



OTTAWA, May 5, 2023

WT 2023 IN

STATEMENT OF REASONS

Concerning the initiation of investigations into the dumping and subsidizing of

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

DECISION

Pursuant to subsection 31(1) of the *Special Import Measures Act*, the Canada Border Services Agency initiated investigations on April 21, 2023, respecting the alleged injurious dumping and subsidizing of utility wind towers and utility wind tower 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

[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 utility wind towers and utility wind tower 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 certain wind towers from China have been dumped and subsidized, as well as evidence that discloses a reasonable indication that the dumping and subsidizing have caused injury 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 certain wind towers from China.

INTERESTED PARTIES

Complainant

[5] 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

[6] Marmen was founded in 1972. Marmen is a manufacturing partner of original equipment manufacturers 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

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

Trade Union

[8] 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.

Exporters

[9] The CBSA identified 83 potential exporters of the subject goods from CBSA import 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 Requests for Information (RFI).

Importers

[10] The CBSA identified 36 potential importers of the subject goods from CBSA import documentation and from information submitted in the complaint. All of the potential importers were asked to respond to the CBSA's Importer RFI.

Government

[11] Upon initiation of the investigations, the GOC was sent the CBSA's Government Subsidy RFI and the CBSA's Government Section 20 RFI.

[12] For the purposes of these investigations, the 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.

² Exhibit 2 (NC) – WT Complaint – paras. 49-50

³ Exhibit 2 (NC) – WT Complaint – para. 52

PRODUCT INFORMATION

DEFINITION

[13] For the purpose of these investigations, subject goods are defined as:⁴

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,
 - 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.,

⁴ Exhibit 2 (NC) – WT Complaint – para. 24

- 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 INFORMATION⁵

[14] The subject goods are certain 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.

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

[16] 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.

[17] 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-incident 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.

⁵ Exhibit 2 (NC) – WT Complaint – paras. 24-30

[18] 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.

PRODUCTION PROCESS⁶

[19] Wind towers are generally purchased by a wind turbine Original Equipment Manufacturer (OEM). Each wind tower is produced to the OEM’s proprietary specifications.

[20] 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.

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

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.

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

[23] 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

[24] The allegedly dumped and subsidized goods are normally imported under the following tariff classification number:

7308.20.00.00

[25] 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

[26] 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 GOODS⁷

[27] Subsection 2(1) of SIMA defines “like goods” in relation to any other goods as “... (a) goods that are identical in all respects to the other goods, or (b) in the absence of any such goods..., goods the uses and other characteristics of which closely resemble those of the other goods.” In considering the issue of like goods, the CITT typically looks at a number of factors, including the physical characteristics of the goods, their market characteristics, and whether the domestic goods fulfill the same customer needs as the subject goods.

[28] 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.

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

[30] 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.

THE CANADIAN INDUSTRY

DOMESTIC PRODUCERS

[31] Besides the complainant, there are no other known producers of wind towers in Canada.

ESTIMATES OF DOMESTIC PRODUCTION

[32] The complaint included the annual production of like goods for the complainant from January 1, 2018 through December 31, 2022.⁸ As the complainant is the only producer in Canada, the complainant accounts for 100% of the production of wind towers in Canada.

STANDING

[33] Pursuant to subsection 31(2) of SIMA, the following conditions must be met in order for an investigation to be initiated:

- (a) the complaint is supported by domestic producers whose production represents more than 50% of the total production of like goods by those domestic producers who express either support for or opposition to the complaint, and

⁷ Exhibit 2 (NC) – WT Complaint – paras. 78-82

⁸ Exhibit 1 (PRO) – WT Complaint – Table 4

(b) the production of the domestic producers who support the complaint represents 25% or more of the total production of like goods by the domestic industry.

[34] Based on an analysis of information provided in the complaint, as well as the information gathered by the CBSA, the CBSA is satisfied that the standing requirements of subsection 31(2) of SIMA have been met.

THE CANADIAN MARKET

[35] The complainant, using data from the Canadian Renewable Energy Association (CanREA) and Statistics Canada, provided multiple estimates of wind tower importations from all countries from January 1, 2018 to December 31, 2022.⁹

[36] The CBSA conducted its own independent review of imports of wind towers from the CBSA's Facility Information Retrieval Management (FIRM) database using the tariff classification numbers under which the subject goods are imported from China and all other countries. In addition, the CBSA reviewed its Accelerated Commercial Release Operations Support System (ACROSS) data to correct any errors and remove non-subject imports.

[37] Detailed information regarding the sales from domestic production by the complainant and the volume of imports of subject goods cannot be divulged for confidentiality reasons. The CBSA, however, has prepared the following tables to show the estimated import share of subject goods in Canada as well as the Canadian market as a whole from January 1, 2019 to December 31, 2022.

**Table 1:
CBSA'S ESTIMATE OF WIND TOWER IMPORTS
(IN THOUSANDS OF DOLLARS)**

	2019		2020		2021		2022	
	\$	%	\$	%	\$	%	\$	%
China	42,134	47%	20,138	57%	27,415	43%	144,108	92%
Germany	366	0%	9,040	25%	2,044	3%	2,178	1%
Indonesia	-	-	-	-	20,362	32%	-	-
Türkiye	4,151	5%	2,513	7%	3,809	6%	1,643	1%
Other	42,908	48%	3,845	11%	9,489	15%	8,040	5%
Total	89,559	100%	35,536	100%	63,119	100%	155,968	100%
Some percent totals may not add to 100% due to rounding								

⁹ Exhibit 1 (PRO) – WT Complaint – Table 1, Table 2 and Table 3

**Table 2:
CBSA’S ESTIMATE OF WIND TOWER IMPORTS
(IN MT)**

	2019		2020		2021		2022	
	MT	%	MT	%	MT	%	MT	%
China	24,192	75%	10,029	72%	17,369	64%	77,312	97%
Germany	265	1%	2,504	18%	346	1%	1,577	2%
Indonesia	-	-	-	-	6,486	24%	-	-
Türkiye	2,352	7%	1,240	9%	1,869	7%	270	0%
Other	5,640	17%	92	1%	1,020	4%	541	1%
Total	32,449	100%	13,864	100%	27,091	100%	79,700	100%
Some percent totals may not add to 100% due to rounding								

[38] The CBSA will continue to gather and analyze information on the volume of imports during the Period of Investigation (POI) of April 1, 2021 to March 31, 2023 as part of the preliminary phase of the dumping and subsidy investigations and will refine these estimates.

EVIDENCE OF DUMPING

[39] The complainant alleged that the subject goods from China have been injuriously dumped into Canada. Dumping occurs when the normal value of the goods exceeds the export price to importers in Canada.

[40] Normal values are generally based on the domestic selling price of like goods in the country of export where competitive market conditions exist or as the aggregate of the cost of production of the goods, a reasonable amount for administrative, selling and all other costs, and a reasonable amount for profits.

[41] The complainant made the allegation that the wind tower sector in China may not be operating under competitive market conditions and as such, the domestic market for wind towers may not be relied upon for the purpose determining normal values. Accordingly, the complainant submitted that normal values should be determined under section 20 of SIMA.

[42] The export price of goods sold to importers in Canada is generally the lesser of the exporter’s selling price and the importer’s purchase price, less all costs, charges and expenses resulting from the exportation of the goods.

[43] Estimates of normal values and export prices by both the complainant and the CBSA are discussed below.

NORMAL VALUE

Complainant's Estimates of Normal Value

Section 15

[44] The complainant stated that due to the custom nature of wind towers, there are no domestic sales in China available to estimate normal values pursuant to section 15 of SIMA, therefore none was provided.¹⁰

Section 19(b)

[45] The complainant estimated normal values using a constructed cost approach based on the methodology in paragraph 19(b) of SIMA. The calculation was based on the aggregate of estimates of the cost of production of the subject goods, a reasonable amount for administrative selling and all other costs and a reasonable amount for profits.

Complainant's Estimate of Cost of Production

[46] The complainant estimated normal values for five wind turbine projects that the complainant bid on with an estimated importation year between 2019 and 2022. The estimates were based on the complainant's own costs of production, adjusted to reflect conditions in China as well as publicly available information on costs and profits in China.¹¹

[47] As information from Chinese producers on their costs of production of subject goods was not available to the complainant, the complainant estimated the cost of production of the subject goods from China using:

- The complainant's cost for steel plate and steel flanges, the two main direct inputs of wind towers, adjusted by the ratio between the complainant's plate costs and a published pricing for steel plate in China, in order to reflect difference in prices between Canada and China.¹²
- The complainant's unadjusted cost for other direct inputs. These costs were unadjusted as it was believed they would be similar regardless of location, and they only make up a small percentage of the complainant's cost of production.¹³

¹⁰ Exhibit 2 (NC) – WT Complaint – para. 92

¹¹ Exhibit 2 (NC) – WT Complaint – paras. 93-122

¹² Exhibit 2 (NC) – WT Complaint – para. 95

¹³ Exhibit 2 (NC) – WT Complaint – para. 95

- The complainant’s direct labour costs adjusted to reflect the difference between production in Canada and China. The complainant made two adjustments to this amount:
 - First, to reflect the efficiency of workers in Canada compared to workers in China, the complainant created a *Productivity Adjustment Ratio*. This is the average of the ratio between Canadian and Chinese GDP per person as reported by the Organisation for Economic Co-operation and Development (OECD) in 2020, and the output per hour worked for Canada and China as reported by *Our World in Data* in 2019.¹⁴
 - The complainant then took its average hourly direct labour wage and divided it by this *Productivity Adjustment Ratio*. It then calculated a ratio between this adjusted rate and the average hourly salary in China. The complainant found Chinese wages for manufacturing and welding from two different sources for 2021 and 2022 and took the average.¹⁵ This resulted in a new ratio, the *Wage Adjustment Ratio*.¹⁶
 - The complainant then applied this *Wage Adjustment Ratio* to its own direct labour costs to obtain the estimated direct labour costs in China.
- The complainant’s overhead. Labour related overhead amounts were adjusted using the above *Wage Adjustment Ratio* and non-labour related items were unadjusted.¹⁷

Complainant’s estimates of expenses and profits

[48] To estimate a reasonable amount for general, selling, and administrative costs (GS&A) and a reasonable amount for profits for the subject goods from China, the complainant relied on the publicly available financial results for three producers of wind towers in China: Shanghai Taisheng Wind Power Equipment Co., Ltd.; Dajin Heavy Industry Co Ltd.; and Titan Wind Energy (Suzhou) Co. Ltd. Using this information, the complainant estimated a reasonable amount for administrative selling and other costs; financial expenses; and a reasonable amount for profits as a percentage of costs of production for the years 2018 to 2021.¹⁸ The amounts are summarized below:

¹⁴ Exhibit 2 (NC) – WT Complaint (NC) – para. 95 and Attachments 15, 16, and 17

¹⁵ Exhibit 2 (NC) – WT Complaint (NC) – para. 95 and Attachments 13 and 14

¹⁶ Exhibit 2 (NC) – WT Complaint (NC) – para. 95 and Attachments 13, 14, and 15

¹⁷ Exhibit 2 (NC) – WT Complaint (NC) – para. 95

¹⁸ Exhibit 2 (NC) – WT Complaint – para. 95, Table 7, and Attachments 19, 20, 21, 22, 23, 24, and 25

Table 3
GS&A, FINANCIAL EXPENSE, AND PROFIT PERCENTAGE IN CHINA

	2018	2019	2020	2021
GS&A	14.7%	13.8%	8.8%	8.2%
Financial Expenses	3.1%	1.7%	1.2%	1.4%
Profit	11.1%	15.9%	20.5%	15.9%

Section 20

[49] The complainant submitted that domestic selling prices of wind towers in China are substantially influenced by government policies and should not be used in the calculation of normal values since the prices are not reflective of competitive market conditions. As a result, the complainant also estimated normal values for exporters in China using the methodology of section 20 based on surrogate country information.

[50] The complainant submitted that Mexico is the most appropriate surrogate country. Mexico and China have a similar gross national income (GNI) per capita; Mexico has growing wind tower production; is an important market for wind towers; and was used as a surrogate country by the European Union (EU) in their dumping investigations of wind towers from China.¹⁹

[51] The section 20 surrogate normal values estimated by the complainant were calculated in the same manner as the China section 19 normal values discussed above, with adjustments to reflect steel cost and labour rates in Mexico. The amount for GS&A and the amount for profits were estimated based on a the publicly available financial information of wind tower producers Arcosa Industries de México, S. de R.L. de C.V. and Speco Wind Power, S.A. de C.V. Using this information, the complainant estimated a reasonable amount for administrative selling and other costs; financial expenses; and a reasonable amount for profits as a percentage of costs of production for the years 2018 to 2021.²⁰ The amounts are summarized below:

Table 4
GS&A, FINANCIAL EXPENSE, AND PROFIT PERCENTAGE IN MEXICO

	2018	2019	2020	2021
GS&A	14.1%	10.5%	11.5%	13.6%
Financial Expenses	0.0%	0.2%	0.9%	0.7%
Profit	9.3%	12.7%	14.9%	8.4%

¹⁹ Exhibit 2 (NC) – WT Complaint – paras. 145 & 148

²⁰ Exhibit 2 (NC) – WT Complaint – para. 95, Table 7 and Attachments 19, 20, 21, 22, 23, 24, and 25

[52] The complainant also considered South Korea as a surrogate country due to its geographic proximity and availability of financial statements of South Korean wind tower producers; however, South Korea has a significantly higher GNI per capita than China, which likely affects manufacturing practices and labour costs. The complainant also considered India due to its geographical proximity, however, it has a significantly lower GNI per capita than China and it was difficult for the complainant to locate financial statements of Indian wind tower producers.

CBSA's Estimate of Normal Value

[53] The CBSA agreed with the complainant that wind towers are customs product for specific projects, therefore the CBSA was unable to estimate normal values following the methodology described in section 15 of SIMA.

[54] With respect to the complainant's allegations that the conditions of section 20 prevail in the wind towers sector in China, the CBSA will endeavor to gather additional information from exporters, the GOC, and other relevant sources in order to enable the CBSA to form an opinion as to whether the conditions of section 20 exist in the domestic market for wind towers in China.

[55] While the CBSA acknowledges that there is evidence that the conditions of section 20 exist in the wind towers sector in China, the CBSA finds the methodology of section 19 to be a conservative and reasonable basis for estimating normal values at this stage.

[56] The CBSA estimated normal values using a constructed cost approach based on the methodology in paragraph 19(b) of SIMA, calculated based on the aggregate of estimates of the cost of production of the subject goods, a reasonable amount for administrative selling and other costs and a reasonable amount for profits.

[57] The CBSA reviewed customs data and was able to identify several wind turbine projects where Chinese wind towers were imported in 2021 and 2022. Where the identified project was one where the complainant provided a detailed estimate, the CBSA estimated the normal value for that project using the complainant's methodology as the CBSA found that approach reasonable. However, for GS&A and profit, the CBSA used the weighted average, rather than the simple average, of the financial statements for the three wind tower producers as supplied by the complainant.

[58] The CBSA then calculated the average normal value per kilogram based on the above projects and applied this to other identified importations of wind towers based on the reported weight of these wind towers in customs documentation.

EXPORT PRICE

Complainant's Estimates of Export Price

[59] The export price of goods sold to an importer in Canada is generally determined in accordance with section 24 of SIMA as being an amount equal to the lesser of the exporter's sale price for the goods and the price at which the importer has purchased or agreed to purchase the goods adjusted by deducting all costs, charges, expenses, and duties and taxes resulting from the exportation of the goods.

[60] The complainant estimated export prices of subject goods based on commercial intelligence indicating the difference in price between a bid by the complainant and the winning Chinese producer. Factoring in the difference between shipping costs for the complainant and the Chinese exporter, the complainant calculated export prices for these projects.²¹

[61] Where the complainant was unable to obtain this information for other projects, it calculated a ratio between its bid price and the estimated export price. The complainant then applied this ratio to its price for the other projects to estimate export prices.²²

CBSA's Estimates of Export Price

[62] In order to estimate export prices, the CBSA relied on information available through FIRM and ACROSS. The CBSA was able to identify actual export prices for each project for which the CBSA estimated a normal value. The CBSA also obtained customs documentation for some of these projects and subtracted an estimated amount for freight for projects where it appeared that shipping was included in the selling price.

ESTIMATED MARGINS OF DUMPING

[63] For the purposes of the initiation of the investigation the CBSA has estimated normal values based on the methodology of section 19 of SIMA. While the CBSA acknowledges that there is evidence that the conditions of section 20 may exist in the wind tower sector in China, the CBSA finds the methodology of section 19 to be a conservative and reasonable basis for estimating the margin of dumping at this stage.

[64] Based on normal values estimated under section 19, the CBSA estimated the margin of dumping for subject goods from China by comparing the estimated normal values with the estimated export prices for the period reviewed (January 1, 2021 to December 31, 2022). The CBSA estimates that subject goods from China were dumped by a margin of dumping of 31.7%, expressed as a percentage of the export price for subject goods from China.

²¹ Exhibit 1 (PRO) – WT Complaint – para. 103

²² Exhibit 1 (PRO) – WT Complaint – paras. 99, 109, 115, and 120

SECTION 20 ALLEGATIONS

[65] 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.²³

[66] The provisions of section 20 are applied on a sector basis rather than on the country as a whole. The sector reviewed will normally only include the industry producing and exporting the goods under investigation.

[67] The CBSA initiates dumping investigations on the presumption that section 20 is not applicable to the sector under investigation unless there is information that suggests otherwise.

[68] A section 20 inquiry refers to the process whereby the CBSA collects information from various sources in order to form an opinion as to whether the conditions described under subsection 20(1) of SIMA exist with respect to the sector under investigation. Before initiating an inquiry under section 20, the CBSA must first analyze the information submitted in the complaint and the evidence it has gathered independently to determine if it is sufficient to warrant the initiation of an inquiry.

[69] The complainant alleges that the conditions described in section 20 of SIMA prevail in regards to the wind tower sector in China. That is, the complainant alleges that this particular industry sector in China does not operate under competitive market conditions and consequently, wind tower prices established in the domestic markets in China would not be reliable for purposes of determining normal values.²⁴

[70] 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.

[71] 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.²⁵

²³ China is a prescribed country under Section 17.1 of the *Special Import Measures Regulations*.

²⁴ Exhibit 2 (NC) – WT Complaint – paras. 137-138

²⁵ Exhibit 2 (NC) – WT Complaint – Appendix 1

[72] Based on its own analysis, the CBSA believes that there is reasonable evidence to support an inquiry into the allegations that the measures taken by the GOC substantially influence prices in the wind tower sector in China, and that the prices are substantially different than they would be in a competitive market.

[73] Consequently, on April 21, 2023, the CBSA included in its investigation, a section 20 inquiry in order to determine whether the conditions set forth in paragraph 20(1)(a) of SIMA prevail in the wind tower sector in China.

[74] As part of this section 20 inquiry, the CBSA sent section 20 RFIs to all potential producers and exporters of wind towers in China, as well as to the GOC, requesting detailed information related to the wind tower sector in China.

[75] For the purposes of obtaining information necessary to calculate normal values pursuant to subparagraph 20(1)(c) of SIMA, the CBSA requested information from producers in surrogate countries. As such, the CBSA has selected Mexico, India, Indonesia, and South Korea as potential surrogate countries and has sent questionnaires to known producers of wind towers in these countries.

[76] The CBSA selected Mexico, India, Indonesia, and South Korea as surrogate countries due to their domestic production of wind towers, economic development, and are market-based economies.

[77] Importers will be requested to provide information on sales of like goods produced in the surrogate countries, in the event that normal values must be determined under paragraph 20(1)(d) of SIMA.

[78] In the event that the CBSA forms an opinion that domestic prices of wind towers in China are substantially determined by the government, and there is sufficient reason to believe that the domestic prices are not substantially the same as they would be if they were determined in a competitive market, the normal values of the goods under investigation will be determined, pursuant to paragraph 20(1)(c) of SIMA, where such information is available, on the basis of the domestic selling prices or the aggregate of the cost of production, a reasonable amount for administrative, selling and all other costs, and a reasonable amount for profits of like goods sold by producers in any country designated by the CBSA and adjusted for price comparability; or, pursuant to paragraph 20(1)(d) of SIMA, where such information is available, on the basis of the selling price in Canada of like goods produced and imported from any country designated by the CBSA and adjusted for price comparability.

EVIDENCE OF SUBSIDIZING

[79] In accordance with section 2 of SIMA, a subsidy exists where 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.

[80] Pursuant to subsection 2(1.6) of SIMA, a financial contribution exists 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) above 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.

[81] A state-owned enterprise (SOE) may be considered to constitute “government” for the purposes 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 4) some combination thereof.

[82] If a subsidy is found to exist, it may be subject to countervailing measures if it is specific. A subsidy is considered to be specific when it is limited, in law or in fact, to a particular enterprise or is a prohibited subsidy. An “enterprise” is defined under SIMA as also including a “group of enterprises, an industry and a group of industries”. Any subsidy which is contingent, in whole or in part, on export performance or on the use of goods that are produced or that originate in the country of export is considered to be a prohibited subsidy and is, therefore, specific according to subsection 2(7.2) of SIMA for the purposes of a subsidy investigation.

[83] In accordance with subsection 2(7.3) of SIMA, notwithstanding that a subsidy is not specific in law, a subsidy may also be considered specific in fact, having regard as to whether:

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

[84] For 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 countervailable.

SUBSIDY PROGRAMS IN CHINA

[85] In alleging that actionable subsidies were applicable to the subject goods imported from China, the complainant relied on the US Department of Commerce’s (USDOC) investigation and past countervailing duty finding concerning wind towers from China. The complainant also relied on China’s most recent notification of active subsidy programs to the WTO, industry reports and government documents, and general news articles and publications. The complainant supplemented its research with information available from previous CBSA subsidy investigations.

[86] The complainant provided evidence of 280 subsidy programs²⁶ that producers of subject goods in China may have benefited from.

[87] The complainant listed each alleged subsidy program, explained how the subsidy is alleged to constitute a financial contribution and why it would be considered to be specific, and therefore actionable. The complainant alleges that each program is either used by or is available for use by producers and exporters of wind towers in China. The documents that formed the basis for these allegations were appended to the complaint.²⁷

[88] The CBSA reviewed the relevant public reports for the subsidy programs identified in the complaint. The CBSA also reviewed the descriptions of subsidy programs provided in reports for other investigations, in particular for other programs found by the USDOC and from more recent subsidy investigations by the CBSA concerning goods from China, such as *Mattresses, Container Chassis, Upholstered Domestic Seating, or Decorative and Other Non-Structural Plywood*.

²⁶ Exhibit 2 (NC) - Complaint – paras. 481 to 959

²⁷ Exhibit 2 (NC) - Complaint – Appendix 53 to 56, 136 to 242

[89] As a result, based on the information available, the CBSA identified 48 potentially actionable subsidy programs that may have benefited Chinese producers/exporters of wind towers. Many of these are programs the CBSA has already countervailed in respect of previous subsidy investigations concerning goods from China. These programs have been grouped into the following six categories:

1. Preferential loans and loan guarantees
2. Grants and grant equivalents
3. Preferential tax programs
4. Relief from duties and taxes on inputs, material and machinery
5. Goods/services provided by the government at less than fair market value
6. Other potential countervailable programs

[90] The CBSA's analysis revealed that the alleged subsidy programs constitute potential financial contributions by the GOC that may have conferred benefits to producers/exporters of wind towers. In addition, the programs were further examined and were considered to be potentially specific either in law or in fact within the meaning of subsections 2(7.2) and 2(7.3) of SIMA.

[91] The description of the identified programs to be investigated are found in the Appendix.

[92] If more information becomes available during the investigation process that indicates that some exporters/producers of subject goods may have benefited from any other programs during the POI that are not included in the Appendix, the CBSA will request complete information from the GOC and exporters/producers of subject goods to pursue the investigation of these programs.

CBSA'S CONCLUSION

[93] Sufficient evidence is available to support the allegations that wind towers originating in or exported from China have been subsidized. In investigating these programs, the CBSA has requested information from the GOC, exporters and producers to determine whether exporters/producers of subject goods received benefits under these programs and whether these programs, or any other programs, are actionable subsidies and, therefore, countervailable under SIMA.

ESTIMATED AMOUNT OF SUBSIDY

[94] The complainant was unable to estimate the amounts of subsidy on a program basis for the subject goods imported from China. Instead, the complainant estimated the amount of subsidy as being equal to the difference between its estimated total cost of production and the export price for Chinese wind towers.²⁸

²⁸ Exhibit 1 (PRO) - Complaint – paras. 150-151.

[95] The CBSA estimated the amount of subsidy conferred on exporters of the subject goods by comparing the estimated full costs of the subsidized goods with their estimated total export prices. The CBSA's methodologies to estimate the full costs and the export prices are the same as those discussed above in the dumping section.

[96] It is the CBSA's understanding that subsidies have the effect of lowering the cost of production of goods which allows exporters to pass-through the subsidy benefits in reducing the selling price of those goods to Canada. Therefore, the CBSA is satisfied that the exporter's ability to sell subject goods to Canada at prices substantially below their estimated costs supports the complainant's allegations that the imported goods are subsidized.

[97] The CBSA's analysis of the information indicates that subject goods imported into Canada during the period of January 1, 2021 to December 31, 2022 were subsidized and that the estimated amount of subsidy is 15.1% of the export price.

EVIDENCE OF INJURY

[98] The complainant alleges that the subject goods have been dumped and subsidized and that such dumping and subsidizing have caused and are threatening to cause material injury to the wind tower industry in Canada.

[99] SIMA refers to material injury caused to the domestic producers of like goods in Canada. The CBSA has concluded that wind towers produced by the domestic industry are like goods to the subject goods from China.

[100] In support of its allegations, the complainant provided evidence of: increased volume of subject goods and lost market share, lost sales, price undercutting, price depression, reduced profitability, suppressed capacity utilization, reduction of employment and insufficient return on investment.²⁹

INCREASED VOLUME OF SUBJECT GOODS AND LOST MARKET SHARE

[101] The complainant alleges that the subject imports from China have increased significantly in recent years, directly contributing to its lost market share and provided estimates of imports³⁰ and production for the domestic market during the period of 2018 to 2022.³¹

[102] The CBSA estimates that between the calendar years of 2019 and 2022, the apparent Canadian market for wind towers increased by 146.2% while Canadian production remained virtually non-existent. In the same period, imports of subject goods from China increased by 219.6%. At the same time, imports from other countries decreased by 71.1%.

²⁹ Exhibit 1 (NC) – WT Complaint – Attachment 1.

³⁰ Exhibit 1 (PRO) – WT Complaint – Attachment 1: Table 3 & Table 5.

³¹ Exhibit 1 (PRO) – WT Complaint – Attachment 1: Table 3 & Table 4.

[103] In 2020 the Canadian market for wind towers declined, likely due to the effects of the COVID-19 pandemic; however, in 2021 the Canadian market rebounded with a total market nearly identical to the 2019 pre-pandemic levels. Imports from China also rebounded, but the complainant was only able to capture a small portion of the Canadian market. In 2022, the complainant's share of the domestic market declined even further while imports of wind towers from China increased by 345.1% from 2021. At this point, China made up approximately 97% of the Canadian market.

[104] Based on continued insignificant market share experienced by the complainant during a period in which market share for imports of subject goods has significantly increased, the CBSA finds that the injury factors of increased volume of subject goods and lost market are sufficiently supported and linked to the allegedly dumped and subsidized goods.

LOST SALES, PRICE UNDERCUTTING, AND PRICE DEPRESSION

[105] The complainant alleges that the dumped and subsidized goods have resulted in lost sales. The complainant provided evidence of lost sales on an offer specific basis to exporters of the allegedly dumped and subsidized goods.

[106] In all of the cited examples, the complainant was not chosen by the OEM in favor of more competitively priced wind towers from China. In two instances the complainant quoted prices exclusive of steel at the request of the OEM. The complainant was still unsuccessful in its bid and speculates that Chinese origin wind towers were ultimately selected as a result of the cost differential for steel between Canada and China.

[107] Based on the CBSA's analysis of the information detailing individual lost sales as well as the CBSA's estimate of imports and market share, the CBSA finds that the complainant's claim of lost sales, price undercutting and price depression to be reasonable and well supported. The CBSA finds the injury factors of lost sales, price-undercutting and price depression are sufficiently supported and linked to the allegedly dumped and subsidized goods.

REDUCED PROFITABILITY

[108] The complainant alleges that the dumped and subsidized goods have had an injurious impact on the profitability of the company. To support its allegation the complainant provided its financial results on domestic sales of wind towers from 2018 to 2022.

[109] The CBSA has reviewed the complainant's financial results and found a downward trend on an annual basis from 2018 to 2022 with respect to revenue and profitability.

[110] The available evidence establishes a trend of a worsening financial situation, thereby supporting the complainant's allegations of impacted financial results and reduced profitability. As such, the CBSA finds that the injury factor of reduced profitability is sufficiently supported and reasonably linked to the alleged dumped and subsidized goods.

SUPPRESSED CAPACITY UTILIZATION

[111] The complainant alleges that the dumped and subsidized goods have resulted in suppressed capacity utilization at its production facilities. The complainant provided information concerning its production and capacity from 2018 to 2022.

[112] The CBSA has analyzed the information provided in the complaint and found a reduction in the production for domestic sales from 2018 to 2022.

[113] As the complainant's low capacity utilization occurred at that same time it alleges it was unable to compete with imports based on price, including where it lost sales to subject goods from China, the CBSA finds that the injury factor of suppressed capacity utilization is sufficiently supported and reasonably linked to the alleged dumped and subsidized goods.

REDUCTION OF EMPLOYMENT

[114] The complainant alleges that employment was reduced as a result of the lost sales caused by the presence of the unfairly dumped and subsidized goods. In support of this allegation the complainant provided information related to employment levels.

[115] The CBSA has analyzed the information provided in the complaint and found a reduction in employment from 2018 to 2022.

[116] The CBSA finds that the injury factor of reduced employment is sufficiently supported and reasonably linked to the allegedly dumped and subsidized goods.

INSUFFICIENT RETURN ON INVESTMENT

[117] The complainant alleges that the loss of domestic wind tower sales has impacted its return on investments.

[118] The complainant provided information concerning its investment at its Matane facility in 2018. The complainant explained that as a result of lost sales due to low-priced imports from China, the Matane facility has experienced reduction in production and employment and has achieved an insufficient return on the investment.

[119] The available evidence supports the complainant's claim of insufficient return on investment. The CBSA finds that the injury factor of insufficient return on investment is sufficiently supported and reasonably linked to the allegedly dumped and subsidized goods.

CBSA'S CONCLUSION—INJURY

[120] Overall, based on the evidence provided in the complaint, and supplementary data available to the CBSA through its own research and customs documentation, the CBSA finds that the evidence discloses a reasonable indication that the dumping and subsidizing of the subject goods from China have caused injury to the wind tower industry in Canada in the form of increased volume of subject goods and lost market share, lost sales, price undercutting, price suppression, reduced profitability, suppressed capacity utilization, reduction of employment and insufficient return on investment.

THREAT OF INJURY

[121] The complainant alleges that the dumped and subsidized goods threaten to cause further material injury to the domestic producer of wind towers. The complainant provided the following information to support the allegation that imports of subject goods threaten to cause further injury to the Canadian industry.

PROJECTS AT RISK DUE TO DUMPED AND SUBSIDIZED GOODS

[122] The complainant submits that dumped and subsidized goods from China threaten to injure them in the form of lost sales of future and upcoming projects. The complainant estimated a certain number of sections will be installed in Canada in 2023³² and believes a significant share of these projects have been placed with Chinese producers.

[123] There are also many upcoming wind turbine projects that have been announced and it is believed that a fair number of these projects will award contracts over the next 12 to 24 months.³³ The complainant argues that without measures in force, there is a likelihood that subject goods will significantly undercut the complainant's prices. Even further, the complainant believes that many wind turbine OEMs will prioritize lower-priced imports from China.

[124] The CBSA finds that the presence of dumped and subsidized goods from China is likely to place sales of future projects at risk, undercutting the complainant's quotes and threatens to injure the Canadian domestic industry.

RATE OF INCREASE IN THE VOLUME OF SUBJECT GOODS IMPORTS

[125] The complainant alleges that the rate of increase in the volume of subject goods threatens to injure the domestic industry. In support of its allegation, the complaint provided estimates of imports of wind tower sections and forecasts of imports from China and other countries from 2018 to 2023.

³² Exhibit 1 (PRO) – WT Complaint – Attachment 8.

³³ Exhibit 1 (PRO) – WT Complaint – Attachment 8.

[126] Based on the CBSA's own the analysis of imports and the complainant's forecasts, the CBSA found a strong likelihood of increased imports of subject goods over the next 12 to 24 months.

[127] Given the increased volume of subject goods from China and the forecast of imports, the CBSA finds that the volume of subject goods will continue to increase and threaten to injure the Canadian domestic industry.

EXCESS WIND TOWER CAPACITY IN CHINA AND DIVERSION OF SUBJECT GOODS TO CANADA

[128] The complainant submits that excess wind tower capacity in China increases the likelihood that production capacity for subject goods in China will be diverted to the Canadian market.

[129] According to the complainant, China is the largest market and producer of wind turbines in the world and it is estimated that China accounts for 60% to 70% of annual wind turbine component production.³⁴ China is also a major consumer of wind turbines. In 2021, China accounted for just above 40% of installed wind capacity globally.³⁵

[130] The GOC previously offered a generous Feed-In Tariff (FIT) rate for wind generated power that was installed by a certain deadline. Wind power generation developers rushed to meet the deadlines resulting in both the significant installations in recent years and wind tower production expansion to meet demand. As of 2021, with onshore and offshore installation not eligible for the FIT, installations are expected to be relatively lower in the coming years, which will leave increased production capacity for exports. One forecast sees China's annual wind turbine installations not surpassing its 2020 levels until at least 2024.³⁶

[131] Further, the complainant submits that during the past decade the US, Australia and, most recently, the EU have all imposed final trade remedies against dumped and subsidized Chinese wind towers that remain in force.³⁷ In 2020, the US, Australia and the EU, accounted for 77% of new global wind turbine installations outside of China. In 2021, these same countries accounted for 66% of new global wind turbine installations outside of China. The complainant argues that with 66% to 77% of China's potential export markets subject to trade remedies, the trade remedies in the US, Australia and the EU will continue to divert unfairly priced Chinese wind towers to other open markets such as Canada.

[132] The CBSA finds that there is likely significant excess production capacity for wind towers in China and the recent imposition of anti-dumping and countervailing measures in the US, Australia and the EU may have contributed to subject goods being diverted from these markets into Canada. The CBSA also finds that the continued existence of these measures in force could lead to increased exports of subject goods into Canada in the future and threaten to injure the Canadian domestic industry.

³⁴ Exhibit 2 (NC) – WT Complaint – Attachment 59; Attachment 39.

³⁵ Exhibit 2 (NC) – WT Complaint – Attachment 39, page 103.

³⁶ Exhibit 2 (NC) – WT Complaint – Attachment 39, page 123.

³⁷ Exhibit 2 (NC) – WT Complaint – Attachment 62.

EXCESS STEEL CAPACITY IN CHINA AND DIVERSION OF CHINESE PLATE TO WIND TOWER PRODUCTION

[133] The complainant submits that excess wind tower capacity is closely linked to overcapacity in the plate and steel industries. The complainant alleges that the trade measures against steel products, especially hot-rolled steel plate from China, currently in place in markets other than Canada increase the likelihood of the diversion of hot-rolled steel plate (and other steel products) to wind tower production.

[134] According to the complainant, global excess capacity remains one of the biggest challenges for the steel industry. Excess capacity encourages overproduction and low-priced exports that have a disruptive impact on steel markets around the world. China alone accounts for over 47% of global steel production capacity and is a major contributor to the global excess capacity.³⁸

[135] The complainant also notes that trade remedies are in force in Canada, the EU, India, Chinese Taipei, Thailand, Turkey and the US. Based on its estimate, these countries represent half of the global plate market for Chinese plate.³⁹ Chinese plate producers are incentivized by state policy and the production imperative to increase their volume of plate production to spread costs. Supplying low-priced plate to wind tower producers, who then transform it into low-priced wind towers for export to Canada, which does not have a trade remedy.

[136] The CBSA finds that the information suggests the existence of excess production capacity of steel plate in China and trade measures against Chinese steel plate likely results in the diversion of steel plate to other products such as wind tower. The CBSA also finds the diversion of Chinese steel plate to wind tower production could lead to increased exports of subject goods into Canada in the future and thereby threaten to cause injury to the Canadian domestic industry.

WEAKENED GLOBAL ECONOMIC OUTLOOK AND DEMAND FOR STEEL

[137] The complainant alleges that global economic outlook and weakened demand for steel plate is likely to lead to lower steel plate prices in general and particularly in China.

[138] According to the complainant, the steel market has recently moved out of a particularly weak period but remains highly vulnerable. Globally, the world economy is expected to experience its sharpest deceleration following a recovery from a global recession in more than 80 years.⁴⁰ Global GDP growth is forecasted to slow down and a rebound is not expected to return in the short term.

³⁸ Exhibit 2 (NC) – WT Complaint – Attachment 65.

³⁹ Exhibit 2 (NC) – WT Complaint – Attachment 104, page 6.

⁴⁰ Exhibit 2 (NC) – WT Complaint – Attachment 72, page 3.

[139] In addition, the global commodities market saw prices surge in the first half of 2022. Around the world, inflation is the highest it has been since 2008, which dampens household and business purchasing power.⁴¹ The Ukraine--Russia conflict is equally disrupting steel supply chains, surging energy costs and affecting downstream sectors and the global economy.⁴²

[140] The OECD has stated that global steel forecasts for 2023 carry downside risks due to the current geopolitical situation, pressure on inflation and interest rates, supply chain disruptions, continued surge in virus infections and tightening of the US monetary policy.⁴³ As a result, the global steel industry is facing growing risks of recession.⁴⁴

[141] The complainant argues that as plate producers see decreased demand, they will increasingly lower prices and look to exports to sustain production, resulting in increased dumping of plate in global markets and lower priced plate in China. Producers of wind towers in other countries—including China—that do not have trade remedies against dumped and subsidized plate will be able to capitalize on lower plate prices and offer lower-priced wind towers. These companies will then be able to offer lower priced wind towers to Canada.

[142] The CBSA finds that the weakened global economic outlook and demand for steel plate likely leads to lower-priced steel plate around the world and China. Given China's excess capacity and excess production of steel plate and the likelihood of diversion of steel plate to wind tower production, the CBSA also finds that Chinese producers of wind towers will attempt to increase exports to attractive markets like Canada and thereby threaten to cause injury to the Canadian domestic industry.

WEAKENED ECONOMIC OUTLOOK AND DEMAND IN CHINA

[143] The complainant alleges that Chinese producers of wind towers will look to export markets for growth due to weakened market conditions and demand in China.

[144] According to the complainant, in 2021, China experienced a GDP growth rate of approximately 8.1%.⁴⁵ In that same year, China experienced an overall decline of 5.4% in steel demand due to the deceleration of steel-using sectors.⁴⁶ Despite the government initiatives to boost infrastructure investments, steel demand contracted by 6.6% in the first eight months of 2022 and is projected to fall by 4.0% for the full year and remain flat in 2023.⁴⁷

⁴¹ Exhibit 2 (NC) – WT Complaint – Attachment 72, page 3.

⁴² Exhibit 2 (NC) – WT Complaint – Attachment 76.

⁴³ Exhibit 2 (NC) – WT Complaint – Attachment 77, slide 5.

⁴⁴ Exhibit 2 (NC) – WT Complaint – Attachment 76.

⁴⁵ Exhibit 2 (NC) – WT Complaint – Attachment 74, page 129 (Table A4).

⁴⁶ Exhibit 2 (NC) – WT Complaint – Attachment 82, page 1.

⁴⁷ Exhibit 2 (NC) – WT Complaint – Attachment 83.

[145] Although production declined from previous years, China remains, by far, the biggest steel producing country in the world, having produced 860.6 million tonnes from January to October 2022.⁴⁸

[146] The complainant argues that with weakened steel consumption in the domestic market, China will be looking to other markets to absorb its excess capacity and excess production.

[147] The CBSA finds that the information available suggests forecasted demand for Chinese steel plate in China is weak resulting in excess supply. The combination of excess production capacity of steel plate in China and the existence of trade measures against Chinese steel plate likely results in the diversion of steel plate to other products such as wind towers. Increased exports of subject goods at undercutting prices into Canada threaten to injure the Canadian domestic industry.

CANADA'S ECONOMIC OUTLOOK AND PROSPECTS FOR WIND ENERGY

[148] The complainant alleges that Canada is an attractive market for wind tower producers in China due to its relatively stable economy and strong prospects for wind turbine projects. According to the complainant, the Canadian economy is expected to see modest growth through 2023 while navigating a global economy that is experiencing uncertainty and a sharp deceleration. The economy has surpassed pre-pandemic levels and is largely shielded from the Ukraine-Russia conflict due to its limited trade ties.⁴⁹

[149] The Bank of Canada stated that Canada's GDP partially recovered from the pandemic in 2021, growing by 4.5%. Canada's GDP is forecasted to further grow by 0.9% in 2023 and 2.0% in 2024.⁵⁰ Similarly, the International Monetary Fund finds that Canada's GDP will grow by 1.5% in 2023.⁵¹

[150] Despite the growth and recovery, the Canadian economy is overheated and inflation levels in Canada continue to rise, resulting in increased interest rates that dampen borrowing and spending.⁵²

[151] The complainant also provided information concerning Canada's renewable energy sector, indicating that Canada's wind turbine installations are forecast to increase in 2023 and beyond. Canada's renewable energy capacity is set to climb to 45 gigawatts in 2025, primarily driven by growth in onshore wind and solar energy projects.⁵³ Wind is the second most important renewable energy source in Canada, accounting for 3.5% of electricity generation, and continues to grow. The Canadian Government recently announced a \$255 million investment in wind projects across Nova Scotia, while Alberta currently has numerous wind farm projects expected to finish construction in 2023.⁵⁴

⁴⁸ Exhibit 2 (NC) – WT Complaint – Attachment 88.

⁴⁹ Exhibit 2 (NC) – WT Complaint – Attachment 89, page 24.

⁵⁰ Exhibit 2 (NC) – WT Complaint – Attachment 90, page 11.

⁵¹ Exhibit 2 (NC) – WT Complaint – Attachment 73, page 126 (Table A2).

⁵² Exhibit 2 (NC) – WT Complaint – Attachment 92, page 9.

⁵³ Exhibit 2 (NC) – WT Complaint – Attachment 97.

⁵⁴ Exhibit 2 (NC) – WT Complaint – Attachment 98.

[152] Information in the complaint suggests the relative stability of Canada’s economy and demonstrates strong prospects in the wind energy sector. Considering trade remedies are in force in the US, Australia and the EU, the CBSA finds that Canada represents an attractive market for producers in China to export subject goods at undercutting prices and threatens to injure the Canadian domestic industry.

IMPACT OF US SUBSIDIES ON SUBJECT GOODS

[153] The complainant alleges that the introduction of the US *Inflation Reduction Act* (“IRA”) in August 2022 disadvantaged the complainant’s exports to the US and contributed to the diversion of exports from other countries to Canada, making the complainant more vulnerable to injury caused by dumped and subsidized wind towers from China.

[154] According to the complainant, the IRA builds upon previous investment and production tax credit, but several modifications disadvantage imports in favor of wind turbines with domestic content. The complainant argues that the IRA will impair the competitiveness of non-US manufacturers, including the complainant, in the US as OEMs and developers will choose US wind tower manufacturers in order to secure substantial subsidies.⁵⁵

[155] Given the subsidies benefiting wind tower producers in the US, the CBSA finds that Canada will represent an attractive market for exporters of wind towers from China and other countries. The increased competition in Canada likely leads to aggressive pricing from wind tower producers in China in order to secure projects and reduce excess capacity and production of steel and wind towers in China. The CBSA also finds that increased exports of subject goods into Canada threaten to cause injury to the Canadian domestic industry.

IMPACT OF SUBJECT GOODS ON PRICING

[156] The complainant alleges that the importations of wind towers from China have significantly undercut like goods. This pricing behaviour is likely to cause increased demand for subject goods.

[157] According to the complainant, in the case of some of the projects it pursued in the past, subject goods have undercut the complainant’s price by a significant amount. Further, there have been instances where the price of the subject goods were less than the cost of material inputs. The complainant points to the evidence that subject goods are produced using steel inputs purchased at non-market prices and that China’s wind tower industry is heavily subsidized.

⁵⁵ Exhibit 1 (PRO) – WT Complaint – Attachment 1.

[158] Besides the fact that subject good imports have an adverse impact on pricing, the complainant submits that subject goods are priced so low that many wind tower OEMs have excluded the complainant from making quotes for projects. Where the complainant is invited to prepare a quote, it expects that it is competing with imports and must price its wind towers aggressively, which creates a risk of bidding on projects with an insufficient margin and losing money on an order.⁵⁶

[159] In light of the above and evidence on increased volume of subject goods, lost sales, price undercutting and price depression previously discussed in the Injury Section, the CBSA finds the continued presence of subject goods at these prices is likely to cause negative price effects in the future and threaten to injure the Canadian domestic industry.

MAGNITUDE OF THE MARGINS OF DUMPING AND THE AMOUNT OF SUBSIDY

[160] The complainant alleges that the margins of dumping and amounts of subsidy are significant and threaten to injure the domestic producers of like goods.

[161] Based on the CBSA's estimates with respect to the margin of dumping and amount of subsidy, the CBSA finds that there is a reasonable indication that the subject goods have been dumped and subsidized, and that the magnitude of this alleged dumping and subsidizing is such that it poses a threat of material injury to the Canadian domestic industry.

[162] The complainant alleges that dumped and subsidized goods adversely affects its investment in its Canadian production facilities.

[163] The complainant submits that the presence of the dumped and subsidized goods from China have resulted in limited domestic sales rendering its production facilities under-utilized. Without measures in force, the complainant argues that it cannot justify investments at its Canadian production facilities without sufficient return on investments.

[164] The complainant's inability to continually invest in its Canadian facilities renders it more vulnerable to injury as it's unable to remain competitive in the marketplace. Further, the dumped and subsidized goods impact the complainant's employees and Canada's green energy sector more broadly.

[165] In combination with the evidence on reduction of employment, suppressed capacity utilization and insufficient return on investment previously discussed in the Injury Section the CBSA finds that increased exports of subject goods into Canada threaten to cause injury to the Canadian domestic industry.

⁵⁶ Exhibit 2 (NC) – WT Complaint – Attachment 1.

CBSA'S CONCLUSION—THREAT OF INJURY

[166] The complaint contains evidence that discloses a reasonable indication that there is a threat of injury to the wind tower industry in Canada. The information provided by the complainant indicates that projects at risk due to dumped and subsidized goods; rate of increase in the volume of subject goods imports; excess wind tower capacity in China and diversion of subject goods to Canada; excess steel capacity in China and diversion of Chinese plate to wind tower production; weakened global economic outlook and demand for steel; weakened economic outlook and demand in China; Canada's economic outlook and prospects for wind energy; impact of US subsidies on subject goods; impact of subject goods on pricing and magnitude of the margins of dumping and the amount of subsidy are collectively posing a threat to the Canadian industry.

CAUSAL LINK—DUMPING/SUBSIDIZING AND INJURY/THREAT OF INJURY

[167] The CBSA finds that the complainant has sufficiently linked the injury it has suffered to the alleged dumping and subsidizing of the subject goods imported into Canada. This injury includes increased volume of subject goods and lost market share, lost sales, price undercutting, price depression, reduced profitability, suppressed capacity utilization, reduction of employment and insufficient return on investment.

[168] The complainant submitted that the continued dumping and subsidizing of goods from China will cause further injury to the Canadian domestic industry in the future. As discussed above, the CBSA is of the opinion that this allegation of threat of injury is reasonably supported.

[169] In summary, the CBSA is of the opinion that the information provided in the complaint has disclosed a reasonable indication that the alleged dumping and subsidizing have caused injury and are threatening to cause injury to the Canadian domestic industry.

SCOPE OF THE INVESTIGATIONS

[170] The CBSA is conducting investigations to determine whether the subject goods have been dumped and/or subsidized.

[171] The CBSA has requested information from all potential exporters and importers to determine whether or not subject goods imported into Canada during the POI of April 1, 2021 to March 31, 2023 were dumped. The information requested will be used to determine the normal values, export prices and margins of dumping, if any. The CBSA also requested information from the GOC with respect to the possibility that the conditions of section 20 of SIMA exist in the wind tower sector in China.

[172] The CBSA has also requested information from the GOC and all potential producers/exporters to determine whether or not subject goods imported into Canada during the POI of April 1, 2021 to March 31, 2023 were subsidized. The information requested will be used to determine the amounts of subsidy, if any.

[173] All parties have been clearly advised of the CBSA's information requirements and the time frames for providing their responses.

FUTURE ACTION

[174] The CITT will conduct a preliminary inquiry to determine whether the evidence discloses a reasonable indication that the alleged dumping and subsidizing of the goods have caused or are threatening to cause injury to the Canadian industry. The CITT must make its decision on or before the 60th day after the date of the initiation of the investigations. If the CITT concludes that the evidence does not disclose a reasonable indication of injury to the Canadian industry, the investigations will be terminated.

[175] If the CITT finds that the evidence discloses a reasonable indication of injury to the Canadian industry and the CBSA's preliminary investigations reveal that the goods have been dumped and/or subsidized, the CBSA will make preliminary determinations of dumping and/or subsidizing within 90 days after the date of the initiation of the investigations, by July 20, 2023. Where circumstances warrant, this period may be extended to 135 days from the date of the initiation of the investigations.

[176] Under section 35 of SIMA, if, at any time before making a preliminary determination, the CBSA is satisfied that the volume of goods of a country is negligible, the investigation will be terminated with respect to goods of that country.

[177] Imports of subject goods released by the CBSA on and after the date of preliminary determinations of dumping and/or subsidizing, other than goods of the same description as goods in respect of which a determination was made that the margin of dumping of, or the amount of subsidy on, the goods is insignificant, may be subject to provisional duty in an amount not greater than the estimated margin of dumping and/or the estimated amount of subsidy on the imported goods.

[178] Should the CBSA make preliminary determinations of dumping and/or subsidizing, the investigations will be continued for the purpose of making final decisions within 90 days after the date of the preliminary determinations.

[179] After the preliminary determinations, if, in respect of goods of a particular exporter, the CBSA's investigations reveal that imports of the subject goods from that exporter have not been dumped or subsidized, or that the margin of dumping or amount of subsidy is insignificant, the investigation(s) will be terminated in respect of those goods.

[180] If final determinations of dumping and/or subsidizing are made, the CITT will continue its inquiry and hold public hearings into the question of material injury to the Canadian industry. The CITT is required to make a finding with respect to the goods to which the final determinations of dumping and/or subsidizing apply, not later than 120 days after the CBSA's preliminary determinations.

[181] In the event of an injury finding by the CITT, imports of subject goods released by the CBSA after that date will be subject to anti-dumping duty equal to the applicable margin of dumping and countervailing duty equal to the amount of subsidy on the imported goods. Should both anti-dumping and countervailing duties be applicable to subject goods, the amount of any anti-dumping duty may be reduced by the amount that is attributable to an export subsidy.

RETROACTIVE DUTY ON MASSIVE IMPORTATIONS

[182] When the CITT conducts an inquiry concerning 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.

[183] Should the CITT issue such a finding, anti-dumping and countervailing duties may be imposed retroactively on subject goods imported into Canada and released by the CBSA during the period of 90 days preceding the day of the CBSA making preliminary determinations of dumping and/or subsidizing.

[184] In respect of importations of subsidized goods that have caused injury, however, 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, as explained in the previous “Evidence of Subsidizing” section. In such a case, the amount of countervailing duty applied on a retroactive basis will be equal to the amount of subsidy on the goods that is a prohibited subsidy.

UNDERTAKINGS

[185] After a preliminary determination of dumping by the CBSA, other than a preliminary determination in which a determination was made that the margin of dumping of the goods is insignificant, an exporter may submit a written undertaking to revise selling prices to Canada so that the margin of dumping or the injury caused by the dumping is eliminated.

[186] Similarly, after the CBSA has rendered a preliminary determination of subsidizing, a foreign government may submit a written undertaking to eliminate the subsidy on the goods exported or to eliminate the injurious effect of the subsidy, by limiting the amount of the subsidy or the quantity of goods exported to Canada. Alternatively, exporters with the written consent of their government may undertake to revise their selling prices so that the amount of the subsidy or the injurious effect of the subsidy is eliminated.

[187] An acceptable undertaking must account for all or substantially all of the exports to Canada of the dumped or subsidized goods. Interested parties may provide comments regarding the acceptability of undertakings within nine days of the receipt of an undertaking by the CBSA. The CBSA will maintain a list of parties who wish to be notified should an undertaking proposal be received. Those who are interested in being notified should provide their name, telephone number, mailing address and email address to one of the officers identified in the “Information” section of this document.

[188] If undertakings were to be accepted, the investigation and the collection of provisional duties would be suspended. Notwithstanding the acceptance of an undertaking, an exporter may request that the CBSA’s investigation be completed and that the CITT complete its injury inquiry.

PUBLICATION

[189] Notice of the initiation of these investigations is being published in the Canada Gazette pursuant to subparagraph 34(1)(a)(ii) of SIMA.

INFORMATION

[190] Interested parties are invited to file written submissions presenting facts, arguments, and evidence that they feel are relevant to the alleged dumping and subsidizing. Written submissions should be forwarded to the attention of the SIMA Registry and Disclosure Unit.

[191] To be given consideration in these investigations, all information should be received by the CBSA by August 29, 2023, at noon.

[192] Any information submitted to the CBSA by interested parties concerning these investigations is considered to be public information unless clearly marked “confidential”. Where the submission by an interested party is confidential, a non-confidential version of the submission must be provided at the same time. This non-confidential version will be made available to other interested parties upon request.

[193] Confidential information submitted to the CBSA will be disclosed on written request to independent counsel for parties to these proceedings, subject to conditions to protect the confidentiality of the information. Confidential information may also be released to the CITT, any court in Canada, or a WTO or Canada-United States-Mexico Agreement (CUSMA) dispute settlement panel. Additional information respecting the CBSA’s policy on the disclosure of information under SIMA may be obtained by contacting one of the officers identified below or by visiting the CBSA’s website.

[194] The schedule of the investigations and a complete listing of all exhibits and information are available at: www.cbsa-asfc.gc.ca/sima-lmsi/i-e/menu-eng.html. The exhibit listing will be updated as new exhibits and information are made available.

[195] This *Statement of Reasons* is available through the CBSA's website at the address below. 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, ON K1A 0L8
Canada

Telephone: Ted Chester 343-553-1888
Nalong Manivong 343-549-0429

Email: simaregistry-depotlmsi@cbsa-asfc.gc.ca

Website: www.cbsa-asfc.gc.ca/sima-lmsi



Doug Band
Director General
Trade and Anti-dumping Programs Directorate

APPENDIX – DESCRIPTION OF IDENTIFIED PROGRAMS

Evidence provided by the complainant and obtained by the CBSA suggests that the Government of China may have provided support to exporters/producers of subject goods in the following manner.

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:

- 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.

The CBSA has previously countervailed this program in *Mattresses, Container Chassis, Decorative and Other Non-Structural Plywood (Decorative Plywood), Cold-Rolled Steel* and *Upholstered Domestic Seating*.

In the investigation by the U.S. 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.

- a) *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.
- b) *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.
- c) *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.

This program may constitute 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. The program may be considered specific pursuant to subsection 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 2: Loan Guarantees through the Government of China/SOE banks/Public Bodies

Assurance provided by the Government of China, a SOE bank or public (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.

The CBSA has previously countervailed this program in *Container Chassis, Decorative Plywood, Cold-Rolled Steel, Upholstered Domestic Seating, Large Diameter Carbon and Alloy Steel Line Pipe (Large Line Pipe), FISC and Line Pipe*.

This program may constitute 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. The program may be considered specific pursuant to subsection 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 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 state-owned enterprises.

The CBSA has previously countervailed this program in *Mattresses, Container Chassis, Seamless Casing*.

This program may constitute 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. The program may be considered specific pursuant to subsection 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 4: Debt-to-Equity Swaps for Less than Fair Market Value

In this program, asset management companies formed by the Government of China 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.

The CBSA has previously countervailed this program in *Cold-Rolled Steel and Oil Country Tubular Goods (OCTG)*.

This program may constitute 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. The program may be considered specific pursuant to subsection 2(7.2) of SIMA because it is limited to state-owned enterprises.

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

The China Export & Credit Insurance Corporation (Sinasure) 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 Sinasure 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".

The CBSA has previously countervailed this program in *Mattresses, Line Pipe and Upholstered Domestic Seating*.

In the 2012 investigation by the USDOC into *Wind Towers from China*, it appears that they countervailed this program as "Financing Services Provided by the Export-Import Bank of China (aka Export Buyer's Credit Program.)

This program may constitute a financial contribution pursuant to paragraph 2(1.6)(b) of SIMA; i.e., 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. The above confers a benefit to the exporter by way of reducing its financial costs upon obtaining loans from a financial institution, and the benefit is equal to the amount of the exemption/deduction. The program may be considered specific pursuant to subsection 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.

The CBSA has previously countervailed this program in *Mattresses, Galvanized Steel Wire, Seamless Casing, OCTG, Pup Joints, Stainless Steel Sinks, Line Pipe, Large Line Pipe and Upholstered Domestic Seating*.

The financial contribution by the government is the direct transfer of funds pursuant to section 2(1.6)(a) of SIMA. The program may be considered specific pursuant to subsection 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

A grant that provides 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.

The CBSA has previously countervailed this program in *Mattresses, Sucker Rods, Copper Tube, Photovoltaic Modules and Laminates, OCTG, Unitized Wall Modules, Seamless Casing, Pup Joints, Decorative Plywood* and *Upholstered Domestic Seating*.

The financial contribution by the government is the direct transfer of funds pursuant to section 2(1.6)(a) of SIMA. The program may be considered specific pursuant to subsection 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 and 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 also 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 CBSA has previously countervailed this program in *Mattresses, Sucker Rods, OCTG, Unitized Wall Modules, Galvanized Steel Wire, Aluminum Extrusions, Carbon Steel Welded Pipe, Steel Grating, Decorative Plywood* and *Upholstered Domestic Seating*.

As per the Statement of Reasons (SOR) issued at the OCTG final determination, 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 SMEs 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.

The financial contribution by the government is the direct transfer of funds pursuant to section 2(1.6)(a) of SIMA. The program may be considered specific pursuant to subsection 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 9: Performance Award Grants

A grant that provides financial aid for enterprises with excellent performances.

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.

The CBSA has previously countervailed this program in *Mattresses, Seamless Casing, Aluminum Extrusions, OCTG, Pup Joints, Copper Tube, Line Pipe and Upholstered Domestic Seating*.

This program is a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA as a direct transfer of funds from the government and confers a benefit to the recipient equal to the amount of the grant. The program may be considered specific pursuant to subsection 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.

The CBSA has previously countervailed this program in *Mattresses, Stainless Steel Sinks, Unitized Wall Modules, Photovoltaic Modules and Laminates, Seamless Casing, OCTG, Pup Joints, Line Pipe, Decorative Plywood and Upholstered Domestic Seating*.

The financial contribution by the government consists of government revenue that is otherwise due is foregone or not collected, pursuant to section 2(1.6)(b) of SIMA. The program may be considered specific pursuant to subsection 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

Based on the information available to the CBSA, this program was provided in several provinces, such as Guangdong, Shanghai and Jiangsu.

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.

The CBSA has previously countervailed this program in *Mattresses, Decorative Plywood*.

This program is a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA as a direct transfer of funds from the government and confers a benefit to the recipient equal to the amount of the grant. The program may be considered specific pursuant to subsection 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

These are 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.

The CBSA has previously countervailed this program in *Mattresses* and *Copper Tube*.

This program appears to be a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA as a direct transfer of funds from the government and confers a benefit to the recipient equal to the amount of the grant. The program may be considered specific pursuant to subsection 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 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 MT 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.

This program is a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA as a direct transfer of funds from the government and confers a benefit to the recipient equal to the amount of the grant. The program may be considered specific pursuant to subsection 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 14: Grants for Relocating Production Facilities

As part of the GOC's 12th Five-Year Steel Development Plan, the PRC has been relocating 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.

This program is a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA as a direct transfer of funds from the government and confers a benefit to the recipient equal to the amount of the grant. The program may be considered specific pursuant to subsection 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

Available information indicates that the GOC has introduced several grants and incentives related to company and enterprise development and innovation grants and awards.

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.

The CBSA has previously countervailed this program in *Mattresses and Upholstered Domestic Seating*.

This program appears to be a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA as a direct transfer of funds from the government and confers a benefit to the recipient equal to the amount of the grant. The program may be considered specific pursuant to subsection 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

Available information indicates that the GOC has introduced several 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.

The CBSA has previously countervailed this program in *Mattresses and Upholstered Domestic Seating*.

This program appears to be a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA as a direct transfer of funds from the government and confers a benefit to the recipient equal to the amount of the grant. The program may be considered specific pursuant to subsection 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

Available information indicates that the GOC has introduced several grants and incentives designed to support job stabilization and weather economic hardships experienced by exporters during the COVID-19 pandemic. This grant may also be provided to promote the resumption of work and production.

The CBSA has previously countervailed this program in *Mattresses and Upholstered Domestic Seating*.

This program appears to be a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA as a direct transfer of funds from the government and confers a benefit to the recipient equal to the amount of the grant. The program may be considered specific pursuant to subsection 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

Available information indicates that the GOC has introduced several grants and incentives related to quality and improvement in production.

The CBSA has previously countervailed this program in *Mattresses and Upholstered Domestic Seating*.

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.

This program appears to be a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA as a direct transfer of funds from the government and confers a benefit to the recipient equal to the amount of the grant. The program may be considered specific pursuant to subsection 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

Available information indicates that the GOC has introduced several grants and incentives related to science and technology.

The CBSA has previously countervailed this program in *Mattresses and Upholstered Domestic Seating*.

This program appears to be a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA as a direct transfer of funds from the government and confers a benefit to the recipient equal to the amount of the grant. The program may be considered specific pursuant to subsection 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

Available information indicates that the GOC has introduced several grants and incentives related to social security.

The CBSA has previously countervailed this program in *Mattresses and Upholstered Domestic Seating*.

This program appears to be a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA as a direct transfer of funds from the government and confers a benefit to the recipient equal to the amount of the grant. The program may be considered specific pursuant to subsection 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

Available information indicates that the GOC has introduced several grants and incentives related to talent and skills.

The CBSA has previously countervailed this program in *Mattresses and Upholstered Domestic Seating*.

This program appears to be a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA as a direct transfer of funds from the government and confers a benefit to the recipient equal to the amount of the grant. The program may be considered specific pursuant to subsection 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

Available information indicates that the GOC has introduced several grants and incentives related to providing business support.

The CBSA has previously countervailed this program in *Upholstered Domestic Seating*.

This program appears to be a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA as a direct transfer of funds from the government and confers a benefit to the recipient equal to the amount of the grant. The program may be considered specific pursuant to subsection 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 23: Subsidies for Utilities for Certain Enterprises

Available information indicates that the GOC has introduced several grants and incentives related to utilities for specific enterprises classes.

The CBSA has previously countervailed this program in *Upholstered Domestic Seating*.

This program appears to be a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA as a direct transfer of funds from the government and confers a benefit to the recipient equal to the amount of the grant. The program may be considered specific pursuant to subsection 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 24: Subsidies for the Establishment of Non-Manufacturing Facilities

Available information indicates that the GOC has introduced several grants and incentives related to assistance in establishing non-manufacturing facilities.

The CBSA has previously countervailed this program in *Upholstered Domestic Seating*.

This program appears to be a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA as a direct transfer of funds from the government and confers a benefit to the recipient equal to the amount of the grant. The program may be considered specific pursuant to subsection 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

The complainant alleges that producers of wind towers established or located in the SEZ benefit 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, 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:

- 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;
- Award for Good Performance in Paying Taxes *for top 20 income tax payers located in the LETDZ*;
- Award of Taicang City to Support Public Listing of Enterprises *for company’s successful listing on the Shenzhen Stock Exchange*; and
- Award of Taicang City to Promote Development of Industrial Economy for the Three-year period 2010 to 2012.

This program appears to be a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA as a direct transfer of funds from the government and confers a benefit to the recipient equal to the amount of the grant. The program may be considered specific pursuant to subsection 2(7.2) of SIMA because it is limited to either enterprises in certain geographic areas.

Program 26: Financial/Loan Interest Subsidy

The complainant alleges that wind tower producer may benefit from subsidies in the form of 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.

The CBSA has previously countervailed this program in *Cold-Rolled Steel, Stainless Steel Sinks, Silicon Metal, Galvanized Steel Wire, PET Resin and Copper Tube, Carbon Steel and Alloy Steel Line Pipe and Unitized Wall Modules*.

This program appears to be a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA as a direct transfer of funds from the government and confers a benefit to the recipient equal to the amount of the grant. The program may be considered specific pursuant to subsection 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 27: Grants for International Certification

This grant is provided to help enterprises to obtain international product certification. The CBSA has previously countervailed this program in *Photovoltaic Modules*.

This program appears to be a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA as a direct transfer of funds from the government and confers a benefit to the recipient equal to the amount of the grant. The program may be considered specific pursuant to subsection 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 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.

The CBSA has previously countervailed this program in *Container Chassis*.

This program appears to be a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA as a direct transfer of funds from the government and confers a benefit to the recipient equal to the amount of the grant. The program may be considered specific pursuant to subsection 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 29: Grants for Safety Production

The program provides “a grant for safety production” to exporters that are considered “an advanced enterprise.

The CBSA has previously countervailed this program in *Copper Tube*.

This program appears to be a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA as a direct transfer of funds from the government and confers a benefit to the recipient equal to the amount of the grant. The program may be considered specific pursuant to subsection 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 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, it is alleged that an eligible enterprises may receive a reduced corporate income tax rate of 15%.

The complainant has alleged that there are several known wind tower producers to benefit from their location in SEZs. The complaint alleges that additional preferential tax programs are available in the various SEZs.

The CBSA has previously countervailed this program in *Aluminum Extrusions, Carbon Steel Welded Pipe, OCTG, Seamless Casing, Line Pipe, and Upholstered Domestic Seating*.

The financial contribution by the Government consists of government revenue that is otherwise due is foregone or not collected, pursuant to section 2(1.6)(b) of SIMA. The program may be considered specific pursuant to subsection 2(7.2) of SIMA because it is limited to enterprises in certain geographic areas.

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.

The CBSA has previously countervailed this program in *Mattresses, FISC, Line Pipe, Certain Seamless Casing, OCTG, Pup Joints, Decorative Plywood, Upholstered Domestic Seating and Container Chassis*.

The financial contribution by the Government consists of government revenue that is otherwise due is foregone or not collected, pursuant to section 2(1.6)(b) of SIMA. The program may be considered specific pursuant to subsection 2(7.2) of SIMA because it is limited to enterprises in certain industries.

Program 32: Municipal/Local Income or Property Tax Reductions

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

The CBSA has previously countervailed this program in *Mattresses and Upholstered Domestic Seating*.

The financial contribution by the Government consists of government revenue that is otherwise due is foregone or not collected, pursuant to section 2(1.6)(b) of SIMA. The program may be considered specific pursuant to subsection 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 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 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.

The CBSA has previously countervailed this program in *Mattresses, Pup Joints and Seamless Casing*. Further, the GOC has listed this title in its notification of subsidy programs to the WTO.

The financial contribution by the government consists of government revenue that is otherwise due is foregone or not collected, pursuant to section 2(1.6)(b) of SIMA. The program may be considered specific pursuant to subsection 2(7.2) of SIMA because it is limited to foreign-invested enterprises.

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.

The CBSA has previously countervailed this program in *Photovoltaic Modules and Laminates, Seamless Casing, OCTG, Pup Joints, Decorative Plywood, and Upholstered Domestic Seating*. Further, the GOC has listed this title in its notification of subsidy programs to the WTO.

The financial contribution by the government consists of government revenue that is otherwise due is foregone or not collected, pursuant to section 2(1.6)(b) of SIMA. The program may be considered specific pursuant to subsection 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:

- Ministry of Finance Circular Cai Shui No. 75 of 2014,
- Ministry of Finance Circular Cai Shui No. 106 of 2015,
- Ministry of Finance Circular Cai Shui No. 54 of 2018,
- Ministry of Finance Circular Cai Shui No. 66 of 2019

The financial contribution by the government consists of government revenue that is otherwise due is foregone or not collected, pursuant to section 2(1.6)(b) of SIMA. The program may be considered specific pursuant to subsection 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 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.

The CBSA has previously countervailed this program in *Cold-Rolled Steel* and *Sucker Rods*.

The financial contribution by the government consists of government revenue that is otherwise due is foregone or not collected, pursuant to section 2(1.6)(b) of SIMA. The program may be considered specific pursuant to subsection 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 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.

The CBSA has previously countervailed this program in *Photovoltaic Modules, Rebar* and *PET Resin*.

The financial contribution by the government consists of government revenue that is otherwise due is foregone or not collected, pursuant to section 2(1.6)(b) of SIMA. The program may be considered specific pursuant to subsection 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 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.

The CBSA has previously countervailed this program in *Container Chassis*.

The financial contribution by the government consists of government revenue that is otherwise due is foregone or not collected, pursuant to section 2(1.6)(b) of SIMA. The program may be considered specific pursuant to subsection 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 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.

The CBSA has previously countervailed this program in *Aluminum Extrusions, Photovoltaic Modules, Laminates, Seamless Casing, OCTG, and Pup Joints*.

In a recent investigation by the USDOC into *Mattresses* from China, it appears that they countervailed this program as “VAT Rebates on Domestically Produced Equipment”.

The financial contribution by the government consists of government revenue that is otherwise due is foregone or not collected, pursuant to section 2(1.6)(b) of SIMA. The program may be considered specific pursuant to subsection 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.

The CBSA has previously countervailed this program in *Photovoltaic Modules, Laminates, Unitized Wall Modules, Seamless Casing, Pup Joints, and Line Pipe*.

The financial contribution by the government consists of government revenue that is otherwise due is foregone or not collected, pursuant to section 2(1.6)(b) of SIMA. The program may be considered specific pursuant to subsection 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 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.

The CBSA has previously countervailed this program in *Photovoltaic Modules and Laminates, Seamless Casing, OCTG and Pup Joints*.

The financial contribution by the Government consists of government revenue that is otherwise due is foregone or not collected, pursuant to section 2(1.6)(b) of SIMA. The program may be considered specific pursuant to subsection 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 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.

This financial contribution by the government consists of government revenue that is otherwise due is foregone or not collected, pursuant to section 2(1.6)(b) of SIMA. The program may be considered specific pursuant to subsection 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

The complainant alleges that exporters may avail themselves of input materials or utilities from state-owned enterprises (SOE) at below fair market value. They have identified hot-rolled steel plate and electricity as an input that may be provided to wind tower producers at less than fair market value.

The CBSA has previously countervailed this program in *Mattresses, Seamless Casing, OCTG, Stainless Steel Sinks, Steel Piling Pipe, Large Line Pipe, Pup Joints, Upholstered Domestic Seating and Container Chassis*.

This program may constitute a financial contribution pursuant to paragraph 2(1.6)(c) of SIMA as they involve the provision of goods or services, other than general governmental infrastructure. The program may be considered specific pursuant to subsection 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 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.

The CBSA has previously countervailed this program in *Line Pipe* and *Large Line Pipe*.

This financial contribution by the Government consists of government revenue that is otherwise due is foregone or not collected, pursuant to section 2(1.6)(b) of SIMA. The program may be considered specific pursuant to subsection 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 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.

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. The program may be considered specific pursuant to subsection 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 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.

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. The program may be considered specific pursuant to subsection 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 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.

The complainant alleges that wind tower producers benefit from the renewable power subsidy and that the Government of China has outstanding subsidy payments owed to these producers.

This program appears to be a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA as a direct transfer of funds from the government and confers a benefit to the recipient equal to the amount of the grant. The program may be considered specific pursuant to subsection 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.

The complainant alleges that wind tower producers still benefit from this subsidy program.

This program appears to be a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA as a direct transfer of funds from the government and confers a benefit to the recipient equal to the amount of the grant. The program may be considered specific pursuant to subsection 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.