshore Heavy Industry Co., Ltd. ("Penglai Dajin")[9]; and a producer/exporter named Shanghai Taisheng Wind Power Equipment Co., Ltd. ("STWPE")[10] and two related parties, Nantong Taisheng Blue Island Offshore Co., Ltd. ("Blue Island")[11] and Shanghai Taisheng Power Engineering Machinery Co., Ltd. ("Dongtai")[12] (collectively "TSP Group").

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[2] Exhibit 2 (NC) – WT Complaint – paras. 49-50
[3] Exhibit 2 (NC) – WT Complaint – para. 52
[4] Exhibit 22 (NC) – Importer RFI and Industry Profit Survey
[5] Exhibit 54 (NC) – Importer RFI – Siemens Gamesa Renewable Energy
[6] Exhibit 32 (NC) – Importer RFI – Vestas - Canadian Wind Technology, Inc.
[7] Exhibit 21 (NC) – Exporter RFI – Dumping, Subsidy and Section 20
[8] Exhibit 62 (NC), 69 (NC) and 81 (NC) – Exporter RFIs – CS Wind
[9] Exhibit 42 (NC), 58 (NC) and 60 (NC) – Exporter RFIs – Penglai Dajin
[10] Exhibit 38 (NC), 40 (NC) and 73 (NC) – Exporter RFIs – STWPE
[11] Exhibit 44 (NC), 48 (NC) and 71 (NC) – Exporter RFIs – Blue Island
[12] Exhibit 44 (NC), 50 (NC) and 75 (NC) – Exporter RFIs – Dongtai

[20] One vendor of subject goods, Vestas Manufacturing A/S ("Vestas Denmark")[13], provided a response to the dumping RFI.

Government

[21] Upon initiation of the investigations, the GOC was sent the CBSA's government subsidy RFI requesting information concerning the alleged subsidy programs available to producers/exporters of subject goods. The GOC was also sent a section 20 RFI.[14] The GOC did not respond to either the government subsidy RFI or section 20 RFI.

[22] On June 12, 2023, the CBSA received representations from the GOC expressing its opposition to the section 20 inquiry.[15]

[23] For the purposes of these investigations, GOC refers to all levels of government, i.e., federal, central, provincial/state, regional, municipal, city, township, village, local, legislative, administrative or judicial, singular, collective, elected or appointed. It also includes any person, agency, enterprise, or institution acting for, on behalf of, or under the authority of, or under the authority of any law passed by, the government of that country or that provincial, state or municipal or other local or regional government.

PRODUCT INFORMATION

Definition

[24] For the purposes of these investigations, subject goods are defined as: [16]

1. Certain steel utility wind towers and sections thereof originating in or exported from the People's Republic of China:

    a. with or without flanges, doors, or internal or external components (e.g., flooring/decking/platforms, ladders, lifts, brackets, electrical busbars, electrical cabling, conduit, cable harness for nacelle generator, interior lighting, tool and storage lockers) attached or adjoined to the wind tower or section, and

    b. 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,

[13] Exhibit 65 (NC) – Exporter RFI – Vestas Manufacturing A/S
[14] Exhibit 23 (PRO) – Government RFI – Subsidy and Section 20
[15] Exhibit 89 (NC) – Comments submitted by the Ministry of Commerce of People's Republic of China.
[16] Exhibit 2 (NC) – WT Complaint – para. 24

c. but excluding,

    i. nacelles and rotors (e.g. blades and hubs), regardless of whether they are attached to the wind tower or sections,
    ii. Subject to paragraph 1.C.i., flanges, doors and internal or external components which are not attached to the wind towers or sections thereof, unless those components are shipped with the wind towers or sections and are intended to be attached to the wind tower or sections as part of its final assembly or construction,

2. For certainty and clarity,

    a. The wind towers and sections described at paragraph 1 are designed to, or capable of, supporting the nacelle and rotor blades for a wind turbine with both:

        i. a minimum rated electrical power generation capacity in excess of 100 kilowatts ("kW"), and

        ii. 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,

    b. Items described at paragraph 1.A. and attached to the towers or sections thereof are part of the tower or tower sections and within scope unless specifically excluded under paragraph 1.C.,

    c. The goods described at paragraph 1.A. are a non-exhaustive list. The absence of a good from the list does not mean the good is excluded.

    d. The goods described at paragraph 1.A include a kit of fabricated steel components that are designed and intended to be assembled or constructed into a wind tower or section thereof.

Additional Product Information[17]

[25] The subject goods are wind towers or sections thereof. These goods are produced primarily from steel. When assembled at the installation site, the goods form a structural tower that support a wind turbine's nacelle and rotor.

[26] A wind tower, when assembled, may or may not be tapered. An assembled wind turbine may also consist of several wind tower sections.

[17] Exhibit 2 (NC) – WT Complaint – paras. 24-30

[27] In general, a wind tower section consists of one or more steel plates rolled into cylindrical or conical shapes and attached at the edges by welding to form a steel shell. A wind tower section may fall within scope of the product definition regardless of its coating, end-finish, painting, treatment, or method of manufacture. At each end of the section, a flange is attached.

[28] Internal and external components of wind turbines, such as those goods described at paragraph 1.A. of the product definition, are not within scope when unattached and shipped separate from a wind tower or section thereof. However, once attached to the tower or section – by welding, the use of fasteners or some other means that fixes the good to the wind tower or section in a non-incidental manner – the external or internal components become part of the tower and are therefore within scope. Similarly, internal and external components of wind turbines described in paragraph 1.A. of the product definition that are shipped with wind towers or sections, and that are intended to be attached to the wind tower when assembled, are considered part of the wind tower or section and within scope. Internal and external components may be shipped with a wind tower or section if such goods are listed on the same bill of lading or purchase order. Materials that are shipped with the tower or sections but are not intended as wind turbine components to be attached to the tower or section – such as packing material – are not within scope. Similarly, a rotor, hub or nacelle are not within scope as they are excluded by paragraph 1.C.i. of the product definition.

[29] Wind towers and sections can also be produced from fabricated steel panels that are shipped to the installation site and then constructed on-site into a tower or section. This is referred to in the product definition as a "kit". These panels are assembled sections and/or towers using structural bolts. Towers produced and constructed using this method are not common in Canada as it requires significant labour resources at the installation site to construct or assemble the sections or towers and install any internal or external components. Nevertheless, towers and sections produced using this method are substitutable for towers and sections produced by rolling and welding plate into sections at a manufacturing facility. A kit tower section can be easier to transport compared to a traditionally manufactured section.

<u>Production Process</u>[18]

[30] Wind towers are generally purchased by a wind turbine OEM. Each wind tower is produced to the OEM's proprietary specifications.

[31] The primary input for wind towers is steel plate. The general plate thickness used ranges from 12 mm to 50 mm or more. Plate thickness will vary based on wind turbine design, rotor diameter, wind turbine component weight, positioning of the tower and other factors. The wall thickness of the tower may vary, with the base of the tower requiring thicker plate than the top of the tower.

[18] Exhibit 2 (NC) – WT Complaint – paras. 31-38

[32] Wind tower manufacturing generally consists of the following steps:

1. Plate cutting – Plate is checked for quality and then cut using a plasma and/or oxygen acetylene cutter. Its edges may also be beveled to facilitate welding.

2. Rolling – The cut plate is passed through a roller that bends and forms the plate into a cylindrical or conical shape.

3. Welding – The edges of the rolled plate are welded on both sides of the seam. This creates a cylindrical or conical "can". Individual cans are then fitted together and welded along the circumferential edge to create a tower section. A flange is then welded to each end of the section. A flange is a high precision, machined steel ring. It has a flared edge with evenly spaced holes. During installation the sections are attached together flange-to-flange using structural nuts and bolts. At various stages ultrasonic tests are completed to confirm the quality of the welds.

4. Internal support attachments – Brackets, clips, lugs and similar goods used to attach internals to the tower are attached to the tower by welds. These support attachments are subsequently used to attach internal components to the tower.

5. Door installation – A door is installed at the bottom of the base section. This involves cutting a hole in the section and installing a door frame and door.

6. Painting and coating – The sections are coated on the inner and outer surfaces. The surfaces are prepared to ensure better paint adhesion. The flanges and portions of the sections may have a metallic coating, such as aluminum-zinc alloy, applied to inhibit rust and corrosion. Sections are then painted with one or more layers of a urethane, epoxy or other coating.

7. Component installation – Mechanical, electrical, and other components are installed.

8. Inspection – The tower sections undergo a final quality control inspection process.

[33] Delivery of a wind tower to the installation site and installation of the wind tower is arranged by the OEM customer.

[34] It is also possible for a wind tower or sections to be constructed at the installation site using fabricated steel panels that are shipped to a turbine installation site as a kit. The panels are fabricated at a manufacturing facility by cutting shapes from steel plate, bending them as required, drilling holes and painting or coating. The panels are delivered to the installation site as a kit and assembled into a tower or tower section at the turbine installation site using structural bolts to attach adjacent panels. Internals, externals, and doors would all be installed on-site. Wind towers constructed from kits are not common in Canada.

Classification of Imports

[35] The subject goods are normally imported under the following tariff classification number:

7308.20.00.00

[36] However, they can also be imported under the following tariff number, in particular if they are imported with other wind turbine components, such as the nacelle or rotors:

8502.31.00.00

[37] The listing of tariff classification numbers is for convenience of reference only. The tariff classification numbers include non-subject goods. Also, subject goods may fall under tariff classification numbers that are not listed. Refer to the product definition for authoritative details regarding the subject goods.

LIKE GOODS AND CLASS OF GOODS[19]

[38] Subsection 2(1) of SIMA defines "like goods" in relation to any other goods as goods that are identical in all respects to the other goods, or in the absence of any identical goods, goods the uses and other characteristics of which closely resemble those of the other goods.

[39] In considering the issue of like goods, the CITT typically looks at a number of factors, including the physical characteristics of the goods (such as composition and appearance), their market characteristics (such as substitutability, pricing, distribution channels and end uses) and whether the domestic goods fulfill the same customer needs as the subject goods.

[40] With respect to the definition of like goods, the complainant stated that a wind tower produced for one project is not generally substitutable for a wind tower needed for another project. However, wind towers produced to a specification for a project manufactured in Canada is like a wind tower manufactured to that same specification in China.

[41] For the purpose of this analysis, like goods consist of domestically produced wind towers described in the product definition.

[42] After considering questions of use, physical characteristics and all other relevant factors, the CBSA is of the opinion that subject goods and like goods constitute only one class of goods.

[19] Exhibit 2 (NC) – WT Complaint – paras. 78-82

[43] In its preliminary injury inquiry for these investigations, the CITT further reviewed the matter of like goods and classes of goods. On July 5, 2023, the CITT issued its preliminary inquiry *Statement of Reasons*, indicating that:

> *"[…] wind towers and sections thereof produced in Canada that are of the same description as the subject goods are "like goods" in relation to the subject goods and that there is one class of goods.."*[20]

THE CANADIAN INDUSTRY

[44] The domestic industry is comprised of only the complainant. The CBSA conducted independent research but could not identify any other producers in Canada. Based on the available evidence, the CBSA is satisfied that the complainant accounts for all known production of like goods produced in Canada.

IMPORTS INTO CANADA

[45] During the final phase of the investigations, the CBSA refined the volume and value of imports based on information from CBSA import entry documentation and information received from exporters and importers.

[46] The following table presents the CBSA's analysis of imports of wind towers for the purposes of the final determinations:

Import Volume of Wind Towers
(April 1, 2021 to March 31, 2023)

Country	% of Total Import Volume
China	92.6%
All Other Countries	7.4%
Total Imports	**100%**

INVESTIGATION PROCESS

[47] Regarding the dumping investigation, information was requested from all known and potential exporters, producers, vendors and importers, concerning shipments of wind towers released into Canada during the POI.

[20] Canadian International Trade Tribunal; Preliminary Injury Inquiry – Certain Wind Towers – *Statement of Reasons* (July 5, 2023), PI-2023-001, para. 51

[48] Regarding the section 20 inquiry, information was requested from all known and potential exporters and producers of wind towers in China and from the GOC. The CBSA also sent Surrogate RFIs to all known producers of wind towers in Mexico, India, Indonesia and South Korea to collect domestic pricing and costing information concerning wind towers to determine normal values under paragraph 20(1)(c) of SIMA. Furthermore, importers were requested to provide information respecting re-sales in Canada of like goods imported from a third country in order to gather information to determine normal values under paragraph 20(1)(d) of SIMA.

[49] Regarding the subsidy investigation, information related to potential actionable subsidies was requested from all known and potential exporters and producers in China. Information was also requested from the GOC concerning financial contributions made to exporters or producers of wind towers released into Canada during the POI. The GOC was also requested to forward the RFIs to all subordinate levels of government that had jurisdiction over the exporters.

[50] The GOC and the exporters/producers were also notified that failure to submit all required information and documentation, including non-confidential versions, failure to comply with all instructions contained in the RFI, failure to permit verification of any information or failure to provide documentation requested during the verification visits or the desk audits may result in the margin of dumping, the amount of subsidy and the assessment of anti-dumping and/or countervailing duties on subject goods being based on facts available to the CBSA. Further, they were notified that a determination on the basis of facts available could be less favorable to them than if complete and verifiable information was made available.

[51] Several parties (i.e., importers and exporters) requested an extension to respond to their respective RFIs. The CBSA reviewed each request but extensions were not granted as the reasons for making the requests did not constitute unforeseen circumstances or unusual burdens.

[52] After reviewing the RFI responses, supplemental RFIs (SRFIs) were sent to the respondents who submitted complete submissions in order to clarify information provided in the responses and request additional information, where necessary.

[53] For the responding parties that did not provide complete information, deficiency letters were sent, in order to notify them that information was missing and that without the missing information, preliminary determinations would be made on the basis of facts available.

[54] CBSA officers performed verifications by way of Verification Questionnaires for all three exporters, CS Wind, Penglai Dajin and the TSP Group.

[55] As part of the final phase of the investigations, case briefs and reply submissions were submitted by counsels representing the complainant, importers, vendors and the exporters. A summary of the representations is provided in **Appendix 2**.

[56] Additional details pertaining to the information submitted by the exporter in response to the RFIs as well as the results of the CBSA's Dumping and Subsidy investigations are provided in their respective sections of this document.

DUMPING INVESTIGATION

Background of the Section 20 Inquiry

[57] Section 20 is a provision of SIMA that may be applied to determine the normal value of goods in a dumping investigation where certain conditions prevail in the domestic market of the exporting country. In the case of a prescribed country under paragraph 20(1)(a) of SIMA, it is applied where, in the opinion of the CBSA, the government of that country substantially determines domestic prices and there is sufficient reason to believe that the domestic prices are not substantially the same as they would be in a competitive market.[21]

[58] The provisions of section 20 are applied on a sector basis rather than on the country as a whole. The CBSA proceeds on the presumption that section 20 of SIMA is not applicable to the sector under investigation absent sufficient information to the contrary. The CBSA may form an opinion where there is sufficient information that the conditions set forth in paragraph 20(1)(a) of SIMA exist in the sector under investigation.

[59] The CBSA is required to examine whether the government of that country substantially determines domestic prices. The CBSA is also required to examine the price effect resulting from substantial government determination of domestic prices and whether there is sufficient information on the record for the CBSA to have reason to believe that the resulting domestic prices are not substantially the same as they would be in a competitive market.

[60] The complainant alleged that the conditions described in section 20 prevail in the wind tower sector in China. That is, the complainant alleged that this particular industry sector in China does not operate under competitive market conditions and consequently, wind tower prices established in the domestic market in China would not be reliable for purpose of determining normal values.[22]

[61] The complaint included a variety of evidence to support the claim that the GOC substantially determines domestic prices of wind towers in the country and that the prices are substantially different than they would be in a competitive market. Specifically, the complainant provided evidence of state-ownership in the wind power industry sector impacting the consumption of subject goods in China, state-ownership and subsidization in the wind tower sector, and state-ownership and subsidization in the steel industry, which is the primary input in the production of wind towers.

[62] The complainant also cited specific policies implemented by the GOC, such as China's 14th Five-Year Plan for National Economic and Social Development and Long-Range Objectives for 2035; 14th Five Year Renewable Energy Plan; Made in China 2025; 14th Five-Year Plan for Circular Economy Development; and the Iron and Steel Industry Adjustment and Upgrade Plan.[23]

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[21] China is a prescribed country under section 17.1 of the *Special Import Measures Regulations*
[22] Exhibit 2 (NC) – WT Complaint – paras. 137-138
[23] Exhibit 2 (NC) – WT Complaint – Appendix 1

[63] For the purpose of this section 20 inquiry, the sector under review is the wind tower sector, which is directly linked to the steel industry and the electricity production sector in China.

[64] At the initiation of the dumping investigation, the CBSA had sufficient evidence, supplied by the complainant and from its own research and past investigation findings, to support the initiation of a section 20 inquiry to examine the extent of GOC involvement in pricing in the wind tower sector. The information indicated that the GOC substantially influences prices in the wind tower sector in China, and that the prices are substantially different than they would be in a competitive market.

[65] Consequently, on April 21, 2023, the CBSA sent Section 20 RFIs to producers and exporters of wind towers in China as well as to the GOC, to obtain information on the extent to which the GOC is involved with the determination of domestic prices in the wind tower sector. A surrogate producer RFI was sent to producers in Mexico, India, Indonesia and South Korea to gather information to be used for the purpose of determining normal values pursuant to paragraphs 20(1)(c) of SIMA.

[66] The CBSA selected Mexico as a surrogate for the purpose of determining normal values, where information was available to do so. Mexico is an appropriate surrogate country as it has significant domestic production of wind towers, a similar level of development as China (based on Gross Domestic Product per capita and Gross National Income per capita), been found to be an appropriate surrogate by other investigating authorities, and has a market based economy. These factors support that the prices and costs are determined in a highly competitive market, allowing them to be considered as a reliable and fair source for purpose of the final determination.

Summary of Chinese Exporter Responses

[67] The CBSA received five substantially complete responses to the exporter Section 20 RFI from CSWC, Penglai Dajin, STWPE and two of its subsidiaries Blue Island and Dongtai.

Government of China Response

[68] An RFI was sent to the GOC requesting information for the purpose of the section 20 inquiry. No response was received from the GOC during the course of the investigation.

Surrogate Country Responses

[69] As part of the section 20 inquiry, Surrogate Producer RFIs were sent to all known producers of wind towers in Mexico, India, Indonesia and South Korea. However, no producers located in the surrogate countries responded to the RFI.

Responses from Importers with Sales in Canada of wind towers from Other Countries

[70] As part of the section 20 inquiry, RFIs sent to importers requested information on re-sales in Canada of wind towers imported from countries other than China. The CBSA received responses to the importer RFI from two importers. Vestas Canada[24] and Siemens[25] responded to the RFIs, but neither provided sufficient information for the purpose of paragraph 20(1)(d) of SIMA.

Analysis of Section 20 Conditions

[71] As the GOC did not respond to the section 20 RFI, information with respect to product mix, production volume and market share of wind tower manufacturers in the sector is limited. The CBSA analyzed section 20 factors and conditions in China with a focus on the elements presented in the complaint, responses to the exporter Section 20 RFIs, and the CBSA's own research.

Government Control Analysis

[72] This section will present the CBSA analysis of how the GOC exerts control over the wind tower sector by examining:

- GOC Involvement in the Electricity Sector;
- 14th Five-Year National Plan on National Economic and Social Development and Long-Range Objectives for 2035;
- 14th Five-Year Renewable Energy Plan;
- Made In China 2025 Initiative;
- GOC's ownership and control of wind turbine OEMs;
- GOC's ownership and control of wind tower producers;
- GOC control over the steel industry; and
- Wind tower subsidies.

Government Involvement in the Electricity Sector

[73] Wind towers are a component of wind turbines, which are used to produce electricity from wind power. The complainant alleges that the GOC is heavily involved in China's electricity production and distribution industries, which includes wind towers.

[24] Exhibit 32 (NC) – Response to request for information (RFI) from Vestas - Canadian Wind Technology, Inc.
[25] Exhibit 31 (NC) – Response to request for information (RFI) from Siemens Gamesa Renewable Energy.

[74] In a 2020 article published in the Journal *Energy Research & Social Science*[26], the authors state that the GOC: is involved in the energy industry; has not reduced state-control like in other industries; and can influence energy prices. The authors further state that the energy sector in China is dominated by state-owned enterprises (SOEs). In fact, 90% of energy distribution and 100% of energy transmission is state-owned. In their concluding section, the authors state:

> "State influence continues to be particularly marked within the organisational field of energy, not least through the ownership at central or local levels of most energy producing enterprises as well as the energy-intensive industries. The continued state ownership of energy companies reflects the central government's longstanding practice of using them as policy instruments for security of energy supply, employment and energy pricing. At the same time, local governments and energy SOEs, acting either together or separately, have the ability to distort market mechanisms to their own advantage."[27]

[75] Some parties have contested that this is strictly an opinion and not factual, however they did not provide any information as to what the actual situation is in China. Based on the information on the record, it appears that nearly all end users of wind towers are SOEs and part of their role is to be used as policy instruments for a variety of reasons, including the setting of energy prices. The article also states that these energy SOEs have the ability to distort market mechanisms to their own advantage, which may include the purchase of their input materials, such as wind towers.

14th Five-Year Plan for National Economic and Social Development and Long-Range Objectives for 2035

[76] In 2021, the GOC adopted its *14th Five-Year Plan for National Economic and Social Development and Long-Range Objectives for 2035* (*14th Five-Year Plan*)[28] for the period of 2021-2025, which covers the POI, and includes long-range objectives up to the year 2035. The objectives outlined in the *14th Five-Year Plan* continue some of the themes expressed in the *13th Five-Year Plan* and *12th Five-Year Plan*, including the strengthening of SOEs control, optimizing steel production, and increasing the scale of wind power within China.

[26] WT Complaint (NC) – Public Attachment 105
[27] WT Complaint (NC) – Public Attachment 105, p. 7
[28] Attachment 1 – 14th Five-Year Plan on National Economic and Social Development

[77] The *14th Five-Year Plan* calls for greater involvement of SOEs in the development of the Chinese economy, stating:

> "Centered on the strategy of serving the country, we will persist in both advancing and retreating, both taking action and being inactive, accelerate the layout optimization, structural adjustment, and strategic reorganization of the state-owned sector, enhance the competitiveness, innovation, control, influence, and anti-risk capabilities of the state-owned sector, and strengthen and optimize state-owned capital and SOEs. We will give full play to the strategic supporting role of the state-owned sector, encourage the state-owned sector to further focus on functions such as strategic security, industry leadership, the national economy and the people's livelihoods, and public services, adjust and revitalize inventory assets, optimize the allocation of incremental capital, concentrate on important industries that are related to national security and the lifelines of the national economy, concentrate on important industries related to the national economy and the people's livelihoods, such as those involved in the provision of public services, emergency capacity building, and public welfare, and concentrate on forward-looking strategic emerging industries. For state-owned entities in fully competitive sectors, we will strengthen capital gains targets and hard financial constraints, enhance liquidity, and improve the optimized allocation mechanisms of state-owned capital. We will establish long-term mechanisms for layout and structural adjustment and dynamically publish guidance for the optimization and structural adjustment of the state-owned sector."[29]

[78] Steel is the primary input of wind towers and the *14th Five Year Plan* also emphasizes the optimization and upgrading of the steel manufacturing industry including expanding high quality products and improving green manufacturing:

> "We will transform and upgrade traditional industries, promote the optimization and structural adjustment of raw material industries such as … steel, nonferrous metals, and building materials, expand the supply of high-quality products … speed up the transformation and upgrading of enterprises in key industries … and improve the green manufacturing system." [30]

[29] Attachment 1 – 14th Five-Year Plan on National Economic and Social Development, p. 46-47
[30] Attachment 1 – 14th Five-Year Plan on National Economic and Social Development, p. 21

[79] The *14th Five-Year Plan* also speaks to modernizing China's infrastructure system, which includes a section titled: "Build a modern energy system". In this section the GOC specifically states:

> "We will promote the energy revolution, build a clean, low-carbon, safe, and efficient energy system, and improve energy supply assurance capabilities. We will accelerate the development of non-fossil energy, adhere to both centralized and distributed methods simultaneously, vigorously increase the scale of wind power and photovoltaic power generation, accelerate the development of distributed energy in the eastern and central regions, orderly develop offshore wind power, accelerate the construction of the Southwest Hydropower Base, safely and steadily promote the construction of coastal nuclear power, build a batch of multi-energy complementarity clean energy bases, and increase the proportion of non-fossil energy in total energy consumption to about 20%."[31]

[80] Some parties have argued that these plans are not strict obligations, however, they still show that the GOC has specific goals for steel producers (the producers of wind tower inputs) and the wind power industry (the end users of wind towers) and with the abundance of SOEs in these industries, these SOEs are likely to make decisions based on GOC policy, rather than market forces.

14th Five Year Renewable Energy Plan

[81] In 2020, China declared that it would reach carbon neutrality by 2060 through investment and increased production in renewable energy products, such as wind turbines, will be a mechanism to reach this goal.[32]

[82] This will be achieved through China's *14th Five-Year Plan for Renewable Energy Development*, which aims to develop wind power through investments in various projects and lays out certain targets to meet this goal, such as increasing the total capacity of wind and solar energy to more than 1.2 billion kilowatts by 2030.[33]

[83] China's wind power industry is large, with seven of the world's top ten wind power manufacturers located in China.[34] This plan, will likely result in an increase in sales of wind turbines and their components, including for export purposes, as Chinese producers are able to continue to offer low prices. Currently Chinese wind turbines are consistently sold at cheaper rates than those manufactured in other countries.[35]

[84] This shows that the GOC has specific goals for the wind power industry in China, and has the ability to influence prices in the market to achieve this goals, including influencing the manufacture of components like wind towers.

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[31] Attachment 1 – 14th Five-Year Plan on National Economic and Social Development, p. 29
[32] WT Complaint (NC) – para. 422
[33] WT Complaint (NC) – Public Attachment 108
[34] WT Complaint (NC) – Public Attachment 108
[35] WT Complaint (NC) – Public Attachment 109

<u>Made in China 2025 Initiative</u>

[85] In 2015, the GOC initiated Made in China 2025, a strategic plan to reduce China's dependence on foreign technology and promote Chinese technological manufacturers in the global marketplace through setting explicit targets, government subsidies, and the mobilization of SOEs.

[86] Made in China 2025 focuses on the entire manufacturing process and one priority sector outlined in this plan is that of "power equipment", which includes wind turbines and all components, such as wind towers.

[87] The Office of the United States (US) Trade Representative has estimated that the GOC is providing over USD 500 billion through this program to companies in these priority sectors and that this program is so significant that it is likely to create or exacerbate market distortions.

[88] This program shows that the GOC has plans to expand several priority sectors, one of which includes wind towers, and that the GOC is providing additional funding to make it happen, which can exacerbate market distortions. Large amounts of subsidy to a specific industry would also result in distortions to the sector in general, even to companies that did not receive a subsidy but must now compete with companies that did.

<u>GOC's Ownership and Control of Wind Turbine original equipment manufacturers (OEMs)</u>

[89] The Global Wind Energy Council states that there are 20 active wind turbine manufacturers in China, but does not provide their names.[36] The complainant was able to identify 18 wind turbine OEMs in China and provided evidence that 12 of these are state-owned or state-controlled.[37]

[90] The CBSA analyzed domestic sales in China reported by the cooperative exporters in their response to the Dumping RFI and found that 45% of all wind towers sold during the POI were to SOEs.

[91] As wind turbine OEMs are the primary purchasers of wind towers, and a large proportion of all wind turbine OEMs are state-owned or state-controlled, this means that wind tower purchasing decisions may be based on non-market factors, such as meeting GOC policy objectives. Therefore, purchases by these wind turbine OEMs may not be at market prices.

<u>GOC's Ownership and Control of Wind Tower Producers</u>

[92] The complainant provided information indicating that the limited publicly available ownership information alone shows that 16 of the 74 Chinese producers of subject goods that the complainant identified are state-owned.[38] This was supported by additional evidence obtained by the CBSA during the investigation.

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[36] WT Complaint (NC) – Attachment 39, p. 120
[37] WT Complaint (NC) – para. 432-434 & Public Attachments 114 & 115
[38] WT Complaint (NC) – para. 437

[93] In the same manner as state-owned and state-controlled wind turbine OEMs, state-owned and state-controlled wind tower producers are driven by GOC mandates and do not necessarily operate under market forces. As such, wind tower producers can potentially supply wind towers to customers at less than fair market value. As discussed above, these customers are often SOEs themselves, increasing the likelihood of wind towers being sold between these parties for less than fair market value.

[94] A recent decision by the European Union (EU) concerning wind towers from China found evidence of government involvement in regards to all three of the responding exporter's in the CBSA's current wind towers investigation.[39]

[95] The substantial presence of state-owned and controlled enterprises that produce wind towers would necessitate that private Chinese companies supplying wind towers would have to compete with these SOEs. As a result, the domestic selling prices of wind towers in China may not be substantially the same as they would be if they were determined in a competitive market.

<u>GOC's Ownership and Control of Wind Tower Input Suppliers</u>

[96] The primary input material of wind towers is steel plate, which makes up over 60% of the responding exporters' cost of production. The CBSA analyzed purchases of steel plate from SOEs by these exporters during the POI. The CBSA identified a purchase as coming from an SOE if either the supplier or the manufacturer is an SOE. These parties were considered SOEs if one of the exporters identified it as an SOE, or if there is evidence on the record that it is an SOE.

[97] The CBSA found that 76% of all steel plate purchased for purposes of producing wind towers during the POI was from SOEs. The substantial presence of SOEs in the production and supply of steel plate suggests that the GOC will have an impact on the selling of steel plate and that steel plate selling decisions may be based on non-market factors, such as meeting GOC policy objectives. Therefore the selling prices by these SOE steel plate suppliers may not be at market prices, which can cause an impact on the final selling price of wind towers in China.

<u>Government Control over the Steel Industry</u>

[98] The primary input material of wind towers is steel plate and the next largest input is steel flange. The CBSA has previously found that the conditions of section 20 exist in various steel and metal cases, including those concerning the flat-rolled steel product sector, which contains steel plate.

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[39] The European Comission. *Commission implementing regulation (EU) 2021/2239 of 15 December 2021 imposing a definitive anti-dumping duty on imports of certain utility scale steel wind towers originating in the People's Republic of China*. https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32021R2239&from=EN, para 63 – 66

[99] The CBSA has previously found that a government can indirectly control the prices of the sector being investigated by controlling the prices of the primary inputs. In Aluminum Extrusions, the CBSA found that the GOCs influence over the aluminum industry in China had a significant impact on the prices in the aluminum extrusion sector.[40] The CBSA made a similar conclusion in Fabricated Industrial Steel Components (FISC) where it relied on evidence pertaining to the steel industry as a whole to show that the prices in the fabricated structural steel sector were being indirectly controlled by the GOC.[41] The CBSA made a similar conclusion in Container Chassis where one of the factors that led to the conclusion that the conditions of section 20 exist in the semi-trailer sector was the GOC's control over steel inputs.[42]

[100] Given that more than 80% of the responding exporters' direct material costs are steel, including both steel plate and flange, and more than 60% of the responding exporters' cost of production of wind towers is steel plate, it is appropriate to look at the steel industry as a whole as part of an analysis of the factors impacting the pricing of wind towers in China. The following policies and programs have a direct impact on the price of steel in China.

Capacity Swap

[101] In 2017, the Ministry of Industry and Information Technology (MIIT) implemented a capacity swap program where if a steel producer in certain areas wants to open a new plant or use new furnaces that would increase its capacity, it must also reduce its old capacity by a ratio of 1.25:1 of old capacity to new.[43]

[102] In 2021, the MIIT updated this program by expanding the areas for which it is applicable, increasing the ratio to 1.5:1 for certain areas and types of capacity swaps; leaving it at 1.25:1 for others; and reducing it to 1.1:1 for others.[44]

[103] The complainant alleges that these changes show the GOC directly exerting influence over the steel industry. In addition, these changes to the ratio for capacity swaps for different locations and types of swaps will result in the concentration of steel capacity amongst a small amount of larger steel producers.[45]

[104] This also shows that the GOC has a direct control over the production levels of these producers, which can lead to an indirect impact on the selling prices of these goods.

[40] *Statement of Reasons* for Aluminum Extrusions – February 16, 2009.
[41] *Statement of Reasons* for Fabricated Industrial Steel Components – April 25, 2017.
[42] *Statement of Reasons* for Container Chassis – January 19, 2022.
[43] WT Complaint (NC) – Attachment 118
[44] WT Complaint (NC) – Attachment 118
[45] WT Complaint (NC) – para. 451

14th Five-Year Plan for Circular Economy Development

[105] In 2021, the National Development and Reform Commission issued the *14th Five-Year Plan for Circular Economy Development*, which focuses on resource recycling and includes the goal of increasing the steel scrap market by 40% within five years.[46] This mandate to increase scrap utilization will result in steel producers adapting their production to GOC policies as opposed to market forces.[47] This change in production and costs of production are a direct result of GOC policies and may impact and further distort the selling prices of steel in China.

Five-Year Plans for Steel

[106] The complainant provided evidence that some major steel producing provinces have their own current five-year plans for steel,[48] however the information provided only shows that these plans exist, but does not show what these plans entail. The CBSA could not find copies of these plans.

[107] The complainant states that previous five-year plans for steel have provided directives that include: increased mergers and acquisitions to create larger, more efficient steel companies; GOC restrictions on steel capacity expansion; upgrading of steel industry technology; greater GOC emphasis on high-end steel products; GOC directed relocation of iron and steel companies to coastal areas; minimum requirements for steel production in order to eliminate smaller players in the market; and a target for the top ten producers to have a 60% share of total steel output.[49]

[108] In 2016, the MIIT issued the *Iron and Steel Industry Adjustment and Upgrade Plan* (*Adjustment and Upgrade Plan*) (2016-2020),[50] which the complainant alleges is essentially the 13th Five-Year Plan for the Steel Industry.[51] This plan aims to increase the average growth rate of industrial added value to 6% in 2020, increase the capacity utilization rate to 80% by 2020, and increase the yield of the top ten steel producers to 60% in 2025. The plan also calls on local governments to provide financial and other support.[52]

[46] WT Complaint (NC) – Attachment 119
[47] WT Complaint (NC) – para. 455
[48] WT Complaint (NC) – Attachments 120 & 121
[49] WT Complaint (NC) – paras. 457-458
[50] WT Complaint (NC) – Attachment 122
[51] WT Complaint (NC) – para. 459
[52] Attachment 2 – Iron and Steel Industry Adjustment and Upgrade Plan

[109] The American Iron and Steel Institute commented on the *Adjustment and Upgrade Plan*, stating:

> "The measures described in the Policy reflect ongoing government intervention in the management and operation of steel companies and the allocation of resources in the industry. As a result, the Policy is largely inconsistent with the goal of subjecting the industry to market discipline … The absence of concrete steps towards fundamental market-driven reforms and significant capacity reductions will render the Policy ineffective in addressing this fundamental problem."[53]
>
> "The specific measures contained in the Policy indicate that market forces will not be permitted to play a "decisive" role in the development of China's steel industry, and that the role of the market will remain secondary to the role of the government."[54]

[110] The CBSA finds that the existence of these other five-year plans that specifically target the steel industry, show that the GOC had and continues to have an interest in guiding the growth of the steel industry in China.

State-Ownership of Steel Production Assets

[111] The complainant notes that in 2019, the CBSA found that eight of China's top ten steel producers were state-owned, and these eight producers accounted for over 30% of Chinese steel production.[55]

[112] According to the World Steel Association, in 2021, six of the top ten steel producers in the world by volume are located in China[56] and of these six producers, the complainant has provided evidence that four of them are state-owned.[57] Further, the top ten steel producers in China accounted for 22.3% of global steel production[58] and the complainant provided evidence that six of these ten are state-owned.[59]

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[53] Attachment 3 – American Iron and Steel Institute – Comments on Iron and Steel Industry Adjustment and Upgrade Plan, p. 1.
[54] Attachment 3 – American Iron and Steel Institute – Comments on Iron and Steel Industry Adjustment and Upgrade Plan, p. 2.
[55] WT Complaint (NC) – para. 461
[56] WT Complaint (NC) – Attachment 124
[57] WT Complaint (NC) – Attachments 125, 126, 127, & 128
[58] WT Complaint (NC) – Attachment 124
[59] WT Complaint (NC) – Attachments 125, 126, 127, 128, 129, & 130

Top 10 Steel-Producers in China in 2021

Company	Crude Steel Production (million MT)[60]	State - Owned
China BaoWu Group	119.95	Yes
Ansteel Group	55.65	Yes
Shagang Group	44.23	No
HBIS Group (HeBei Iron and Steel Group Co., Ltd.)	41.64	Yes
Jianlong Group	36.71	No
Shougang Group	35.43	Yes
Shandong Steel Group	28.25	Yes
Delong Steel Group	27.82	No
Valin Group	26.21	Yes
Fangda Steel	19.98	No
Total – Top 10 Steel Producers in China	**435.87**	
Total – Steel Production in China[61]	**1,032.8**	
% Top 10 Steel Producers of Total China Steel Production	**42.2%**	
% Top 10 SOE Steel Producers of Total China Steel Production	**29.7%**	

[113] The complainant has also provided evidence that several Chinese producers of steel plate are state owned. While the complainant is unsure if these SOEs are providing low-priced inputs to wind tower producers in China, which would impact the price in the wind tower sector, the complainant notes that in the past, the CBSA has found that steel inputs, including steel plate, purchased from Chinese SOEs have been sold for less than their fair market value.

Steel Subsidies

[114] The complainant notes that the CBSA has found that in the past the GOC heavily subsidizes the steel industry in China and that these subsidies distort the domestic selling price of steel in China, which contribute to the section 20 conditions.[62]

Wind Tower Subsidies

[115] The complainant provided information on subsidization of the Chinese wind tower industry.[63] Some of the policies mentioned above also reference subsidies and financial support. Moreover, previous CBSA investigations have found many countervailing subsidies related to Chinese steel products, steel being the primary input of wind towers.

[60] WT Complaint (NC) – Attachment 124
[61] WT Complaint (NC) – Attachment 123
[62] WT Complaint (NC) – para. 466
[63] WT Complaint (NC) – Appendix 2

[116] The complainant also provided information that indicates that the US Department of Commerce has countervailing duties in place against wind towers from China, for subsidies such as lending policies, tax exemptions, grants, and provision of goods/services at less than adequate remuneration.[64]

[117] Subsidization influences the price of wind towers. The previous positive findings of subsidized steel products in China are evidence of the GOC's indirect influence in the steel industry, including wind towers. These subsidies provided to the input material producers of steel in China have an indirect effect on the domestic pricing of steel goods, including wind towers.

[118] The CBSA's determination of amounts of subsidy ranging from 3.0% to 21.9% indicate the extent of the subsidization of wind tower producers in China.

Analysis of Domestic Price in China

Complainant Price Analysis

[119] The complainant states that there are no price indices or benchmarks for wind towers in China or any other market as wind towers are not a commodity product and are produced to customer specifications depending on the project.

[120] However, the most significant input of wind towers are steel plate and benchmarks do exist for steel plate and other similar products. Therefore, the complainant has used the pricing of other steel products as a proxy for wind towers. The complainant also noted that the CBSA has used a similar approach with a proxy product in both Piling Pipe and FISC. The complainant obtained pricing of these steel products form the online publication, SteelBenchmarker.

[121] The complainant looked at the prices of hot-rolled band, a similar product to steel plate from 2017 to 2022 and compared the prices in China to the prices in the US and Europe. The complainant found that Chinese hot-rolled band prices were 15% to 66% below US prices and 7% to 46% below European prices.[65]

[122] The complainant also looked at the reported price of steel plate, the primary input in wind towers, during this same period, but only had prices in China and the US. The complainant found that Chinese steel plate prices were 27% to 75% below the US prices during this period.[66]

[123] The complainant states that the price of steel in China remained fairly stable over the last few years while steel prices rose globally, demonstrating the impact of the various GOC policies on steel prices in China.

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[64] WT Complaint (NC) – Appendix 2
[65] WT Complaint (NC) – para. 474
[66] WT Complaint (NC) – para. 475

[124] The complainant further states that the CBSA has recently found in cold-rolled steel and corrosion-resistant steel that Chinese prices of flat-rolled steel products are not substantially the same as they would be in a competitive market. Steel plate, the primary input of wind towers, is also a flat-rolled steel product.[67]

CBSA Price Analysis

[125] At the initiation of the dumping investigation, the CBSA did not have information on the domestic pricing of wind towers in the Chinese domestic market. The CBSA reviewed the exporter's dumping RFI responses to see if a wind tower pricing analysis could be made using these responses. The CBSA was able to calculate the average pricing of wind towers within China for each month of the POI. Unfortunately, no surrogate responses were received to create a comparison in a third country. However, the CBSA was able to obtain selling prices in Canada based on the complainant's sales and the purchases by importers of wind towers from third countries. The CBSA took the average selling price per metric ton by the complainant and added in purchases from third countries by the responding importers to the appropriate months.

[126] While this gives the CBSA a good overview of pricing between the two countries, and shows that wind tower prices in China are considerably lower than they would be in absence of government control, it is important to note that wind towers are not a commodity product and are specially designed for each project, making an average selling price not necessarily comparable among projects. In addition, the low volume of sales of non-Chinese origin wind towers in Canada makes for a limited comparison.

[127] At initiation, the complainant looked at hot-rolled band and standard steel plate as a proxy for wind tower selling pricing. The CBSA agreed that this is an appropriate proxy for wind towers, in particular because steel plate is more than 60% of the cost of production of the responding exporters. The CBSA considered using *SteelBenchmarker* and *Fastmarkets* to find the historical prices of steel plates in different regions. Upon reviewing both, *Fastmarkets* was deemed to be a better source of information as it provides details on a larger number of steel products and markets.

[128] Initially, the CBSA reviewed the raw *SteelBenchmarker* data provided[68] by the complainant and obtained data from SteelBenchmarker.com[69]. After initiation, the CBSA used the most up-to-date information available on *Fastmarkets*[70] to calculate a more accurate world price and Chinese price. The world price is the result of the average price of steel plates in different regions, excluding China. The Chinese price was calculated using the average of two different steel plate benchmarks available for the Chinese market. The CBSA also compared these world and Chinese benchmark prices to prices reported by two of the exporters during the POI. The third exporter did not report prices in the same unit, so a comparison could not be made.

[67] WT Complaint (NC) – para. 477
[68] WT Complaint (NC) – Attachment 11
[69] Attachment 4 – SteelBenchmarker – March 13, 2023
[70] Attachment 5 – Fastmarkets – May, 2023

[129] The results of the CBSA's analysis confirms and corroborates the complainant's allegations, in that the prices of both hot-rolled band and steel plate in China are consistently lower than in the rest of the world since 2021.

[130] Based on the information obtained on the prices of steel plate, a major input in the production of wind towers, the CBSA can reasonably conclude that the prices of wind towers in China during the POI were consistently lower than those in other markets.

[131] Given that these steel products are commodity products that are freely traded on the world market, these disparities support the allegation in the complaint that domestic prices of wind towers in China are impacted by the distorted prices of steel inputs.

[132] The complainant's analysis focused on using upstream inputs as a proxy for wind tower prices, and the CBSA's analysis confirms the complainant's findings. In addition, a downstream analysis is also a useful proxy in showing the difference in pricing between wind towers in China and in another market.

[133] The complainant obtained information from S&P Global Market Intelligence that shows that Chinese wind turbine prices are consistently lower than the global average.[71] Historically prices in China and the rest of the world appear to have followed the same trend, they have diverged dramatically in the second half of 2020 with Chinese wind turbine prices decreasing while prices of wind turbines in the rest of the world have increased.

[134] Despite the lack of world pricing for wind towers, an analysis of the upstream steel inputs and the downstream wind turbines show that the pricing of those products in China is distorted compared to other markets. These disparities support the allegations that wind tower prices in China are distorted as a result of GOC involvement.

Summary of the Results of the Section 20 Inquiry

[135] Based on the information on the record, the scope of the GOC's macro-economic policies and measures provide a compelling factual basis that the GOC is influencing the Chinese steel, wind tower, and electricity industries. The wind tower sector is located between the steel and electricity industries as steel is the primary input in wind towers and wind towers are an input in wind turbines, which generate electricity. Therefore wind towers are in a unique position where there are considerable GOC policies impacting wind towers themselves, but also both the upstream and downstream industries. The existence of such policies and measures dramatically change the demand and supply balance in the domestic market and materially alter the domestic prices of steel inputs such as steel plate, or price of electric outputs.

[136] The major macro-economic policies and measures of the GOC include the *14th Five-Year Plan for National Economic and Social Development and Long-Range Objectives for 2035*; the *14th Five-Year Renewable Energy Plan*; and *Made in China 2025*. All of these policies specifically call for an increase in wind power production in China. These policies also include targets and plans for reaching these targets to expand wind power capacity.

[71] WT Complaint (NC) – Public Attachment 109

[137] There is evidence that several wind tower producers in China are SOEs. In addition, there is evidence that there are SOEs in China that: produce steel plate, the primary input in wind towers; produce other steel products; are wind turbine OEMs that purchase wind towers; and are energy producers, i.e. the end users of wind towers. This demonstrates that the entire wind tower production lifecycle, from the production of the inputs to their final use, involves the influence of an SOE. The substantial presence of SOEs contributes to non-market economy conditions in the wind tower sector in China as these SOEs can make decisions based on GOC policy objectives rather than market forces.

[138] The GOC also exerts control on the steel industry, which includes steel plate, the primary input of wind towers. This is done through state-ownership and control of steel producers, specific policies and plans targeting the steel industry, subsidies, and tightly controlled regulations on capacity upgrades. In making corporate decisions, Chinese steel producers must adhere to the GOC's macro-economic policies including measures related to steel production capacity, mergers and acquisitions, research and development, etc. As a result, corporate decisions based on market dynamics of supply and demand compete with the GOC's directives and mandates. The prevalence of state-owned or state-controlled steel producers in China also allows these SOEs to sell stockpiled goods to put downward pressure on prices, if desired.

[139] Furthermore, the subsidization of the steel industry in general, and the wind tower sector specifically, demonstrates the GOC's intent to exert control to maintain domestic prices at a certain level. These subsidies allow steel producers to sell their products at prices below fair market value to wind tower producers, who in turn, are able to sell their products at distorted prices.

[140] The CBSA has previously issued opinions in respect of nine Chinese steel product sectors, including the flat-rolled steel sector, which includes steel plate, the primary input of wind towers. This indicates that domestic prices of these inputs, which make up a considerable percentage of the costs of wind towers are substantially determined by the GOC.

[141] Overall, the cumulative impact of the GOC's policies and actions indicate that the GOC influences prices in the wind tower sector in China.

[142] Based on the above analysis, for the purpose of the final determination, the CBSA affirmed the opinion rendered at the preliminary determination that the conditions of paragraph 20(1)(a) of SIMA exist in the wind tower sector in China:

- domestic prices in the wind tower sector in China are substantially determined by the GOC; and
- there is sufficient reason to believe that the domestic prices are not substantially the same as they would be in a competitive market.

Normal Value

[143] Normal values could not be determined in accordance with the methodology of section 15 of SIMA, or one of the methodologies of section 19, because the CBSA formed the opinion that the conditions of paragraph 20(1)(a) of SIMA exist in the wind tower sector in China.

[144] Where section 20 conditions exist, the CBSA may determine normal values using the selling prices, or the total costs and profit, of like goods sold by producers in a surrogate country designated by the President in accordance with the provisions of paragraph 20(1)(c) of SIMA. However, no surrogate country producers provided the necessary domestic pricing and costing information relating to the goods under investigation.

[145] Where normal values cannot be determined under paragraph 20(1)(c), SIMA provides an alternative methodology to calculate normal values under paragraph 20(1)(d), using re-sales in Canada of like goods imported from a third country. The CBSA determined that this provision could also not be used given that the importers did not provide sufficient re-sale information.

[146] As a result, and in the absence of sufficient information to determine normal values under section 20 of SIMA, normal values were determined pursuant to a ministerial specification in accordance with subsection 29(1) of SIMA, on the basis of facts available.

[147] In establishing the methodology for determining normal values, the CBSA analyzed all the information on the administrative record, including the complaint filed by the domestic industry, the CBSA’s estimates at the initiation of the investigation, and customs import documentation.

[148] The CBSA calculated the normal values for the subject goods from China using an approach that reflects the methodology of subparagraph 20(1)(c)(ii) of SIMA, calculated as the aggregate of the cost of production of the like goods sold for consumption in the surrogate country plus a reasonable amount for administrative, selling and all other costs and a reasonable amount for profits.

[149] The CBSA selected Mexico as a surrogate country for the purpose of determining normal values, where information was available to do so. Mexico is an appropriate surrogate country as it has significant domestic production of wind towers, a similar level of development as China, has been found to be an appropriate surrogate by other investigating authorities, has publically available information on its domestic wind tower producers, and has a market-based economy. These factors support that the prices and costs are determined in a competitive market, allowing them to be considered as a reliable and fair source for purposes of these investigations.

[150] As no surrogate producer provided a response to the CBSA’s Surrogate RFI, normal values were determined based on the information available on the record, including information provided by the complainant, publically available information, and information obtained through *MEPS International Ltd.*, a subscription-based provider of steel and metal prices around the world.

Cost of Steel Plate

[151] Based on the information available on the record, the primary input of wind towers is steel plates. The CBSA obtained benchmark pricing of steel plate in Mexico from *MEPS International Ltd*. Based on this pricing information, the CBSA determined the average POI price of steel plate.

[152] The CBSA then multiplied the benchmark steel plate price by the weight of steel plate used in each section of the wind tower based on the exporter's reported weight.

Fabrication Costs

[153] Additional production costs to convert steel plate into a wind tower section includes other inputs, labour and overhead.

[154] The other inputs include the costs of steel flanges and internals. Steel flanges are machined steel rings that are welded on both ends of the wind tower section and used to connect different sections together during installation of the wind tower. Internals are any other internal component included with the wind tower such as ladders, lighting, and cables. Both of these costs are significant, but not as major as the cost of steel plate.

[155] There was no information on the record to determine the above additional production costs in Mexico or any other third country, therefore the CBSA determined the cost of these components based on the complainant's average cost over four recent wind tower projects. The result was expressed as an average cost per metric ton of wind tower section

[156] The labour amount and the labour portion of the overhead amount were adjusted to reflect the differing labour costs between Canada and Mexico.

[157] The CBSA then multiplied the average fabrication cost per metric ton of wind tower by the weight of each wind tower section.

Amount for Administrative, Selling and All Other Costs

[158] The CBSA obtained the 2022 and 2021 financial results of Arcosa, Inc.'s Engineered Structures division, which produces wind towers and other similar structures in Mexico, and Speco Ltd., which is a Korean company that owns a Mexican wind tower producer. The CBSA used this information to determine a reasonable amount for administrative, selling and all other costs and an amount for financial expenses. These amounts are equal to 11.4% of the aggregate of the cost of material plus fabrication cost for goods produced in the POI.

Amount for Profit

[159] The CBSA used the same information from Arcosa, Inc. and Speco Ltd. to determine a reasonable amount for profit for the purpose of the final determination. The amount is equal to 10.0% of the total cost of goods for goods sold during the POI.

Export Price

[160] The export price of goods sold to importers in Canada is generally determined in accordance with the methodology of section 24 of SIMA based on the lesser of the adjusted exporter's sale price for the goods or the adjusted importer's purchase price. These prices are adjusted where necessary by deducting the costs, charges, expenses, duties and taxes resulting from the exportation of the goods as provided for in subparagraphs 24(a)(i) to 24(a)(iii) of SIMA.

Margin of Dumping

[161] The margin of dumping by exporter is equal to the amount by which the total normal value exceeds the total export price of the goods, expressed as a percentage of the total export price. All subject goods imported into Canada during the POI are included in the margins of dumping of the goods. Where the total normal value of the goods does not exceed the total export price of the goods, the margin of dumping is zero.

Results of the Dumping Investigation

CS Wind China Co., Ltd. ("CSWC")

[162] CSWC is a producer and exporter of the subject goods, located in Lianyungang City, Jiangsu Province, China.

[163] CSWC is related to the vendor, CSWK and the input supplier, CSWT.

[164] CSWC, CSWK and CSWT provided a complete joint response to the Dumping RFI and Supplemental RFIs (SRFIs). CS Wind's information was verified by way of verification questionnaires issued by the CBSA in August 2023.

[165] During the POI, CSWC sold subject goods to one unrelated Canadian importer through its related vendor. For the purpose of the final determination, the CBSA found CSWC to be the exporter of the subject goods as it is located in the country of export, China, and owned the goods until their shipment to Canada

[166] Normal values were determined pursuant to subsection 29(1) of SIMA as described above.

[167] For purpose of the final determination, the total normal value compared to the total export price results in a margin of dumping of 108.2% for CSWC, expressed as a percentage of the export price.

Penglai Dajin Offshore Heavy Industry Co., Ltd. ("Penglai Dajin")

[168] Penglai Dajin is a producer and exporter of the subject goods, located in Yantai City, Shandong Province, China.

[169] Penglai Dajin provided a complete response to the Dumping RFI and SRFIs. Penglai Dajin's information was verified by way of verification questionnaires issued by the CBSA in August 2023.

[170] During the POI, Penglai Dajin sold subject goods to two unrelated Canadian importers. Subject goods exported to one importer were made through an intermediary vendor. For the purpose of the final determination, the CBSA found Penglai Dajin to be the exporter of the subject goods as it is located in the country of export, China, and owned the goods until their shipment to Canada.

[171] Normal values were determined pursuant to subsection 29(1) of SIMA as described above.

[172] For purpose of the final determination, the total normal value compared to the total export price results in a margin of dumping of 109.0% for Penglai Dajin, expressed as a percentage of the export price.

Shanghai Taisheng Wind Power Equipment Co., Ltd. ("STWPE")

[173] STWPE is a producer and exporter of the subject goods, located in Shanghai, China. STWPE also exported goods produced by its related companies, Blue Island and Dongtai.

[174] The TSP Group provided a complete response to the Dumping RFI and SRFIs. The TSP Group's information was verified by way of verification questionnaires issued by the CBSA in August 2023.

[175] During the POI, STWPE sold subject goods to one unrelated Canadian importer through an intermediary vendor. For the purpose of the final determination, the CBSA found STWPE to be the exporter of the subject goods as it is located in the country of export, China, and owned the goods until their shipment to Canada.

[176] Normal values were determined pursuant to subsection 29(1) of SIMA as described above.

[177] For purpose of the final determination, the total normal value compared to the total export price results in a margin of dumping of 89.4% for STWPE, expressed as a percentage of the export price.

All Other Exporters – China

[178] For exporters of subject goods that did not provide a response to the Dumping RFI or did not furnish sufficient information, the normal values and export prices were estimated on the basis of facts available.

[179] In establishing the methodology for determining the normal values and export prices for other potential exporters from China, the CBSA considered all of the information on the administrative record, including the complaint filed by the domestic industry, the CBSA's estimates at the initiation of the investigation, information submitted by parties who responded to the Dumping RFI, and CBSA import documentation.

[180] The CBSA decided that the normal values and export prices determined for the exporters from China whose submissions were substantially complete, rather than the information provided in the complaint or estimated at initiation, would be used to establish the methodology for determining normal values since it reflects the trading practices of wind tower exporters during the POI. Three exporters in China provided complete information.

[181] The CBSA examined the difference between the normal value and the export price for each individual transaction, and considered that the highest amount (expressed as a percentage of the export price), was an appropriate basis for determining normal values. This methodology relies on information related to goods that originated in China and in general, provides an incentive for exporters to participate by ensuring that exporters who have provided the necessary information requested in a dumping investigation will have a more favorable outcome than those who have not participated.

[182] As a result, based on the facts available, for exporters that did not provide a response to the Dumping RFI, normal values of subject goods originating in or exported from China were determined based on the highest amount by which a normal value exceeded the export price, on an individual transaction as found for the three cooperative exporters during the POI. The transactions were examined to ensure that no anomalies were considered, such as very low volume and value, effects of seasonality or other business factors. No such anomalies were identified.

[183] The CBSA considered that the information submitted on the CBSA import documentation was the best information on which to determine the export price of the goods as it reflects actual import data.

[184] Using the above methodologies, the margin of dumping for all other exporters in China is 159.3%, expressed as a percentage of the export price.

Summary of Results – Dumping

[185] A summary of the results of the dumping investigation respecting all subject goods released into Canada during the POI are as follows:

Summary of Results - Dumping
Period of Investigation (April 1, 2021 to March 31, 2023)

Exporter / Country of Origin or Export	**Margin of Dumping** (% of Export Price)	**% of Total Imports** (by Volume)
CS Wind China Co., Ltd.	108.2%	24.1%
Penglai Dajin Offshore Heavy Industry Co., Ltd.	109.0%	30.0%
Shanghai Taisheng Wind Power Equipment Co., Ltd.	89.4%	24.0%
All Other Exporters	159.3%	14.5%
Total China		**92.6%**
All Other Countries		7.4%
All Countries		**100%**

[186] Under paragraph 41(1)(a) of SIMA, the CBSA is required to terminate an investigation in respect of any goods of an exporter if it is satisfied that the goods have not been dumped or the margin of dumping of the goods of that exporter is insignificant, meaning a margin of dumping that is less than 2% of the export price of the goods.

[187] The goods under investigation have been dumped and the margins of dumping determined for the goods are greater than the threshold of 2% and are therefore not considered insignificant. As a result, pursuant to paragraph 41(1)(b) of SIMA, the CBSA made a final determination of dumping respecting wind towers originating in or exported from China.

[188] A summary of the results of the dumping investigation respecting the subject goods released into Canada during the POI is presented in **Appendix 1**.

SUBSIDY INVESTIGATION

[189] In accordance with section 2 of SIMA, a subsidy exists if there is a financial contribution by a government of a country other than Canada that confers a benefit on persons engaged in the production, manufacture, growth, processing, purchase, distribution, transportation, sale, export or import of goods. A subsidy also exists in respect of any form of income or price support within the meaning of Article XVI of the *General Agreement on Tariffs and Trade*, 1994, being part of Annex 1A to the World Trade Organization (WTO) Agreement that confers a benefit.

[190] Pursuant to subsection 2(1.6) of SIMA, there is a financial contribution by a government of a country other than Canada where:

- (a) practices of the government involve the direct transfer of funds or liabilities or the contingent transfer of funds or liabilities;
- (b) amounts that would otherwise be owing and due to the government are exempted or deducted or amounts that are owing and due to the government are forgiven or not collected;
- (c) the government provides goods or services, other than general governmental infrastructure, or purchases goods; or
- (d) the government permits or directs a non-governmental body to do anything referred to in any of paragraphs (a) to (c) where the right or obligation to do the thing is normally vested in the government and the manner in which the non-governmental body does the thing does not differ in a meaningful way from the manner in which the government would do it.

[191] Where subsidies exist, they may be subject to countervailing measures if they are specific in nature. According to subsection 2(7.2) of SIMA a subsidy is considered to be specific when it is limited, in a legislative, regulatory or administrative instrument, or other public document, to a particular enterprise within the jurisdiction of the authority that is granting the subsidy; or is a prohibited subsidy.

[192] A "prohibited subsidy" is either an export subsidy or a subsidy or portion of a subsidy that is contingent, in whole or in part, on the use of goods that are produced or that originate in the country of export. An export subsidy is a subsidy or portion of a subsidy contingent, in whole or in part, on export performance. An "enterprise" is defined as including a group of enterprises, an industry and a group of industries. These terms are all defined in section 2 of SIMA.

[193] Notwithstanding that a subsidy is not specific in law, under subsection 2(7.3) of SIMA a subsidy may also be considered specific having regard as to whether:

- (a) there is exclusive use of the subsidy by a limited number of enterprises;
- (b) there is predominant use of the subsidy by a particular enterprise;
- (c) disproportionately large amounts of the subsidy are granted to a limited number of enterprises; and
- (d) the manner in which discretion is exercised by the granting authority indicates that the subsidy is not generally available.

[194] For the purposes of a subsidy investigation, the CBSA refers to a subsidy that has been found to be specific as an "actionable subsidy," meaning that it is subject to countervailing measures if the persons engaged in the production, manufacture, growth, processing, purchase, distribution, transportation, sale, export or import of goods under investigation have benefited from the subsidy.

[195] Financial contributions provided by state-owned enterprises (SOEs) may also be considered to be provided by the government for the purpose of this investigation. A SOE may be considered to constitute "government" for the purpose of subsection 2(1.6) of SIMA if it possesses, exercises, or is vested with governmental authority. Without limiting the generality of the foregoing, the CBSA may consider the following factors as indicative of whether the SOE meets this standard: 1) the SOE is granted or vested with authority by statute; 2) the SOE is performing a government function; 3) the SOE is meaningfully controlled by the government; or some combination thereof.

Results of the Subsidy Investigation

[196] At the initiation of the investigation, the CBSA sent Subsidy RFIs to the GOC, as well as to all known exporters/producers of wind towers in China.

[197] The GOC was also requested to forward the Subsidy RFI to all subordinate levels of government that had jurisdiction over the exporters. The exporters/producers were requested to forward a portion of the Subsidy RFI to their input suppliers, who were asked to respond to questions pertaining to their legal characterization as SOEs.

[198] The GOC and the exporters/producers were also notified that failure to submit all required information and documentation, including non-confidential versions, failure to comply with all instructions contained in the Subsidy RFI, failure to permit verification of any information or failure to provide documentation requested during the verification visits or desk audits may result in the amount of subsidy and the assessment of countervailing duties on subject goods being based on facts available to the CBSA. Further, they were notified that a determination on the basis of facts available could be less favourable than if complete, verifiable information was made available.

[199] The GOC did not respond to the CBSA's Government Subsidy RFI, which limited the CBSA's ability to determine the amount of subsidy in the prescribed manner as the required information relating to financial contribution, benefit and specificity was not provided. It also limited the CBSA's ability to determine whether producers, or other suppliers of goods and services are public bodies.

[200] Due to a lack of government response, subsidy amounts for the exporters were determined pursuant to subsection 30.4(2) of SIMA, based on a ministerial specification. However, in consideration of the fact that the cooperative exporters provided sufficient information in response to their Subsidy RFI, an individual amount of subsidy was determined based on the information provided in response to the Subsidy RFI and obtained during the verification.

[201] The available information indicates that these programs do not appear to be generally available to all enterprises in China. As well, due to the lack of a response by the GOC, there is not sufficient information on the administrative record to determine that the subsidy is not specific pursuant to the criteria set out in subsection 2(7.1) of SIMA. Therefore, guided by the principles of subsection 2(7.2) or subsection 2(7.3) of SIMA and basing its opinion on the best information available, the CBSA has taken the position that the subsidy derived from these programs is likely to be specific.

[202] An account of the subsidies received by the exporters that provided a response to the Subsidy RFI is provided below. The amount of subsidy for the exporters is also presented in a summary table in **Appendix 1**. Additional details regarding identified programs and incentives is included in **Appendix 3**.

CS Wind China Co., Ltd. ("CSWC")

[203] CSWC, producer and exporter of the subject goods, purchased material inputs from a related input supplier, CSWT.

[204] CSWC and CSWT provided complete responses to the Subsidy RFI and SRFIs. The information was verified by way of verification questionnaires issued by the CBSA in August 2023.

[205] One subsidy program was found to have conferred benefits to the exporter, CSWC, by being passed-through from its related supplier, CSWT, during the purchase of major raw materials. The CBSA attributed the subsidy received by CSWT to the goods exported to Canada because of the relationship between the parties. The CBSA has concluded that a subsidy pass-through test is not required given the relation between the exporter and the related supplier. Consequently, any actionable subsidies received by the related supplier which are attributable to the goods under investigation and exported to Canada, was aggregated with those directly received by the exporter.

[206] For purpose of the final determination, CSWC was found to have received countervailable benefits from 10 subsidy programs:

Program 1: Loans from state-owned banks at preferential rates
Program 10: Reductions in land use and/or rental fees
Program 15: Subsidies related to company/enterprise development and innovation
Program 22: Subsidies to provide business support
Program 25: Special economic zones (SEZs) and other designated areas incentives
Program 31: Corporate income tax reduction for new high tech enterprises ("NHTE")
Program 34: Preferential tax policies related to research and investment
Program 40: Exemption or refund of tariff and import value-added tax (VAT) for imported technologies and equipment
Program 43: Acquisition of government inputs/utilities at less than fair market value
Program 49: Service Charges for Individual Income Tax Withholding

[207] For purpose of the final determination, the amount of subsidy for CSWC is 5.3%, expressed as a percentage of the export price.

Penglai Dajin Offshore Heavy Industry Co., Ltd. ("Penglai Dajin")

[208] Penglai Dajin is a producer and exporter of the subject goods.

[209] Penglai Dajin provided complete responses to the Subsidy RFI and Supplemental RFIs. The information was verified by way of verification questionnaires issued by the CBSA in August 2023.

[210] For purpose of the final determination, Penglai Dajin was found to have received countervailable benefits from 17 subsidy programs:

Program 7: Design, research and development grants
Program 8: Export development and performance grants
Program 10: Reductions in land use and/or rental fees
Program 12: Environment protection grant
Program 15: Subsidies related to company/enterprise development and innovation
Program 16: Subsidies related to employment, training and recruitment
Program 18: Subsidies related to quality and improvement
Program 19: Subsidies related to science and technology
Program 20: Subsidies related to social security
Program 21: Subsidies related to talent and skills
Program 25: Special economic zones (SEZs) and other designated areas incentives
Program 31: Corporate income tax reduction for new high tech enterprises ("NHTE")
Program 34: Preferential tax policies related to research and investment
Program 39: Offsets to taxable income related to purchases of domestic machinery
Program 43: Acquisition of government inputs/utilities at less than fair market value
Program 50: Special funds related to the construction and maintenance of ports and harbour
Program 51: Service Center Manufacturing Strong City Compensation Fund

[211] For purpose of the final determination, the amount of subsidy for Penglai Dajin is 3.0%, expressed as a percentage of the export price.

Shanghai Taisheng Wind Power Equipment Co., Ltd. ("STWPE")

[212] STWPE is a producer and exporter of the subject goods. STWPE also exported goods produced by its related companies, Blue Island and Dongtai.

[213] The TSP Group provided a complete response to the Subsidy RFI and SRFIs. The information was verified by way of verification questionnaires issued by the CBSA in August 2023.

[214] For purpose of the final determination, STWPE was found to have received countervailable benefits from 20 subsidy programs, including pass-through subsidies from Blue Island and Dongtai:

Program 1: Loans from state-owned banks at preferential rates
Program 6: Insurance grants
Program 7: Design, research and development grants
Program 8: Export development and performance grants
Program 10: Reductions in land use and/or rental fees
Program 11: Grant—Patent assistance/award
Program 15: Subsidies related to company/enterprise development and innovation
Program 16: Subsidies related to employment, training and recruitment
Program 17: Subsidies related to pandemic support
Program 18: Subsidies related to quality and improvement
Program 19: Subsidies related to science and technology
Program 20: Subsidies related to social security
Program 21: Subsidies related to talent and skills
Program 22: Subsidies to provide business support
Program 26: Financial/loan interest subsidy
Program 31: Corporate income tax reduction for new high tech enterprises ("NHTE")
Program 34: Preferential tax policies related to research and investment
Program 35: Accelerated depreciation on fixed assets
Program 43: Acquisition of government inputs/utilities at less than fair market value
Program 48: Special Industrialization Fund for Wind Power Equipment

[215] For purpose of the final determination, the amount of subsidy for STWPE is 5.6%, expressed as a percentage of the export price.

All Other Exporters – China

[216] For all other exporters of subject goods originating in or exported from China during the POI that did not provide a response to the Subsidy RFI or did not furnish sufficient information, the CBSA determined an amount of subsidy on the basis of the following methodology:

1. the highest amount of subsidy for each of the 27 programs, as found at the final determination, for the producer/exporter located in China for whom the CBSA has sufficient information to determine an amount of subsidy, plus;

2. the average amount of subsidy for the 27 programs listed in (1), applied to each of the remaining 24 potentially actionable subsidy programs for which sufficient information is not available or has not been provided at the final determination.

[217] In establishing the methodology for determining the amount of subsidy for all other potential exporters from China, the CBSA considered all of the information on the administrative record, including the complaint filed by the domestic industry, the CBSA's estimates at the initiation of the investigation, and information submitted by the exporters, as well as their related affiliates in China who responded to the Subsidy RFI.

[218] This methodology relies on information related to potentially actionable subsidies in China, it recognizes that the GOC did not provide a response to the Subsidy RFI (thereby impeding the CBSA's ability to make a fully informed decision), and in general, provides an incentive for exporters to participate by limiting the advantage that an exporter may gain from not providing necessary information requested in a subsidy investigation as compared to an exporter that did provide the necessary information.

[219] Using the above methodology, for the final determination, the amount of subsidy for all other exporters in China is 21.9%, expressed as a percentage of the export price.

Summary of Results – Subsidy

[220] A summary of the final results of the subsidy investigation respecting subject goods released into Canada during the POI follows:

Summary of Results - Subsidy
Period of Investigation (April 1, 2021 to March 31, 2023)

Exporter / Country of Origin or Export	**Amount of Subsidy** (% of Export Price)	**% of Total Imports** (by volume)
CS Wind China Co., Ltd.	5.3%	24.1%
Penglai Dajin Offshore Heavy Industry Co., Ltd.	3.0%	30.0%
Shanghai Taisheng Wind Power Equipment Co., Ltd.	5.6%	24.0%
All Other Exporters	21.9%	14.5%
Total China		**92.6%**
All Other Countries		7.4%
Total		**100%**

[221] Under paragraph 41(1)(a) of SIMA, the CBSA is required to terminate an investigation in respect of any goods of an exporter if the CBSA is satisfied that the goods have not been subsidized or the amount of subsidy on the goods of that exporter is insignificant.

[222] Pursuant to subsection 2(1) of SIMA, an amount of subsidy of less than 1% of the export price of the goods, for a developed country, is defined as insignificant.

[223] The goods under investigation from China have been subsidized and the amount of subsidy determined for those goods is greater than the threshold of 1% and is therefore not considered insignificant. As a result, the legislative requirement is satisfied for making a final determination of subsidy respecting wind towers from China.

DECISIONS

[224] On October 18, 2023, pursuant to paragraph 41(1)(b) of SIMA, the CBSA made final determinations of dumping and subsidizing respecting wind towers originating in or exported from China.

FUTURE ACTION

[225] The provisional period began on July 20, 2023, and will end on the date the CITT issues its finding. The CITT is expected to issue its decision by November 17, 2023. Provisional duties will continue to apply until this date on imports of subject goods from China. For further details on the application of provisional duty, refer to the *Statement of Reasons* issued for the preliminary determinations.

[226] If the CITT finds that the dumped and subsidized goods have not caused injury and do not threaten to cause injury, all proceedings will be terminated. In this situation, all provisional duty paid or security posted by importers will be returned.

[227] If the CITT finds that the dumped and subsidized goods have caused injury, the anti-dumping and countervailing duty payable on subject goods released by the CBSA during the provisional period will be finalized pursuant to section 55 of SIMA. Imports released by the CBSA after the date of the CITT's finding will be subject to anti-dumping duty equal to the margin of dumping and countervailing duty equal to the amount of subsidy.

[228] The importer in Canada shall pay all applicable duties. If the importers of such goods do not indicate the required SIMA code or do not correctly describe the goods in the customs documents, an administrative monetary penalty could be imposed. The provisions of the Customs Act apply with respect to the payment, collection or refund of any duty collected under SIMA. As a result, failure to pay duty within the prescribed time will result in the application of interest.

RETROACTIVE DUTY ON MASSIVE IMPORTATIONS

[229] Under certain circumstances, anti-dumping and/or countervailing duty can be imposed retroactively on subject goods imported into Canada. When the CITT conducts its inquiry on material injury to the Canadian industry, it may consider if dumped and/or subsidized goods that were imported close to or after the initiation of the investigations constitute massive importations over a relatively short period of time and have caused injury to the Canadian industry. Should the CITT issue a finding that there were recent massive importations of dumped and/or subsidized goods that caused injury, imports of subject goods released by the CBSA in the 90 days preceding the day of the preliminary determinations could be subject to anti-dumping and/or countervailing duty.

[230] In respect of importations of subsidized goods that have caused injury, this provision is only applicable where the CBSA has determined that the whole or any part of the subsidy on the goods is a prohibited subsidy. In such a case, the amount of countervailing duty applied on a retroactive basis will equal the amount of subsidy on the goods that is a prohibited subsidy. An export subsidy is a prohibited subsidy according to subsection 2(1) of SIMA.

PUBLICATION

[231] A notice of these final determinations of dumping and subsidizing will be published in the *Canada Gazette* pursuant to paragraph 41(3)(a) of SIMA.

INFORMATION

[232] This *Statement of Reasons* is posted on the CBSA's website. For further information, please contact the officers identified as follows:

Mail:	SIMA Registry and Disclosure Unit Trade and Anti-dumping Programs Directorate Canada Border Services Agency 100 Metcalfe Street, 11th floor Ottawa, Ontario K1A 0L8 Canada	
Telephone:	Ted Chester	343-553-1888
	Nalong Manivong	343-549-0429
Email:	simaregistry@cbsa-asfc.gc.ca	

Edith Laflamme
Acting Director General
Trade and Anti-dumping Programs Directorate

ATTACHMENTS

Appendix 1: Summary of Margin of Dumping and Amount of Subsidy
Appendix 2: Summary of Dumping and Subsidy Representations
Appendix 3: Description of Identified Programs and Incentives

APPENDIX 1 – SUMMARY OF MARGIN OF DUMPING AND AMOUNT OF SUBSIDY

Exporter	**Margin of Dumping** (% of Export Price)	**Amount of Subsidy** (% of Export Price)
CS Wind China Co., Ltd.	108.2%	5.3%
Penglai Dajin Offshore Heavy Industry Co., Ltd.	109.0%	3.0%
Shanghai Taisheng Wind Power Equipment Co., Ltd.	89.4%	5.6%
All Other Exporters - China	159.3%	21.9%

Note: The margins of dumping and amounts of subsidy reported in the table above were determined by the CBSA for the purposes of the final determinations. These margins and amounts may not reflect the amount of anti-dumping or countervailing duties to be levied on future importations of dumped or subsidized goods. In the event of an injury finding by the CITT, normal values and amounts of subsidy for future shipments to Canada have been provided to the exporters who provided sufficient information in their response to the CBSA RFIs, as appropriate. These normal values and amounts of subsidy would come into effect the day after an injury finding. Information regarding normal values of the subject goods and amounts of subsidy should be obtained from the exporters. Imports from any other exporters will be subject to an anti-dumping duty rate and a countervailing duty rate, as applicable, in accordance with a ministerial specification and in an amount equal to the margin of dumping or the amount of subsidy found for "all other exporters" at the final determinations.

The amounts of subsidy (as a percentage of export price) are the amounts determined by the CBSA for the purpose of the final determination of subsidizing. These amounts do not reflect the countervailing duty to be levied on future importations of subsidized goods originating in or exported from China, which will be based on the specific amounts of subsidy, per piece, converted into Canadian dollars.

Normally, normal values will not be applied retroactively. However, normal values may be applied retroactively in cases where the parties have not advised the CBSA in a timely manner of substantial changes that affect values for SIMA purposes. Therefore, where substantial changes occur in prices, market conditions, costs associated with production and sales of the goods, the onus is on the concerned parties to advise the CBSA**.**

Please consult the SIMA Self-Assessment Guide for more detailed information explaining how to determine the amount of SIMA duties owing.

APPENDIX 2 – DUMPING AND SUBSIDY REPRESENTATIONS

Following the closing of the record on August 29, 2023, case arguments, and subsequently reply submissions, were received on behalf of the following parties:

- CS Wind China Co., Ltd., its related vendor, CS Wind Corporation and its related input supplier, CS Trading (Lianyungang) Co., Ltd. (collectively "CS Wind")[72]
- Penglai Dajin Offshore Heavy Industry Co., Ltd. ("Penglai Dajin")[73]
- Shanghai Taisheng Wind Power Equipment Co., Ltd., its two related parties, Nantong Taisheng Blue Island Offshore Co., Ltd. and Shanghai Taisheng Power Engineering Machinery Co., Ltd. (collectively "TSP Group")[74]
- The complainant, Marmen Inc. and Marmen Énergie Inc. (collectively "Marmen").[75]
- Vestas Manufacturing A/S and Vestas Canadian Wind Technology Inc. (collectively "Vestas")[76]

Certain details provided in case briefs and reply submissions were designated as confidential information by the submitting counsel. This has restricted the ability of the CBSA to discuss all issues raised in these submissions.

The material issues raised by the parties are summarized as follows:

Dumping Representations

Deficiencies

Case Briefs

Counsel for Marmen submitted that RFI responses by Vestas Canada, Vestas Manufacturing A/S and Siemens Gamesa Renewable Energy include several deficiencies that render the responses insufficiently reliable for the purpose of the CBSA's dumping investigation. Counsel argued that deficient or lack of response from either vendors and importers are sufficient basis to determine that an exporter RFI response is unreliable.

Counsel further submitted that all exporter responses include several deficiencies and all responses should be considered deficient. These deficiencies include: failure to report all domestic and export sales; using an inappropriate costing methodology; and using an inappropriate unit of measurement.

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[72] Exhibit 178 (PRO) & 179 (NC) – Case brief filed on behalf of CS Wind. Exhibit 184 (PRO) & 185 (NC) – Reply submission filed.
[73] Exhibit 182 (PRO) & 183 (NC) – Case brief filed on behalf of TSP Group/Penglai Dajin. Exhibit 186 (PRO) & 187 (NC) – Reply submission filed.
[74] Exhibit 182 (PRO) & 183 (NC) – Case brief filed on behalf of TSP Group/Penglai Dajin. Exhibit 186 (PRO) & 187 (NC) – Reply submission filed.
[75] Exhibit 180 (PRO) & 181 (NC) – Case brief filed on behalf of Marmen. Exhibit 190 (PRO) & 191 (NC) – Reply submission filed.
[76] Exhibit 188 (PRO) & 189 (NC) –Reply submission filed by Vestas.

Reply Submissions

Counsel for Vestas denied the deficiencies alleged by counsel for Marmen. Counsel argued that even if such deficiencies existed, they would not impact the CBSA's conduct of its statutory duty and, in particular, would not affect the final determination.

Counsel representing TSP Group and Penglai Dajin maintained that the information reported in their appendices and responses are accurate and complete and the method of reporting is allowed by the CBSA in the RFI. Counsel also submitted that any discrepancies identified were addressed and explained to the CBSA.

Counsel for CS Wind submitted that the complainant incorrectly analyzed the information regarding the cost differences in its revised appendix and did not properly consider the revisions to its amount for administrative, selling and all other costs.

CBSA's Response

The CBSA considered the case arguments and reply submissions provided by counsel for Marmen as well as counsels for the CS Wind, TSP Group, Penglai Dajin and Vestas.

For the purpose of the final determination, the CBSA determined the margins of dumping based on the verified information as provided by the cooperative exporters. The CBSA determined the margins of dumping by comparing the total export prices with the total normal values for either sections or towers, which ever is reported.

Section 20 Finding

Case Briefs

Counsel for Marmen maintained its position that a section 20 finding is appropriate and necessary given the influence of the GOC in the Chinese wind tower sector due to the combined effect of various factors.

Counsels for CS Wind, TSP Group and Penglai Dajin provided similar arguments stating that the conditions of section 20 do not exist for the wind tower sector in China. Counsels argued that the CBSA must focus only on the sector under review, in this case the wind tower sector, and that the CBSA erred by looking at the steel sector and relied to heavily on previous section 20 decisions concerning steel products.

Counsels submitted that the section 20 opinion must be based on positive evidence; exporters are not required to prove that the conditions of section 20 do not exist, and the CBSA must demonstrate that the government has substantially determined the selling price, and the existence of government regulations alone is not sufficient to do so.

Counsels further submitted that none of the factors the CBSA typically looks at to show government direct or indirect control are present in the wind tower sector and that the policies relied on by the CBSA are not sufficient to show government control.

Reply Submissions

Counsels for the complainant and the exporters reiterated their positions in their case briefs regarding section 20 conditions in the wind tower sector.

CBSA's Response

The CBSA considered the case arguments and reply submissions provided by counsel for the complainant and counsels for the exporters. The CBSA is of the opinion that the conditions of section 20 exist in the wind tower sector in China based on available evidence on the record. This evidence is specific to the wind tower industry, but does include information pertaining to steel as well, as wind towers are made primarily of steel. Details of the analyses and findings are included in the relevant sections of the section 20 report.

Surrogate Country Selection

Case Briefs

Counsel for Marmen submitted that Mexico remains the most appropriate surrogate country for the purpose of determining normal values and citing that Mexico's Gross National Income per capita is similar to that of China, indicating that Mexico has a similar level of development to China. Counsel further argued that no country has as significant a wind power industry as China, but Mexico's power industry is significantly bigger in comparison to South Korea's.

Counsel for Marmen noted that in the EU's investigation concerning the dumping of wind towers from China, Mexico was used as a surrogate country because of a similar level of development and the availability of reliable public information. The EU also considered India, but it was rejected due to its differing level of development from China.

Concerning surrogate labour rates, counsel for Marmen indicated that only Mexican labour rates are available in the record. If another country is used as surrogate it would not be possible to adjust costs and into consideration differing labour rates.

Counsel for CS Wind argued that South Korea is a more suitable surrogate country because Total Gross Domestic Product is a more appropriate index to use and South Korea has a similar index to China. Counsel also argued that South Korea is more suitable than Mexico given its proximity to China and that there is publically available information pertaining to South Korea. Counsel noted that steel plate prices in Mexico do not follow the same patterns as steel plate prices in other countries, while steel plate prices in South Korea do.

Counsel representing TSP Group and Penglai Dajin reiterated CS Wind’s concerns with using Mexico as a surrogate country and recommended either India or South Korea. Counsel argued that Mexico does not have significant domestic production of wind towers in comparison to China; Mexico is expected to slow down its wind power growth; Mexico has anti-dumping duties against Chinese wind towers that over inflate the domestic selling prices; steel prices and wind tower costs in Mexico are not determined in a highly competitive market due to a limited number of suppliers, quotas on the importation of steel products, and volatile steel prices; and that profits are decreasing for wind tower producers in Mexico.

Reply Submissions

Counsel for Marmen reiterated its position that Mexico is the most appropriate surrogate country, while counsels for the exporters reiterated their opinions that Mexico is not an appropriate surrogate country and suggested that India or South Korea would be a more appropriate surrogate.

CBSA’s Response

The CBSA sent Surrogate RFIs to all known producers of wind towers in Mexico, India, Indonesia and South Korea. However, no response was received before the close of the record. The CBSA has considered the arguments submitted by counsels for the complainant and the exporters and has considered all information on the administrative record and determined that, for reasons discussed earlier in this document, and in the absence of any surrogate RFI responses, Mexico represents the most reasonable surrogate country.

Normal Value Methodology

Case Briefs

Counsel for Marmen stated that the CBSA should use the same methodology that it used at the preliminary determination, except that it should use steel plate prices for Mexico, rather than a world prices. Counsel also submitted that the CBSA should update the amount for administrative, selling and all other costs and the amount for profits, and include an amount for financial expenses.

Counsel for CS Wind stated that the CBSA’s methodology should use provided steel plate prices in South Korea. Counsel also submitted that the amount for administrative, selling and all other costs and the amount for profits should be based on the financial statement of a South Korean wind tower producer, DongKuk S&C.

Counsel representing TSP Group and Penglai Dajin stated that the CBSA erred in its estimation of normal values at the preliminary determination because adjustments must be made to reflect the cost of production in the country of origin; the CBSA did not disclose all the information upon which its estimates were made; and India or South Korea are more appropriate surrogate countries and the necessary information is on the record.

Reply Submissions

Counsels for the complainant and the exporters reiterated their positions in their case briefs as to how normal values should be determined.

CBSA's Response

Where normal values cannot be determined in accordance with the provisions of section 20 of SIMA, normal values are determined pursuant to a ministerial specification in accordance with subsection 29(1) of SIMA, on the basis of facts available.

The CBSA has considered the arguments submitted by counsels for the complainant and the exporters. However, as it was found that Mexico is the most appropriate surrogate country, the CBSA has determined normal values using information pertaining to the wind tower industry in Mexico, including costs of steel plate in Mexico and administrative, selling and all other costs, financial expenses, and profit, based on the financial statements of companies that produce wind towers in Mexico. For additional costs such as labour, overhead, and other inputs, the CBSA used the complainant's costs as it was the only available information outside of China, but all labour related costs were adjusted to reflect wages in Mexico.

Future Normal Value

Case Briefs

Counsel for Marmen submitted that wind towers for each project are unique and produced to specifications for that project. As such, counsel argued that wind towers for any new project that was not subject to the CBSA's investigation will require its own, project specific normal value, unless it is identical in every respect to another tower for which a normal value exists. Counsel further argued that the CBSA should apply the all others rate to any imported wind towers that were not part of a project subject to the CBSA's investigation.

Reply Submissions

Counsel representing TSP Group and Penglai Dajin agreed with counsel for Marmen in regards to the unique nature of wind tower specifications and projects and suggested that the CBSA issue future normal values on a per metric ton basis for each specific project. Counsel objected to counsel for Marmen's position in regards to the application of the all others rate to wind towers for projects that were not exported to Canada during the POI. Counsel argued that limiting the availability of recourse to prospective normal values and instead imposing the all others rate as suggested by counsel for Marmen is violation by Canada of its obligations under the WTO.

CBSA's Response

The CBSA considered the case arguments and reply submissions provided by counsel for Marmen and counsel representing TSP Group and Penglai Dajin.

The CBSA determined normal values for all wind towers for every project under ministerial specification as explained above in this *Statement of Reasons.*

Based on the wind tower projects reported by each cooperative exporter, the CBSA determined the average normal value on a metric ton basis for purposes of future shipments, in the event that the CITT finds that the dumped and subsidized goods have caused injury.

<u>Subsidy Representations</u>

Deficiencies

Case Briefs

Counsel for Marmen submitted that amounts of subsidy for all exporters should be determined under ministerial specification as the GOC did not respond to the Government Subsidy RFI. Counsel argued that Penglai failed to provide details of sales to SOEs and should be considered deficient. Counsel further argued that CS Wind did not properly report rental subsidies and its response to the Subsidy RFI should be considered deficient.

Counsel for CS Wind submitted that it has responded completely to Subsidy RFIs, SRFIs, and Verification Questionnaires and that the CBSA has all the information to determine an amount of subsidy for CS Wind.

Reply Submissions

Counsel for CS Wind submitted that rent payments were paid for the specified period. Counsel objected to the complainant's submission and requested that the CBSA continue its established practice of determining an amount of subsidy for cooperating exporters, where the GOC had declined to participate in the subsidy investigation.

CBSA's Response

For the purpose of the final determination, without a complete response to the Government Subsidy RFI from the GOC, the CBSA determined amounts of subsidy for all programs under ministerial specification, pursuant to section 29 of SIMA. In light of the cooperation received from exporters, the CBSA determined amounts of subsidy under ministerial specification based on the information submitted by the responding exporters.

Double Remedies

Case Briefs

Counsel representing TSP Group and Penglai Dajin submitted that the CBSA should address the issue of double counting when it applies surrogate values in the construction of normal values and the use of external benchmarks in the determination of amounts of subsidy as raised by the WTO Appellate Body in DS379.

Reply Submissions

Counsel for Marmen submitted that the CBSA has previously considered the issue of double counting and noted that the Appellate Body's decision is not binding on Canada. Counsel maintained that the CBSA must apply SIMA in its final determinations.

CBSA's Response

The CBSA assessed that the complaint met the requirements to initiate a subsidy investigation and a dumping investigation and therefore it proceeded with these investigations concurrently, as provided for in SIMA.

Countervailable Subsidies, Specificity and Export Subsidies

Case Briefs

Counsel representing TSP Group and Penglai Dajin submitted that the CBSA has not established the specificity of the programs and argued that there is no evidence concerning the resulting benefits. Counsel also argued that it is not appropriate for the CBSA to determine an amount of subsidy in the absence of corroborating evidence and government response.

Counsel submitted that certain subsidy programs related to research and development are not countervailable if the assistance provided is not linked to industrial or commercial objectives and where the assistance is limited to the purposes of certain costs such as personnel involved in research activity; assets used exclusively and permanently for research activity; consultancy and equivalent services related to research activity; additional overhead costs and operating costs incurred as a result of research activities.

Counsel submitted that where the CBSA determines a subsidy to be an "export subsidy", the amount of countervailing duty related to the export subsidy should be deducted from the total duty.

Reply Submissions

Counsel for Marmen submitted that counsel for TSP Group and Penglai Dajin cited various WTO cases but did not provide any arguments, based on the record, to support the claims that there was no evidence to establish benefits or specificity.

CBSA's Response

The available information indicates that these programs do not appear to be generally available to all enterprises in the country of origin. Additionally, due to the lack of response by the GOC, there is not sufficient information on the administrative record to determine that certain subsidy programs are not specific pursuant to the criteria set out in subsection 2(7.1) of SIMA. Therefore, guided by the principles of subsection 2(7.2) or subsection 2(7.3) of SIMA and based on the best information available, the CBSA has determined that the subsidy derived from these programs is likely to be specific.

As a result, the CBSA determined an amount of subsidy for the cooperative exporters pursuant to a ministerial specification under subsection 30.4(2) of SIMA.

Steel Plate Benchmarks and Input Subsidy

Case Briefs

Counsel for CS Wind submitted that the CBSA incorrectly used the steel plate price around the world excluding China as benchmarks because it did not consider the comparability of steel prices in the region or country. Counsel argued that South Korean steel plate prices are the most appropriate benchmarks. Counsel further that the CBSA should prove that subsidies accruing to the producers of the steel plate in China are passed through to the wind towers and that the subsidies are reflected in the selling prices of wind towers in China.

Counsel representing TSP Group and Penglai Dajin submitted that with respect to Program 43, the CBSA should attribute the subsidy received through the purchase of material inputs from SOEs directly to the production and sale of those goods.

Reply Submissions

Counsel for CS Wind reiterated its comments regarding the use of South Korean steel plate prices as appropriate benchmarks in the calculation of the amounts of subsidy for Program 43 and the impact of the subsidy in the selling prices of wind towers.

CBSA's Response

For the purpose of the final determination, the CBSA considered commercial benchmarks of steel plate within China, importations of steel plate into China as well as foreign benchmarks. Based on the information on the record, the CBSA established benchmarks based on importations of steel plate from producers in South Korea as well as South Korean steel plate prices published by *Korean Sheet and Metal News.*

For the purpose of the final determination, the CBSA determined an amount of subsidy for Program 43 by distributing the benefit amount received by the exporter over the total quantity of goods to which the benefit was attributable.

APPENDIX 3 – DESCRIPTION OF IDENTIFIED PROGRAMS AND INCENTIVES

This Appendix consists of descriptions of the subsidy programs which responding cooperative exporters benefited from during the course of the POI and other potentially actionable subsidy programs identified by the CBSA that were not used by the responding exporters during the POI.

The CBSA has used the best information available to describe the potentially actionable subsidy programs that were not used by the responding exporters and related affiliates in the current investigation. This includes using information in the complaint, as well as information obtained from the CBSA's research on potential subsidy programs in China.

The GOC did not respond to the CBSA's Government Subsidy RFI, which limited the CBSA's ability to determine the amount of subsidy in the prescribed manner as the required information relating to financial contribution, benefit and specificity was not provided. Due to a lack of government response, subsidy amounts for the exporters were determined pursuant to subsection 30.4(2) of SIMA, based on a ministerial specification.

To summarize, the CBSA included a list of 48 potential subsidy programs at the initiation of the investigation. For purpose of the final determination, the responding exporters were found to have been receiving benefits from a total of 27 programs. Of these programs, 24 were considered to be from the initial list of 48, while the remaining 3 were considered as programs not previously identified. In total, 51 programs were investigated.

Subsidy Programs used by the Responding Exporters

CATEGORY 1: PREFERENTIAL LOANS AND LOAN GUARANTEES

Program 1: Loans from State-Owned Banks at Preferential Rates

This program relates to government loans at a preferential rate of interest. The benefit provided in this case is a lower rate of interest than would otherwise be available if the enterprises had to obtain a non-guaranteed commercial loan (i.e. the benchmark non-guaranteed commercial loan). Financial institutions may be considered to constitute "government" if they possess, exercise or are vested with government authority, which may be indicated by the following factors:

1. Where a statue or other legal instrument expressly vests government authority in the entity concerned;
2. Evidence that an entity is, in fact, exercising governmental functions; and
3. Evidence that a government exercises meaningful control over an entity.

In the investigation by the US Department of Commerce (USDOC) in *Wind Towers from China*, it appears that they countervailed this program as "Policy Lending to the Renewable Energy Industry".

The USDOC listed the following laws, decisions, and regulations as examples of the GOC's implementation of plans for wind tower industry development and preferential policy lending.

1. *Article 25 of the Renewable Energy Law*: financial institutions are afforded discretion to offer preferential loans with a financial interest subsidy to certain renewable energy projects, provided that the project is listed in the national development guidance catalogue of the renewable energy industry and meet other loan requirements.

2. *National Development Reform Commission ("NDRC') Directory Catalogue on Readjustment of Industrial Structure*: contains a list of encouraged projects the GOC develops through loans and other forms of assistance, and two encouraged projects listed relates to wind power.

3. *Article 5 of the Decision of the State Council on Promulgating the Interim Provisions on Promoting Industrial Structure Adjustment for Implementation (Decision 40):* The GOC proclaims support and development of renewable energy industries including the "speed up" of the development of wind power through policies and measures.

For the purpose of the final determination, this program may be considered a financial contribution pursuant to paragraph 2(1.6)(b) of SIMA, in that amounts that would otherwise be owing and due to the government are reduced and/or exempted, and confers a benefit to the recipient equal to the amount of the reduction/exemption.

For the purpose of the final determination, the program may be considered specific pursuant to paragraph 2(7.3) of SIMA in that the manner in which discretion is exercised by the granting authority indicates that the subsidy may not be generally available.

CATEGORY 2: GRANTS AND GRANT EQUIVALENTS

Program 6: Insurance Grants

This program constitutes local and provincial government reimbursement grants on credit insurance fees.

For the purpose of the final determination, this program may be considered a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA as a direct transfer of funds from the government, and it confers a benefit to the recipient equal to the amount of the grant.

For the purpose of the final determination, the program may be considered specific pursuant to paragraph 2(7.3) of SIMA in that the manner in which discretion is exercised by the granting authority indicates that the subsidy may not be generally available.

Program 7: Design, Research and Development Grants

This program constitutes financial aid for enterprises determined to have undertaken expenses in design or research and development.

Grants may be provided for the commercialization of technological innovation and research findings and to promote scientific and technological results.

For the purpose of the final determination, this program may be considered a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA as a direct transfer of funds from the government, and it confers a benefit to the recipient equal to the amount of the grant.

For the purpose of the final determination, the program may be considered specific pursuant to paragraph 2(7.3) of SIMA in that the manner in which discretion is exercised by the granting authority indicates that the subsidy may not be generally available.

Program 8: Export Development Performance Grants

Companies in China receive such grants provided by the GOC to assist in the development of export markets or to recognize export performance. For example, awards may be provided to assist in marketing and export brand development and overseas investment. Other export awards may also be provided to enterprises that export high-tech products or achieve certain export volume. Financial subsidies may be provided for participations in trade exhibitions. Grants are provided for trade dispute expenses, the exportation of goods and increasing export value, and the International Service Outsourcing Industry.

The program was established in the Circular of the Trial Measures of the Administration of International Market Development Funds for Small and Medium-Sized Enterprises Cai Qi No. 467, 2000, which came into force on October 24, 2000. The program was established to support the development of small and medium-sized enterprises, to encourage them to join in the competition of international markets, to reduce the business risks of the enterprises, and to promote the development of the national economy. The granting authority is the Foreign Trade and Economic Department and the program is administered at the local levels.

For the purpose of the final determination, this program may be considered a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA as a direct transfer of funds from the government, and it confers a benefit to the recipient equal to the amount of the grant.

For the purpose of the final determination, the program may be considered specific pursuant to paragraph 2(7.3) of SIMA in that the manner in which discretion is exercised by the granting authority indicates that the subsidy may not be generally available.

Program 10: Reductions in Land Use and/or Rental Fees

This program provides for the reduction in land use fees and rental rates for a certain number of years. Examples of this program in action include: a document titled '[2003] No. 8 Preferential Supply of Land', in order to offset costs for industrial companies in the Ninghai Economic Development Zone; or similar initiatives in the Tianjin Binhai New Area and the Tianjin Economic and Technological Development Area.

For the purpose of the final determination, this program may be considered a financial contribution pursuant to paragraph 2(1.6)(b) of SIMA, in that amounts that would otherwise be owing and due to the government are reduced and/or exempted, and confers a benefit to the recipient equal to the amount of the reduction/exemption.

For the purpose of the final determination, the program may be considered specific pursuant to paragraph 2(7.3) of SIMA in that the manner in which discretion is exercised by the granting authority indicates that the subsidy may not be generally available.

Program 11: Grant - Patent Assistance/Award

This program constitutes provincial government grants for creation of patents. For example, the GOC's document associated with this program for Guangdong province may include: "Administrative Measures of Patent Award of Guangdong Province". In Guangdong province, this program was administered by the Intellectual Property Office of Guangdong, the Bureau of Personnel of Guangdong Province and municipal level authorities. The program was established to support improvement in technology innovation and to promote intellectual property.

In addition, the GOC document associated with this program for Shanghai may include: "The administrative measures regarding the financial support/subsidy for Patents by Shanghai". In Jiangsu province, this program was administrated by Jiangsu Intellectual Property Office.

For the purpose of the final determination, this program may be considered a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA as a direct transfer of funds from the government, and it confers a benefit to the recipient equal to the amount of the grant.

For the purpose of the final determination, the program may be considered specific pursuant to paragraph 2(7.3) of SIMA in that the manner in which discretion is exercised by the granting authority indicates that the subsidy may not be generally available.

Program 12: Environment Protection Grant

This program constitutes grants provided by the GOC for the purposes of improving environmental performance, for example, monitoring and cleaning pollutants, improving energy efficiency, upgrading facilities to be more environmentally efficient, and waste water treatment. The grants are also provided to support various environmental conservation and energy-saving projects.

For the purpose of the final determination, this program may be considered a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA as a direct transfer of funds from the government, and it confers a benefit to the recipient equal to the amount of the grant.

For the purpose of the final determination, the program may be considered specific pursuant to paragraph 2(7.3) of SIMA in that the manner in which discretion is exercised by the granting authority indicates that the subsidy may not be generally available.

Program 15: Subsidies Related to Company/Enterprise Development and Innovation

This program constitutes grants and incentives related to company and enterprise development and innovation.

For example, the awards may be provided to encourage and support enterprises to develop new technologies. Grants may also be provided to encourage enterprises to upgrade business technologies and processes.

For the purpose of the final determination, this program may be considered a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA as a direct transfer of funds from the government, and it confers a benefit to the recipient equal to the amount of the grant.

For the purpose of the final determination, the program may be considered specific pursuant to paragraph 2(7.3) of SIMA in that the manner in which discretion is exercised by the granting authority indicates that the subsidy may not be generally available.

Program 16: Subsidies Related to Employment, Training and Recruitment

This program constitutes grants and incentives designed to support job stabilization by assisting companies with unemployment insurance payments as well as supporting the recruitment, training and subsequent job security of their staff. Grants may also be provided to improve labor relations.

Subsidies may also be granted to companies that recruit recent graduates, youths and impoverished laborers. Subsidies may also be provided to agencies that monitor and analyze employment conditions/situations in an area.

For the purpose of the final determination, this program may be considered a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA as a direct transfer of funds from the government, and it confers a benefit to the recipient equal to the amount of the grant.

For the purpose of the final determination, the program may be considered specific pursuant to paragraph 2(7.3) of SIMA in that the manner in which discretion is exercised by the granting authority indicates that the subsidy may not be generally available.

Program 17: Subsidies Related to Pandemic Support

This program constitutes grants and incentives designed to support job stabilization and weather economic hardships experienced by exporters during the COVID-19 pandemic. Grants may also be provided to promote the resumption of work and production.

For the purpose of the final determination, this program may be considered a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA as a direct transfer of funds from the government, and it confers a benefit to the recipient equal to the amount of the grant.

For the purpose of the final determination, the program may be considered specific pursuant to paragraph 2(7.3) of SIMA in that the manner in which discretion is exercised by the granting authority indicates that the subsidy may not be generally available.

Program 18: Subsidies Related to Quality & Improvement

This program constitutes grants and incentives related to quality and improvement in production.

For example, awards may be provided to encourage enterprises to upgrade the equipment and increase the production capacity as well as provide support to optimize production and sales process, and interconnect production and management data for enterprises; and improve efficiency.

For the purpose of the final determination, this program may be considered a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA as a direct transfer of funds from the government, and it confers a benefit to the recipient equal to the amount of the grant.

For the purpose of the final determination, the program may be considered specific pursuant to paragraph 2(7.3) of SIMA in that the manner in which discretion is exercised by the granting authority indicates that the subsidy may not be generally available.

Program 19: Subsidies Related to Science and Technology

This program constitutes grants and incentives related to science and technology.

For the purpose of the final determination, this program may be considered a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA as a direct transfer of funds from the government, and it confers a benefit to the recipient equal to the amount of the grant.

For the purpose of the final determination, the program may be considered specific pursuant to paragraph 2(7.3) of SIMA in that the manner in which discretion is exercised by the granting authority indicates that the subsidy may not be generally available.

Program 20: Subsidies Related to Social Security

This program constitutes grants and incentives related to social security.

For the purpose of the final determination, this program may be considered a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA as a direct transfer of funds from the government, and it confers a benefit to the recipient equal to the amount of the grant.

For the purpose of the final determination, the program may be considered specific pursuant to paragraph 2(7.3) of SIMA in that the manner in which discretion is exercised by the granting authority indicates that the subsidy may not be generally available.

Program 21: Subsidies Related to Talent and Skills

This program constitutes grants and incentives related to talent and skills.

For the purpose of the final determination, this program may be considered a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA as a direct transfer of funds from the government, and it confers a benefit to the recipient equal to the amount of the grant.

For the purpose of the final determination, the program may be considered specific pursuant to paragraph 2(7.3) of SIMA in that the manner in which discretion is exercised by the granting authority indicates that the subsidy may not be generally available.

Program 22: Subsidies to Provide Business Support

This program constitutes grants and incentives to support businesses.

For the purpose of the final determination, this program may be considered a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA as a direct transfer of funds from the government, and it confers a benefit to the recipient equal to the amount of the grant.

For the purpose of the final determination, the program may be considered specific pursuant to paragraph 2(7.3) of SIMA in that the manner in which discretion is exercised by the granting authority indicates that the subsidy may not be generally available.

Program 25: Special Economic Zones (SEZs) and Other Designated Areas Incentives

Available information indicates that producers of wind tower established or located in the SEZ have benefitted from various incentives, including but not limited to free currency exchange and free licenses.

Wind tower producers may avail themselves of grants/awards for investments, construction, expansion, development, upgrading, technological transformation and modernizing operations.

Wind tower producers may also benefit from the following subsidies: rent, employment, recruitment and training, social security, unemployment insurance, storage, transportation and logistics; and refund or exemption of export duty.

Wind tower producers who establish or relocate headquarters in the SEZ, who achieve national and global brand recognition and rankings, who become publically listed on stock exchanges and who are involved in formulation of standards may also receive awards.

Wind tower producers may also receive tax refund for profits re-invested in SEZs and reimbursement for services fees charged for the commissioned withholding, collection and levying of tax payments.

In the investigation by the USDOC in *Wind Towers from China*, it appears that they countervailed the following programs:

1. Support Funds for Construction of Project Infrastructure Provided by Administration Commission of Lianyungang Economic and Technology Development Zone ("LETDZ") for the company's investments within the LETDZ;
2. Award for Good Performance in Paying Taxes *for top 20 income tax payers located in the LETDZ;*
3. Award of Taicang City to Support Public Listing of Enterprises *for company's successful listing on the Shenzhen Stock Exchange;* and
4. Award of Taicang City to Promote Development of Industrial Economy for the Three-year period 2010 to 2012.

For the purpose of the final determination, this program may be considered a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA as a direct transfer of funds from the government, and it confers a benefit to the recipient equal to the amount of the grant.

For the purpose of the final determination, the program may be considered specific pursuant to paragraph 2(7.2) of SIMA because it is limited to enterprises in certain geographic areas.

Program 26: Financial/Loan Interest Subsidy

This program constitutes grants to assist in the payment of loans. The program was established to support technology improvement and innovation projects and industrial transformation and upgrading projects. Similar programs were established for importations of encouraged products and technology.

For the purpose of the final determination, this program may be considered a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA as a direct transfer of funds from the government, and it confers a benefit to the recipient equal to the amount of the grant.

For the purpose of the final determination, the program may be considered specific pursuant to paragraph 2(7.3) of SIMA in that the manner in which discretion is exercised by the granting authority indicates that the subsidy may not be generally available.

Program 48: Special Industrialization Fund for Wind Power Equipment

In August 2008, the GOC issued the Provisional Measures on the Administration of the Special Fund Supporting the Industrialization of Wind Power Equipment, Cai Jian No. 476 (2008). The provisional measures established a "Special Industrialization Fund" which distributes award grants to domestically controlled or wholly owned enterprises that manufacture wind power machines and equipment within China.

For the purpose of the final determination, this program may be considered a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA as a direct transfer of funds from the government, and it confers a benefit to the recipient equal to the amount of the grant.
For the purpose of the final determination, the program may be considered specific pursuant to paragraph 2(7.2) of SIMA because it is limited to enterprises in certain industries.

Program 49: Service Charges for Individual Income Tax Withholding

This program constitutes reimbursement of service charges for withholding of individual income tax.

For the purpose of the final determination, this program may be considered a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA as a direct transfer of funds from the government, and it confers a benefit to the recipient equal to the amount of the grant.

For the purpose of the final determination, the program may be considered specific pursuant to paragraph 2(7.3) of SIMA in that the manner in which discretion is exercised by the granting authority indicates that the subsidy may not be generally available.

Program 50: Special Funds related to the Construction and Maintenance of Ports and Harbours

The program constitutes special funds towards projects that will improve the capacity and efficiency of ports. Funding through this program is provided to companies engaged in the development and maintenance of ports and harbors.

For the purpose of the final determination, this program may be considered a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA as a direct transfer of funds from the government, and it confers a benefit to the recipient equal to the amount of the grant.

For the purpose of the final determination, the program may be considered specific pursuant to paragraph 2(7.2) of SIMA because it is limited to enterprises in certain industries.

Program 51: Service Center Manufacturing Strong City Compensation Fund

Based on the information available to the CBSA, funding through this program is provided to companies to support investments, improve infrastructure and development of the city. The local government aims to promote the construction of pioneering zones for green, low-carbon and high-quality developments. In turn, businesses benefit from improved processes and better services. The granting authority responsible for this program is allegedly the Industry and Information Bureau.

For the purpose of the final determination, this program may be considered a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA as a direct transfer of funds from the government, and it confers a benefit to the recipient equal to the amount of the grant.

For the purpose of the final determination, the program may be considered specific pursuant to paragraph 2(7.3) of SIMA in that the manner in which discretion is exercised by the granting authority indicates that the subsidy may not be generally available.

Category 3: Preferential Tax Programs

Program 31: Corporate Income Tax Reduction for New High Tech Enterprises ("NHTE")

Under Article 28.2 of the Enterprise Income Tax Law in China, companies designated as high- or new-technology enterprises (HNTEs) are entitled to a reduced income tax rate of 10 percent instead of the normal national corporate tax rate of 25 percent. The granting authority responsible for this program is alleged to be the State Administration of Taxation and the program is administered by local tax authorities. In its notification of subsidy programs to the WTO, the GOC listed this program.

For the purpose of the final determination, this program may be considered a financial contribution pursuant to paragraph 2(1.6)(b) of SIMA, in that amounts that would otherwise be owing and due to the government are reduced and/or exempted, and confers a benefit to the recipient equal to the amount of the reduction/exemption.

For the purpose of the final determination, the program may be considered specific pursuant to paragraph 2(7.3) of SIMA in that the manner in which discretion is exercised by the granting authority indicates that the subsidy may not be generally available.

Program 34: Preferential Tax Policies related to Research and Investment

Under this program based on the 2008 corporate tax law, high- or new-technology enterprises may deduct 50 percent of their total R&D expenses from their taxable income. Eligible expenses include design costs, expenses for materials and fuel consumed through R&D activities, wages, salaries, and benefits for personnel engaged in R&D activities, depreciation expenses on instruments and equipment, and many other expenses.

For the purpose of the final determination, this program may be considered a financial contribution pursuant to paragraph 2(1.6)(b) of SIMA, in that amounts that would otherwise be owing and due to the government are reduced and/or exempted, and confers a benefit to the recipient equal to the amount of the reduction/exemption.

For the purpose of the final determination, the program may be considered specific pursuant to paragraph 2(7.3) of SIMA in that the manner in which discretion is exercised by the granting authority indicates that the subsidy may not be generally available.

Program 35: Accelerated Depreciation on Fixed Assets

The GOC listed this preferential tax treatment in their most recent notification of active subsidy programs to the WTO. This preferential tax treatment's objective is to speed up industrial restructuring.

The granting authorities for this subsidy include the Ministry of Finance and the State Administration of Taxation, granted under the following legislation:

1. Ministry of Finance Circular Cai Shui No. 75 of 2014,
2. Ministry of Finance Circular Cai Shui No. 106 of 2015,
3. Ministry of Finance Circular Cai Shui No. 54 of 2018,
4. Ministry of Finance Circular Cai Shui No. 66 of 2019

For the purpose of the final determination, this program may be considered a financial contribution pursuant to paragraph 2(1.6)(b) of SIMA, in that amounts that would otherwise be owing and due to the government are reduced and/or exempted, and confers a benefit to the recipient equal to the amount of the reduction/exemption.

For the purpose of the final determination, the program may be considered specific pursuant to paragraph 2(7.3) of SIMA in that the manner in which discretion is exercised by the granting authority indicates that the subsidy may not be generally available.

CATEGORY 4: RELIEF FROM DUTIES AND TAXES

Program 39: Offsets to Taxable Income Related to Purchases of Domestic Machinery

Under this program, a tax credit up to 40% of the purchase price of domestic equipment may apply to the incremental increase in tax liability from the previous year. The legal bases of this program are the Provisional Measures on Enterprise Income Tax Credit for Investment in Domestically Produced Equipment for Technology Renovation Projects of July 1, 1999 and the Notice of the State Administration of Taxation on Stopping the Implementation of the Enterprise Income Tax Deduction and Exemption Policy of the Investments of an Enterprise in Purchasing Home-made Equipment, No. 52 [2008] of the State Administration of Taxation, effective January 1, 2008.

For the purpose of the final determination, this program may be considered a financial contribution pursuant to paragraph 2(1.6)(b) of SIMA, in that amounts that would otherwise be owing and due to the government are reduced and/or exempted, and confers a benefit to the recipient equal to the amount of the reduction/exemption.

For the purpose of the final determination, the program may be considered specific pursuant to paragraph 2(7.3) of SIMA in that the manner in which discretion is exercised by the granting authority indicates that the subsidy may not be generally available.

Program 40: Exemption or Refund of Tariff and Import Value-Added Tax (VAT) for Imported Technologies and Equipment

The program was established to absorb investment in SEZs and encourage districts to take the lead in development. The granting authority responsible for this program is the General Administration of Customs and this program is administered by local customs authorities. Under this program, machinery and equipment, spare parts, raw and semi-processed materials, means of transportation and other capital goods necessary for production that are imported by enterprises in SEZs are exempted from import duties.

For the purpose of the final determination, this program may be considered a financial contribution pursuant to paragraph 2(1.6)(b) of SIMA, in that amounts that would otherwise be owing and due to the government are reduced and/or exempted, and confers a benefit to the recipient equal to the amount of the reduction/exemption.

For the purpose of the final determination, the program may be considered specific pursuant to paragraph 2(7.3) of SIMA in that the manner in which discretion is exercised by the granting authority indicates that the subsidy may not be generally available.

CATEGORY 5: GOOD / SERVICES PROVIDED BY THE GOVERNMENT AT LESS THAN FAIR MARKET VALUE

Program 43: Acquisition of Government Inputs/Utilities at Less than Fair Market Value

For the purpose of assessing whether this subsidy exists; the CBSA investigated the acquisition of steel plate, given the significance of the cost of steel in proportion to the overall cost of production and sale of the subject goods.

State-owned enterprises (SOEs) or state-invested enterprises (SIEs) that are steel suppliers may be considered to constitute “government” pursuant to the definition in subsection 2(1) of SIMA if they possess, exercise or are vested with government authority, which may be indicated by the following factors:

- where a statute or other legal instrument expressly vests government authority in the entity concerned;
- evidence that an entity is, in fact, exercising governmental functions; and
- evidence that a government exercises meaningful control over an entity.

In order to determine whether the exporters acquired raw materials from SOEs or SIEs, the CBSA requested detailed information from the exporters regarding their acquisition of raw materials. The Subsidy RFI also contained a short-form questionnaire intended for the domestic steel suppliers. The exporters were instructed to forward this questionnaire to their domestic steel suppliers. This questionnaire requested information regarding the ownership status of the supplier and other relevant information with respect to assessing whether the supplier is considered an SOE. Further, information was also requested from the GOC with respect to the ownership status of the steel producers and with respect to governmental measures affecting the steel industry as a whole, in order to assess whether SOEs are "government".

Responding exporters identified, to the best of their knowledge, which of their suppliers as well as the steel manufacturers, are known SOEs and which are not. The CBSA did not receive responses to the questionnaires from the steel suppliers. The GOC did not provide a response to the Government Subsidy RFI.

As a result, the lack of cooperation by the GOC limited the CBSA's ability to assess whether the SOEs that supplied or produced the steel used by the exporters in their production of wind towers possess, exercise or are vested with government authority as described in the above mentioned factors.

Nevertheless, the CBSA determined that the conclusions reached in the context of the section 20 inquiry were quite relevant to this analysis as well. Although the inquiry was conducted for a different purpose, the CBSA considers this information relevant and applicable for the purpose of determining if the steel plate suppliers identified as SOEs are "government", particularly since the analysis focused on the GOC's control and influence over the primary steel industry.

Additionally, as provided in Article 36 of the Law of the People's Republic of China on the State-owned Assets of Enterprises, SIEs must comply with all national industrial policies.[77] On the basis of this information, SIEs are effectively performing a public policy function through their pursuit of state plans and industrial and economic policies, thus supporting the indication that SIEs and SOEs are in fact performing governmental functions. A further analysis of the Law of State-Owned Assets of the Enterprises reveals that the GOC is the only entity that may determine who is eligible to be a director or supervisor within SIEs in China, regardless of the extent of the GOC's ownership of the SIE. The GOC sets the criteria against which management of an SIE is evaluated, measures the performance of management against the criteria, and determines the standards of remuneration for management. SIEs must also submit to audits conducted directly by the GOC.

Accordingly, the CBSA determined that there is sufficient evidence that the GOC exercises meaningful control over state-owned steel suppliers and producers. Therefore, there is reason to believe that the SOE suppliers of raw materials are "government" as they possess, exercise or are vested with government authority, as described in the factors above.

[77] *Final Determination Statement of Reasons for Certain Carbon and Alloy Steel Line Pipe* (March 10, 2016)

As a result, there is a financial contribution pursuant to paragraph 2(1.6)(c) of SIMA, i.e. the government provides good or services, other than general governmental infrastructure, or purchases goods. The CBSA examined whether the financial contribution conferred a benefit to these exporters. Pursuant to section 36 of the *Special Import Measures Regulations* (SIMR), a benefit exists if the price at which the goods or services were provided by the government is lower than the fair market value of the goods or services in the territory of that government. In order to determine if cooperative exporters benefited under this program, the CBSA compared the price at which the goods were provided by the government with the fair market value of the goods.

In this investigation, and in other past investigations involving goods from China, the CBSA determined that the Chinese steel industry is heavily dominated by SOEs and that domestic prices in China are not being determined under competitive market conditions. Accordingly, the CBSA determined that the domestic selling prices of steel plate are not appropriate for the purpose of determining the fair market value of these goods.

In the absence of appropriate domestic benchmark prices of steel plate in China, the CBSA referred to the cooperative exporters' acquisition of steel plate from sources outside China. Certain exporters imported steel plate from South Korean producers, however, steel plate import prices were not available during the entire POI. As such, for the purpose of establishing the fair market value of these products in China, the CBSA supplemented the import price of steel plate from South Korea with pricing information published by *Korean Sheet and Metal News* (KSMN) for South Korean steel plate prices. The CBSA determined that the price of steel plate imported by the responding exporters and the South Korean benchmark prices as reported by KSMN to be appropriate benchmarks. The CBSA compared the average monthly acquisition price of the producer's purchases and the benchmark prices.

For the purpose of the final determination, this program may be considered a financial contribution pursuant to paragraph 2(1.6)(c) of SIMA. That is, the government provides goods or services, other than general infrastructure, or purchases goods.

For the purpose of the final determination, the program may be considered specific pursuant to paragraph 2(7.3) of SIMA in that the manner in which discretion is exercised by the granting authority indicates that the subsidy may not be generally available.

<u>Other Potentially Actionable Subsidy Programs Identified by the CBSA that were not used by the Responding Exporters</u>

CATEGORY 1: PREFERENTIAL LOANS AND LOAN GUARANTEES

Program 2: Loan Guarantee through the Government of China/SOE Banks/Public Bodies

Assurance provided by the GOC, a SOE bank or public body (the guarantor) to assume the debt obligation of a borrower if that borrower defaults. A guarantee can be limited or unlimited, making the guarantor liable for only a portion or all of the debt.

For the purpose of the final determination, this program may be considered a financial contribution pursuant to paragraph 2(1.6)(b) of SIMA, in that amounts that would otherwise be owing and due to the government are reduced or exempted, and would confer a benefit to the recipient equal to the amount of the reduction/exemption.

Due to the lack of a response by the GOC, there is not sufficient information on the record to determine whether this program is specific pursuant to subsection 2(7.2) or subsection 2(7.3) of SIMA; nor is there sufficient information to indicate that the subsidy is not specific pursuant to the criteria set out in subsection 2(7.1). On the basis of the available information, this program does not appear to be generally available to all enterprises in China and thus appears to be specific.

Program 3: Debt and Interest Forgiveness on Loans from State-Owned Banks

To stimulate the economy and support the development of key industries, the state-owned banks write off bad debts or interest owed by SOEs.

For the purpose of the final determination, this program may be considered a financial contribution pursuant to paragraph 2(1.6)(b) of SIMA, in that amounts that would otherwise be owing and due to the government are reduced or exempted, and would confer a benefit to the recipient equal to the amount of the reduction/exemption.

Due to the lack of a response by the GOC, there is not sufficient information on the record to determine whether this program is specific pursuant to subsection 2(7.2) or subsection 2(7.3) of SIMA; nor is there sufficient information to indicate that the subsidy is not specific pursuant to the criteria set out in subsection 2(7.1). On the basis of the available information, this program does not appear to be generally available to all enterprises in China and thus appears to be specific.

Program 4: Debt to Equity Swaps for Less than Fair Market Value

Asset management companies formed by the GOC are permitted to purchase “non-performing loans” from State-Owned Banks and then conduct debt-to-equity swap transactions with companies that are liable for the “non-performing loans” forgiving some or all of a company's debt in exchange for equity in the company.

For purpose of the final determination, this program may be considered a financial contribution pursuant to paragraph 2(1.6)(b) of SIMA, in that amounts that would otherwise be owing and due to the government are reduced or exempted, and would confer a benefit to the recipient equal to the amount of the reduction/exemption.

Due to the lack of a response by the GOC, there is not sufficient information on the record to determine whether this program is specific pursuant to subsection 2(7.2) or subsection 2(7.3) of SIMA; nor is there sufficient information to indicate that the subsidy is not specific pursuant to the criteria set out in subsection 2(7.1). On the basis of the available information, this program does not appear to be generally available to all enterprises in China and thus appears to be specific.

Program 5: Preferential Export Financing and Export Credit Guarantee/Insurance

The China Export & Credit Insurance Corporation (Sinosure) is a state-funded policy-oriented insurance company that was established to promote China’s foreign trade and economic cooperation. The China Exim Bank and Sinosure each provide export credit guarantees which, according to information from the Bank, have “played a key role in supporting Chinese companies to go global” and promoted “the export of new and high-tech products”.

For the purpose of the final determination, this program may be considered a financial contribution pursuant to paragraph 2(1.6)(b) of SIMA, in that amounts that would otherwise be owing and due to the government are reduced or exempted, and would confer a benefit to the recipient equal to the amount of the reduction/exemption.

Due to the lack of a response by the GOC, there is not sufficient information on the record to determine whether this program is specific pursuant to subsection 2(7.2) or subsection 2(7.3) of SIMA; nor is there sufficient information to indicate that the subsidy is not specific pursuant to the criteria set out in subsection 2(7.1). On the basis of the available information, this program does not appear to be generally available to all enterprises in China and thus appears to be specific.

CATEGORY 2: GRANTS AND GRANT EQUIVALENTS

Program 9: Performance Award Grants

A grant that provides financial aid for enterprises with excellent performance. Grants in the form of awards may be provided to major tax payers, enterprises who are recognized for their brands or trademarks in China. Awards may be provided for recognition of contributions to the local economy.

For the purpose of the final determination, this program may be considered a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA as a direct transfer of funds from the government, and it confers a benefit to the recipient equal to the amount of the grant.

Due to the lack of a response by the GOC, there is not sufficient information on the record to determine whether this program is specific pursuant to subsection 2(7.2) or subsection 2(7.3) of SIMA; nor is there sufficient information to indicate that the subsidy is not specific pursuant to the criteria set out in subsection 2(7.1). On the basis of the available information, this program does not appear to be generally available to all enterprises in China and thus appears to be specific.

Program 13: Grants for the Retirement of Capacity

The GOC's 12th Five-Year Plan for Energy Conservation and Emission Reduction calls for accelerating and eliminating "backward production capacity" in certain industrial sectors, including the elimination of 48 million metric tonnes of steel production. In 2013, the State Council issued the "Guiding Opinion on Resolving the Problem of Severe Excess Capacity," which called for establishing special funds to accelerate the elimination of backwards capacity and to also support industries with excess production capacity.

For the purpose of the final determination, this program may be considered a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA as a direct transfer of funds from the government, and it confers a benefit to the recipient equal to the amount of the grant.

Due to the lack of a response by the GOC, there is not sufficient information on the record to determine whether this program is specific pursuant to subsection 2(7.2) or subsection 2(7.3) of SIMA; nor is there sufficient information to indicate that the subsidy is not specific pursuant to the criteria set out in subsection 2(7.1). On the basis of the available information, this program does not appear to be generally available to all enterprises in China and thus appears to be specific.

Program 14: Grants for Relocating Production Facilities

As part of the GOC's 12th Five-Year Steel Development Plan, the GOC has been locating urban based steel producers to locations outside of their current city. The GOC's 12th Five-Year Plan for Energy Conservation and Emission Reduction calls for the relocation for "heavy polluting enterprises" and for measures to optimize the "regional spatial layout" of "key industries," including the steel industry.

For the purpose of the final determination, this program may be considered a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA as a direct transfer of funds from the government, and it confers a benefit to the recipient equal to the amount of the grant.

Due to the lack of a response by the GOC, there is not sufficient information on the record to determine whether this program is specific pursuant to subsection 2(7.2) or subsection 2(7.3) of SIMA; nor is there sufficient information to indicate that the subsidy is not specific pursuant to the criteria set out in subsection 2(7.1). On the basis of the available information, this program does not appear to be generally available to all enterprises in China and thus appears to be specific.

Program 23: Subsidies for Utilities for Certain Enterprises

The program constitutes grants and incentives related to utilities for specific enterprise classes.

For the purpose of the final determination, this program may be considered a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA as a direct transfer of funds from the government, and it confers a benefit to the recipient equal to the amount of the grant.

Due to the lack of a response by the GOC, there is not sufficient information on the record to determine whether this program is specific pursuant to subsection 2(7.2) or subsection 2(7.3) of SIMA; nor is there sufficient information to indicate that the subsidy is not specific pursuant to the criteria set out in subsection 2(7.1). On the basis of the available information, this program does not appear to be generally available to all enterprises in China and thus appears to be specific.

Program 24: Subsidies for the Establishment of Non-Manufacturing Facilities

The program constitutes grants and incentives related to assistance in establishing non-manufacturing facilities.

For the purpose of the final determination, this program may be considered a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA as a direct transfer of funds from the government, and it confers a benefit to the recipient equal to the amount of the grant.

Due to the lack of a response by the GOC, there is not sufficient information on the record to determine whether this program is specific pursuant to subsection 2(7.2) or subsection 2(7.3) of SIMA; nor is there sufficient information to indicate that the subsidy is not specific pursuant to the criteria set out in subsection 2(7.1). On the basis of the available information, this program does not appear to be generally available to all enterprises in China and thus appears to be specific.

Program 27: Grants for International Certification

The program constitutes grant to help enterprises to obtain international product certification.

For the purpose of the final determination, this program may be considered a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA as a direct transfer of funds from the government, and it confers a benefit to the recipient equal to the amount of the grant.

Due to the lack of a response by the GOC, there is not sufficient information on the record to determine whether this program is specific pursuant to subsection 2(7.2) or subsection 2(7.3) of SIMA; nor is there sufficient information to indicate that the subsidy is not specific pursuant to the criteria set out in subsection 2(7.1). On the basis of the available information, this program does not appear to be generally available to all enterprises in China and thus appears to be specific.

Program 28: Grants to Enterprises that Store Goods in Logistics Enterprises located in Bonded Warehouse and Customs Custody Warehouses

The program was established on June 20, 2020 in order to develop the logistics of companies.

For the purpose of the final determination, this program may be considered a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA as a direct transfer of funds from the government, and it confers a benefit to the recipient equal to the amount of the grant.

Due to the lack of a response by the GOC, there is not sufficient information on the record to determine whether this program is specific pursuant to subsection 2(7.2) or subsection 2(7.3) of SIMA; nor is there sufficient information to indicate that the subsidy is not specific pursuant to the criteria set out in subsection 2(7.1). On the basis of the available information, this program does not appear to be generally available to all enterprises in China and thus appears to be specific.

Program 29: Grants for Safety Production

The program constitutes grants for safety production to advanced enterprises.

For the purpose of the final determination, this program may be considered a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA as a direct transfer of funds from the government, and it confers a benefit to the recipient equal to the amount of the grant.

Due to the lack of a response by the GOC, there is not sufficient information on the record to determine whether this program is specific pursuant to subsection 2(7.2) or subsection 2(7.3) of SIMA; nor is there sufficient information to indicate that the subsidy is not specific pursuant to the criteria set out in subsection 2(7.1). On the basis of the available information, this program does not appear to be generally available to all enterprises in China and thus appears to be specific.

CATEGORY 3: PREFERENTIAL TAX PROGRAMS

Program 30: Corporate Income Tax Exemption and/or Reduction in Special Economic Zones (SEZs) and Other Designated Areas

This program was established under the Rules for the Implementation of the Income Tax Law of the People's Republic of China for Enterprises with Foreign Investment and Foreign Enterprises, which came into effect on July 1, 1991. The program was allegedly established to absorb investment in special economic zones (SEZs) and designated areas to take the lead in their economic development. The granting authority responsible for this program is allegedly the State Administration of Taxation and the program is administered by local tax authorities. Under this program, eligible enterprises may receive a reduced corporate income tax rate of 15%.

Under Article 57 of the Enterprise Income Tax Law in China and the "notification of the State Council on Providing Transitional Preferential Tax Treatments to High-Tech Enterprises Newly Set Up in Special Economic Zones and in the Pudong New District of Shanghai," the GOC exempts HNTEs from income taxes for the first two years after earning a profit from production, and pay only half of the standard tax rate for the next three years if located in a special economic zone (i.e., Hainan, Shantou, Shenzhen, Xiamen, Zhuhai) or the Pudong New District of Shanghai.

For the purpose of the final determination, this program may be considered a financial contribution pursuant to paragraph 2(1.6)(b) of SIMA. That is, amounts that would otherwise be owing and due to the government are reduced and/or exempted that confer a benefit to the recipient equal to the amount of the reduction/exemption.

Due to the lack of a response by the GOC, there is not sufficient information on the record to determine whether this program is specific pursuant to subsection 2(7.2) or subsection 2(7.3) of SIMA; nor is there sufficient information to indicate that the subsidy is not specific pursuant to the criteria set out in subsection 2(7.1). On the basis of the available information, this program does not appear to be generally available to all enterprises in China and thus appears to be specific.

Program 32: Municipal/Local Income or Property Tax Reductions

This program constitutes reductions and exemptions in tax provided from Municipal/Local Income tax units.

For the purpose of the final determination, this program may be considered a financial contribution pursuant to paragraph 2(1.6)(b) of SIMA. That is, amounts that would otherwise be owing and due to the government are reduced and/or exempted that confer a benefit to the recipient equal to the amount of the reduction/exemption.

Due to the lack of a response by the GOC, there is not sufficient information on the record to determine whether this program is specific pursuant to subsection 2(7.2) or subsection 2(7.3) of SIMA; nor is there sufficient information to indicate that the subsidy is not specific pursuant to the criteria set out in subsection 2(7.1). On the basis of the available information, this program does not appear to be generally available to all enterprises in China and thus appears to be specific.

Program 33: Preferential Tax Policies for Foreign-Invested Enterprises (FIEs)

Despite the implementation of the new Enterprise Income Tax Law (EITL) in 2008, which officially superseded the old FIE Tax Law, FIEs have likely continued to benefit from various incentives that were provided under the older Foreign-Invested Enterprise Tax Law (FIE Tax Law). Specifically, Article 9 of the FIE Tax Law delegates to China's provincial and local governments the authority to provide exemptions and reductions of local income taxes for "productive" FIEs. Eligibility criteria vary by province and the relevant governmental authorities administer the application process.

For the purpose of the final determination, this program may be considered a financial contribution pursuant to paragraph 2(1.6)(b) of SIMA. That is, amounts that would otherwise be owing and due to the government are reduced and/or exempted that confer a benefit to the recipient equal to the amount of the reduction/exemption.

Due to the lack of a response by the GOC, there is not sufficient information on the record to determine whether this program is specific pursuant to subsection 2(7.2) or subsection 2(7.3) of SIMA; nor is there sufficient information to indicate that the subsidy is not specific pursuant to the criteria set out in subsection 2(7.1). On the basis of the available information, this program does not appear to be generally available to all enterprises in China and thus appears to be specific.

Program 36: Corporate Income Tax Reduction for Newly Profitable Enterprises

The program provides "productive" enterprises that are scheduled to operate for more than 10 years a possible exemption from income tax for the first two years of profitability and income tax payments reduced by half the standard rate for the next three to five years.

For the purpose of the final determination, this program may be considered a financial contribution pursuant to paragraph 2(1.6)(b) of SIMA. That is, amounts that would otherwise be owing and due to the government are reduced and/or exempted that confer a benefit to the recipient equal to the amount of the reduction/exemption.

Due to the lack of a response by the GOC, there is not sufficient information on the record to determine whether this program is specific pursuant to subsection 2(7.2) or subsection 2(7.3) of SIMA; nor is there sufficient information to indicate that the subsidy is not specific pursuant to the criteria set out in subsection 2(7.1). On the basis of the available information, this program does not appear to be generally available to all enterprises in China and thus appears to be specific.

Program 37: Exemption from City Maintenance and Construction Taxes and Education Fee Surcharges for Foreign-Invested Enterprises (FIEs)

The program was established in order to support the construction of offices for new residents/companies.

For the purpose of the final determination, this program may be considered a financial contribution pursuant to paragraph 2(1.6)(b) of SIMA. That is, amounts that would otherwise be owing and due to the government are reduced and/or exempted that confer a benefit to the recipient equal to the amount of the reduction/exemption.

Due to the lack of a response by the GOC, there is not sufficient information on the record to determine whether this program is specific pursuant to subsection 2(7.2) or subsection 2(7.3) of SIMA; nor is there sufficient information to indicate that the subsidy is not specific pursuant to the criteria set out in subsection 2(7.1). On the basis of the available information, this program does not appear to be generally available to all enterprises in China and thus appears to be specific.

Program 38: Income Tax Deductions for Enterprises that Recruit Retired Soldiers

The program was established on January 1, 2019 in order to encourage employment for retired soldiers.

For the purpose of the final determination, this program may be considered a financial contribution pursuant to paragraph 2(1.6)(b) of SIMA. That is, amounts that would otherwise be owing and due to the government are reduced and/or exempted that confer a benefit to the recipient equal to the amount of the reduction/exemption.

Due to the lack of a response by the GOC, there is not sufficient information on the record to determine whether this program is specific pursuant to subsection 2(7.2) or subsection 2(7.3) of SIMA; nor is there sufficient information to indicate that the subsidy is not specific pursuant to the criteria set out in subsection 2(7.1). On the basis of the available information, this program does not appear to be generally available to all enterprises in China and thus appears to be specific.

CATEGORY 4: RELIEF FROM DUTIES AND TAXES

Program 41: Relief from Duties and Taxes on Imported Material and Other Manufacturing Inputs

Under a duty drawback program, a subsidy may exist where the amount of duties and taxes relieved or refunded on inputs incorporated into exported goods is found to be in excess of the actual liability that existed on those imports

For the purpose of the final determination, this program may be considered a financial contribution pursuant to paragraph 2(1.6)(b) of SIMA. That is, amounts that would otherwise be owing and due to the government are reduced and/or exempted that confer a benefit to the recipient equal to the amount of the reduction/exemption.

Due to the lack of a response by the GOC, there is not sufficient information on the record to determine whether this program is specific pursuant to subsection 2(7.2) or subsection 2(7.3) of SIMA; nor is there sufficient information to indicate that the subsidy is not specific pursuant to the criteria set out in subsection 2(7.1). On the basis of the available information, this program does not appear to be generally available to all enterprises in China and thus appears to be specific.

Program 42: Deed Tax Exemption for SOEs Undergoing Mergers or Restructuring

The GOC imposes a deed tax on transfers of land and real estate. In the context of an ownership transfer by means of an asset sale, as opposed to a stock sale, a deed tax of three to five percent is levied on the amount of the purchase price, and the purchaser is responsible for paying the tax. The GOC's "Notice of the Ministry of Finance and the State Administration of Taxation on Several Deed Tax Policies Concerning Enterprise Reorganization and Restructuring" exempts this deed tax where the transfer of ownership occurs as part of the restructuring or merger of an SOE.

For the purpose of the final determination, this program may be considered a financial contribution pursuant to paragraph 2(1.6)(b) of SIMA. That is, amounts that would otherwise be owing and due to the government are reduced and/or exempted that confer a benefit to the recipient equal to the amount of the reduction/exemption.

Due to the lack of a response by the GOC, there is not sufficient information on the record to determine whether this program is specific pursuant to subsection 2(7.2) or subsection 2(7.3) of SIMA; nor is there sufficient information to indicate that the subsidy is not specific pursuant to the criteria set out in subsection 2(7.1). On the basis of the available information, this program does not appear to be generally available to all enterprises in China and thus appears to be specific.

CATEGORY 5: GOOD / SERVICES PROVIDED BY THE GOVERNMENT AT LESS THAN FAIR MARKET VALUE

Program 44: Provision of Land for Less than Adequate Remuneration by Government

All land in China belongs to the government (i.e., either national or local governments, or through a "collective" at the township or village level), and government land agencies across China control the allocation of land through the granting of land-use rights.

For the purpose of the final determination, this program may be considered a financial contribution pursuant to paragraph 2(1.6)(b) of SIMA. That is, amounts that would otherwise be owing and due to the government are reduced and/or exempted that confer a benefit to the recipient equal to the amount of the reduction/exemption.

Due to the lack of a response by the GOC, there is not sufficient information on the record to determine whether this program is specific pursuant to subsection 2(7.2) or subsection 2(7.3) of SIMA; nor is there sufficient information to indicate that the subsidy is not specific pursuant to the criteria set out in subsection 2(7.1). On the basis of the available information, this program does not appear to be generally available to all enterprises in China and thus appears to be specific.

CATEGORY 6: OTHER POTENTIAL COUNTERVAILING PROGRAMS

Program 45: Wind Energy Accommodative Programs

The Wind Energy Accommodative programs were formed in part to benefit the energy sector in China including renewable energy through provision of tax incentives, feed-in tariff ("FIT") schemes and grants. FIT schemes are policies formulated to benefit renewable energy producers. Specifically, the government and a domestic renewable energy producer will consent to a long-term contract (i.e., 15 to 20 years) for the government to provide a guarantee to purchase renewable energy from the renewable energy producer at a specified above market rate.

For the purpose of the final determination, these programs confer a financial contribution, as described at paragraphs 2(1.6)(a)-(c) of SIMA, by way of a direct transfer of funds from the government, exempting or deducting amounts otherwise owing or due to the government, or providing goods and services, or purchasing goods, such as wind towers at more than fair market value. The benefit to the recipient varies depending on the type of financial contribution received under this program.

Due to the lack of a response by the GOC, there is not sufficient information on the record to determine whether this program is specific pursuant to subsection 2(7.2) or subsection 2(7.3) of SIMA; nor is there sufficient information to indicate that the subsidy is not specific pursuant to the criteria set out in subsection 2(7.1). On the basis of the available information, this program does not appear to be generally available to all enterprises in China and thus appears to be specific.

Program 46: GOC Catalogue of Industries for Encouraging Foreign Investment (2020 Version)

In January 2021 the GOC implemented the Catalogue of Industries for Encouraging Foreign Investment (2020 Version). Any industry mentioned in the catalogue will benefit from preferential treatment including tariff exemptions on imported "self-use" equipment, access to preferential land prices, and lower corporate income tax rates for foreign-invested enterprises in encouraged industries in the central, western, and northeastern regions of China. Given that power production and supplying industries, including wind energy, is an encouraged industry in the "national" catalogue, the complainant alleges that wind tower producers receive actionable benefits under this program.

For the purpose of the final determination, these programs confer a financial contribution, as described at paragraphs 2(1.6)(a)-(c) of SIMA, by way of a direct transfer of funds from the government, exempting or deducting amounts otherwise owing or due to the government, or providing goods and services, or purchasing goods, such as wind towers at more than fair market value. The benefit to the recipient varies depending on the type of financial contribution received under this program.

Due to the lack of a response by the GOC, there is not sufficient information on the record to determine whether this program is specific pursuant to subsection 2(7.2) or subsection 2(7.3) of SIMA; nor is there sufficient information to indicate that the subsidy is not specific pursuant to the criteria set out in subsection 2(7.1). On the basis of the available information, this program does not appear to be generally available to all enterprises in China and thus appears to be specific.

Program 47: Renewable Power Subsidy and Subsidy Debt Owed to Wind Tower Producers

In November 2021, China's Finance Ministry set the 2022 renewable power subsidy at over USD $607 million, and approximately 41% of that amount (or USD $243 million) will be allocated to wind farms. In May 2022, Bloomberg reported that China will use most of a USD $63 billion government fund toward paying off subsidies owed to the renewable energy sector. Wind tower producers may benefit from the renewable power subsidy and that the GOC has outstanding subsidy payments owed to these producers.

For the purpose of the final determination, this program may be considered a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA as a direct transfer of funds from the government, and it confers a benefit to the recipient equal to the amount of the grant.

Due to the lack of a response by the GOC, there is not sufficient information on the record to determine whether this program is specific pursuant to subsection 2(7.2) or subsection 2(7.3) of SIMA; nor is there sufficient information to indicate that the subsidy is not specific pursuant to the criteria set out in subsection 2(7.1). On the basis of the available information, this program does not appear to be generally available to all enterprises in China and thus appears to be specific.