

published for the most recent period; (3) for all Chinese exporters of subject merchandise that have not been found to be entitled to a separate rate (including TMM, which claimed no shipments, but has not been found to be separate from China-wide entity), the cash deposit rate will be China-wide rate of 141.49 percent; and (4) for all non-Chinese exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to Chinese exporter(s) that supplied that non-Chinese exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

#### Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

#### Notification to Interested Parties

These preliminary results of review are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(4).

Dated: October 6, 2021.

**Christian Marsh,**

*Acting Assistant Secretary for Enforcement and Compliance.*

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**BILLING CODE 3510-DS-P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-557-821]

#### Utility Scale Wind Towers From Malaysia: Final Affirmative Determination of Sales at Less Than Fair Value

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

**SUMMARY:** The Department of Commerce (Commerce) determines that utility scale wind towers (wind towers) from Malaysia are being, or are likely to be, sold in the United States at less than fair value (LTFV) for the period of investigation July 1, 2019, through June 30, 2020.

**DATES:** Applicable October 13, 2021.

**FOR FURTHER INFORMATION CONTACT:** Jerry Huang, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-4047.

#### SUPPLEMENTARY INFORMATION:

##### Background

On May 24, 2021, Commerce published in the **Federal Register** a preliminary negative determination in the LTFV investigation of wind towers from Malaysia.<sup>1</sup> Commerce invited interested parties to comment on the *Preliminary Determination*.<sup>2</sup> On August 23, 2021, we issued a post-preliminary determination to address the petitioner's<sup>3</sup> allegation that Commerce should determine normal value (NV) under section 773(d) of the Tariff Act of 1930, as amended (the Act), with respect to CS Wind Corporation and CS Wind Malaysia Sdn Bhd (collectively, CS Wind).<sup>4,5</sup> On August 31, 2021, we received case briefs from CS Wind and the petitioner.<sup>6</sup> On September 8, 2021, we received rebuttal briefs from CS Wind and the petitioner.<sup>7</sup> On September 22, 2021, we held a public hearing at the request of the petitioner.<sup>8</sup> A summary of the events that occurred since Commerce published the *Preliminary Determination*, may be found in the Issues and Decision Memorandum.<sup>9</sup>

##### Scope of the Investigation

The products covered by this investigation are wind towers from

<sup>1</sup> See *Utility Scale Wind Towers from Malaysia: Preliminary Determination of Sales at Not Less Than Fair Value and Postponement of Final Determination*, 86 FR 27828 (May 24, 2021) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum.

<sup>2</sup> See *Preliminary Determination*, 86 FR at 27829.

<sup>3</sup> The petitioner in this investigation is the Wind Tower Trade Coalition, whose members are Arcosa Wind Towers Inc. and Broadwind Towers, Inc.

<sup>4</sup> See Petitioner's Letter, "Utility Scale Wind Towers from Malaysia: Multinational Corporation Allegation," dated February 2, 2021.

<sup>5</sup> See Memorandum, "Post-Preliminary Decision Memorandum in the Less-Than-Fair-Value Investigation of Utility Scale Wind Towers from Malaysia," dated August 23, 2021.

<sup>6</sup> See CS Wind's Letter, "CS Wind' Case Brief," dated August 31, 2021; and Petitioner's Letter, "Case Brief," dated August 31, 2021.

<sup>7</sup> See CS Wind's Letter, "CS Wind's Rebuttal Brief," dated September 8, 2021; and Petitioner's Letter, "Petitioner's Rebuttal Brief," dated September 8, 2021.

<sup>8</sup> See Transcript to Public Hearing, dated September 22, 2021.

<sup>9</sup> See Memorandum, "Issues and Decision Memorandum for the Final Affirmative Determination in the Less-Than-Fair-Value Investigation of Utility Scale Wind Towers from Malaysia," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

Malaysia. For a complete description of the scope of this investigation, see Appendix I.

#### Analysis of Comments Received

All issues raised in the case and rebuttal briefs that were submitted by parties in this investigation are addressed in the Issues and Decision Memorandum. A list of the issues addressed in the Issues and Decision Memorandum is attached to this notice as Appendix II. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

#### Verification

Commerce was unable to conduct on-site verification of the information relied upon in making its final determination in this investigation. However, we took additional steps in lieu of an on-site verification to verify the information relied upon in making this final determination, in accordance with section 782(i) of the Act.<sup>10</sup>

#### Changes Since the Preliminary Determination

Based on our review of the record and comments received from interested parties, we made certain changes to our calculation of CS Wind's dumping margin. For a discussion of these changes, see the Issues and Decision Memorandum.

#### All-Others Rate

Section 735(c)(5)(A) of the Act, provides that Commerce shall determine an estimated all-others rate for all exporters and producers not individually examined. This rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely under section 776 of the Act.

Commerce determined an estimated weighted-average dumping margin for the individually-examined respondent, *i.e.*, CS Wind, that is not zero, *de*

<sup>10</sup> See Commerce's In-Lieu-Of-Verification Questionnaire, dated August 13, 2021; see also CS Wind's Letter, "Utility Scale Wind Towers from Malaysia: In Lieu of Verification Questionnaire Response," dated August 23, 2021.

*minimis*, or determined entirely under section 776 of the Act. Therefore, we are assigning the dumping margin

calculated for the sole mandatory respondent as the all-others rate for this final determination.

**Final Determination**

The final estimated weighted-average dumping margins are as follows:

Exporter/producer	Dumping margin (percent)	Cash deposit rate (adjusted for subsidy offsets) <sup>11</sup> (percent)
CS Wind Corporation/CS Wind Malaysia Sdn Bhd .....	3.20	0.00
All Others .....	3.20	0.00

**Disclosure**

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

**Suspension of Liquidation**

In accordance with section 735(c)(1)(B) and (C) of the Act, for this final determination, we will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of all appropriate entries of wind towers from Malaysia, as described in Appendix I of this notice, which were entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**.

Pursuant to section 735(c)(1)(B)(ii) of the Act and 19 CFR 351.210(d), we will instruct CBP to require a cash deposit equal to the estimated weighted-average dumping margin or the estimated all-others rate, as follows: (1) The cash deposit rate for the respondent listed above will be equal to the company-specific estimated weighted-average dumping margin determined in this final determination; (2) if the exporter is not identified above, but the producer is, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin established for the producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin listed above.

These suspension of liquidation instructions will remain in effect until further notice.

**International Trade Commission Notification**

In accordance with section 735(d) of the Act, we will notify the International Trade Commission (ITC) of this final

affirmative determination of sales at LTFV. Because Commerce’s final determination is affirmative, in accordance with section 735(b)(3) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports or sales (or the likelihood of sales) for importation of wind towers from Malaysia no later than 75 days after this final determination. If the ITC determines that such injury does not exist, this proceeding will be terminated, all cash deposits posted will be refunded, and suspension of liquidation will be lifted. If the ITC determines that such injury does exist, Commerce will issue an antidumping duty order directing CBP to assess, upon further instruction by Commerce, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation, as discussed above in the “Suspension of Liquidation” section.

**Notification Regarding Administrative Protective Orders**

This notice will serve as a final reminder to the parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

**Notification to Interested Parties**

We are issuing and publishing this determination in accordance with sections 735(d) and 777(i)(1) of the Act, and 19 CFR 351.210(c).

Dated: October 6, 2021.

**Christian Marsh,**

*Acting Assistant Secretary for Enforcement and Compliance.*

**Appendix I**

**Scope of the Investigation**

The merchandise covered by this investigation consists of certain wind towers, whether or not tapered, and sections thereof. Certain wind towers support the nacelle and rotor blades in a wind turbine with a minimum rated electrical power generation capacity in excess of 100 kilowatts and with a minimum height of 50 meters measured from the base of the tower to the bottom of the nacelle (*i.e.*, where the top of the tower and nacelle are joined) when fully assembled.

A wind tower section consists of, at a minimum, multiple steel plates rolled into cylindrical or conical shapes and welded together (or otherwise attached) to form a steel shell, regardless of coating, end-finish, painting, treatment, or method of manufacture, and with or without flanges, doors, or internal or external components (*e.g.*, flooring/decking, ladders, lifts, electrical buss boxes, electrical cabling, conduit, cable harness for nacelle generator, interior lighting, tool and storage lockers) attached to the wind tower section. Several wind tower sections are normally required to form a completed wind tower.

Wind towers and sections thereof are included within the scope whether or not they are joined with non-subject merchandise, such as nacelles or rotor blades, and whether or not they have internal or external components attached to the subject merchandise.

Specifically excluded from the scope are nacelles and rotor blades, regardless of whether they are attached to the wind tower. Also excluded are any internal or external components which are not attached to the wind towers or sections thereof, unless those components are shipped with the tower sections.

Merchandise covered by this investigation is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheading 7308.20.0020 or 8502.31.0000. Wind towers of iron or steel are classified under HTSUS 7308.20.0020 when imported separately as a tower or tower section(s). Wind towers may be classified

<sup>11</sup> See Memorandum, “Export Subsidies Found in the Companion Countervailing Duty Investigation,” dated concurrently with this notice.

under HTSUS 8502.31.0000 when imported as combination goods with a wind turbine (*i.e.*, accompanying nacelles and/or rotor blades). While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

## Appendix II

### List of Sections Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Changes Since the *Preliminary Determination*
- IV. Discussion of the Issues
  - Comment 1: Collapsing CS Wind Malaysia with CS Wind Corporation
  - Comment 2: Total Adverse Facts Available (AFA) for CS Wind
  - Comment 3: Date of Sale
  - Comment 4: Fees for Certain U.S. Sales
  - Comment 5: Steel Consumption for Door Frames
  - Comment 6: General and Administrative (G&A) Expense Ratio
  - Comment 7: Steel Plate Costs
  - Comment 8: Application of the Multinational Corporation (MNC) Provision to Non-Market Economy (NME) Countries
  - Comment 9: Constructed Value (CV) Profit and CV Selling Expense Ratios
  - Comment 10: Double Counting of Foreign Currency Translation Gains and Losses
- V. Recommendation

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[C-533-898]

### Utility Scale Wind Towers From India: Final Affirmative Countervailing Duty Determination

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

**SUMMARY:** The Department of Commerce (Commerce) determines that countervailable subsidies are being provided to producers and exporters of utility scale wind towers (wind towers) from India. The period of investigation is April 1, 2019, through March 31, 2020.

**DATES:** Applicable October 13, 2021.

**FOR FURTHER INFORMATION CONTACT:** David Crespo or Melissa Kinter, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-3693 or (202) 482-1413, respectively.

### SUPPLEMENTARY INFORMATION:

## Background

On March 25, 2021, Commerce published the *Preliminary Determination* of the countervailing duty (CVD) investigation, which aligned the final determination in this CVD investigation with the final determination in the companion antidumping duty investigation of wind towers from India.<sup>1</sup> Commerce invited interested parties to comment on the *Preliminary Determination*. On July 20, 2021, we received case briefs from the Government of India, Vestas Wind Technology India Private Limited (Vestas); Anand Engineering Products Private Limited, Windar Renewable Energy Private Limited, and GRI Towers India Private Limited (collectively, the tollers); and the Wind Tower Trade Coalition (the petitioner).<sup>2</sup> On July 27, 2021, we received rebuttal briefs from Vestas, the tollers, and the petitioner.<sup>3</sup> On September 1, 2021, we held a public hearing at the request of Vestas, the tollers, and the petitioner.<sup>4</sup>

A summary of the events that occurred since Commerce published the *Preliminary Determination*, as well as a full discussion of the issues raised by parties for this final determination, are discussed in the Issues and Decision Memorandum.<sup>5</sup>

## Scope of the Investigation

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

<sup>1</sup> *See Utility Scale Wind Towers from India: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination with Final Antidumping Duty Determination*, 86 FR 15897 (March 25, 2021) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum (PDM).

<sup>2</sup> *See* Petitioner's Letter, "Utility Scale Wind Towers from India: Petitioner's Case Brief," dated July 20, 2021; GOI's Letter, "CVD Investigation—Utility Scale Wind Towers from India: Case Brief on Behalf of Government of India," dated July 20, 2021; Vestas's Letter, "Utility Scale Wind Towers from India: Case Brief," dated July 20, 2021; and Tollers' Letter, "Certain Utility Scale Wind Towers from India (C-533-898): Case Brief on Behalf of Tolling Service Providers," dated July 20, 2021.

<sup>3</sup> *See* Petitioner's Letter, "Utility Scale Wind Towers from India: Petitioner's Rebuttal Brief," dated July 27, 2021; Vestas's Letter, "Utility Scale Wind Towers from India: Rebuttal Brief," dated July 27, 2021; and Tollers' Letter, "Certain Utility Scale Wind Towers from India (C-533-898): Rebuttal Brief on Behalf of Respondents/Tolling Service Providers," dated July 27, 2021.

<sup>4</sup> *See* Hearing Transcript, "Countervailing Duty Investigation on Utility-Scale Wind Towers from India," dated September 1, 2021.

<sup>5</sup> *See* Memorandum, "Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Utility Scale Wind Towers from India," dated concurrently with, and hereby adopted by this notice (Issues and Decision Memorandum).

## Analysis of Subsidy Programs and Comments Received

The subsidy programs under investigation and the issues raised in the case and rebuttal briefs by parties in this investigation are discussed in the Issues and Decision Memorandum. A list of the issues that parties raised is attached to this notice as Appendix II. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

## Verification

Commerce was unable to conduct on-site verification of the information relied upon in making its final determination in this investigation. However, we took additional steps in lieu of an on-site verification to verify the information relied upon in making this final determination, in accordance with section 782(i) of the Tariff Act of 1930, as amended (the Act).<sup>6</sup>

## Methodology

Commerce conducted this investigation in accordance with section 701 of the Act. For each of the subsidy programs found countervailable, Commerce determines that there is a subsidy, *i.e.*, a financial contribution by an "authority" that gives rise to a benefit to the recipient, and that the subsidy is specific.<sup>7</sup> For a full description of the methodology underlying our final determination, *see* the Issues and Decision Memorandum.

As discussed in the Issues and Decision Memorandum, because several respondents did not act to the best of their ability in responding to our requests for information, we drew adverse inferences, where appropriate, in selecting from among the facts otherwise available, pursuant to

<sup>6</sup> *See* GRI Towers' Letter, "Certain Utility Scale Wind Towers from India (C-533-898): Submission of In-Lieu-Of-Verification (ILOV) Questionnaire Response—GRI India," dated July 13, 2021; Vestas's Letter, "Utility Scale Wind Towers from India: Response to the In Lieu of On-site Verification (ILOV) Questionnaire," dated July 13, 2021; and Windar's Letter, "Certain Utility Scale Wind Towers from India (C-533-898): Submission of In-Lieu-Of-Verification (ILOV) Questionnaire Response—Windar India," dated August 31, 2021.

<sup>7</sup> *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.