



C-122-868
Investigation
POI: 1/1/2018 – 12/31/2018
Public Document
E&C/Office VI: Team

December 6, 2019

MEMORANDUM TO: Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance

FROM: James Maeder
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for the Preliminary Determination of the
Countervailing Duty Investigation of Utility Scale Wind Towers
from Canada

I. SUMMARY

Commerce¹ preliminarily determines that countervailable subsidies are being provided to producers and exporters of wind towers from Canada, as provided in section 703 of the Act.

II. BACKGROUND

A. Initiation and Case History

On July 9, 2019, Commerce received AD and CVD petitions concerning imports of wind towers from Canada, Indonesia, the Republic of Korea, and the Socialist Republic of Vietnam, filed on behalf of the COALITION.² In accordance with section 702(b)(4)(A)(ii) of the Act, Commerce held consultations with the GOC on July 19, 2019.³ On August 6, 2019, we initiated a CVD investigation of wind towers from Canada.⁴ In the *Initiation Notice*, Commerce notified parties of an opportunity to comment on the scope of the investigation.⁵ No interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice*.

¹ Abbreviations and short-cites used throughout this Memorandum are available in Appendix I.

² See Petition. The petitioner is the Wind Tower Trade Coalition (COALITION) whose members are: Arcosa Wind Towers Inc. and Broadwind Towers, Inc.

³ See Consultations Memorandum.

⁴ See *Initiation Notice*.

⁵ *Id.*, 84 FR at 38217.

B. Respondent Selection

The Petition identified four companies in Canada that produce and/or export wind towers.⁶ On July 22, 2019, we released the CBP data for U.S. imports of wind towers under the appropriate HTSUS subheadings to all interested parties under an administrative protective order.⁷ In the *Initiation Notice*, Commerce stated that, where appropriate, it intended to select respondents based on CBP data for U.S. imports of wind towers under the appropriate HTSUS subheadings and requested interested parties comment on the data within three business days of the publication of the *Initiation Notice*.⁸ No interested parties submitted comments.

On August 21, 2019, pursuant to section 777A(e)(2)(A) of the Act, Commerce limited the number of respondents selected for individual examination to the two largest producers/exporters of the subject merchandise, by volume.⁹ Accordingly, we selected Marmen Énergie Inc. and Marmen Inc. as mandatory respondents in this investigation.¹⁰ On August 28, 2019, we issued the CVD questionnaire to the GOC, who is responsible for forwarding the questionnaire to the mandatory respondents.¹¹

C. Questionnaires and Responses

In September 11, 2019, we received timely responses to the “affiliated companies” section of the questionnaires from Marmen.¹² In its responses, Marmen reported that it had a number of cross-owned affiliates.¹³ On September 11, 2019, Marmen filed its request for clarification of section III of the Initial Questionnaire while notifying us of potential reporting difficulties.¹⁴ On September 17, 2019, the petitioner submitted comments with regard to Marmen’s notification of potential reporting difficulties.¹⁵

In October 2019, we received timely responses to the remainder of the initial questionnaires from Marmen,¹⁶ as well as to the entire questionnaires issued to the GOC (including responses from the GOO and the GOQ).¹⁷ Also in September and November 2019, we issued supplemental questionnaires to Marmen. Marmen provided timely responses to these supplemental questionnaires in October and November 2019.¹⁸

⁶ See Petition at Exhibit I-16.

⁷ See CBP Data Release Letter.

⁸ See *Initiation Notice*, 84 FR at 38219.

⁹ See Respondent Selection Memorandum.

¹⁰ *Id.*

¹¹ See Initial Questionnaire.

¹² See Marmen AFFR. Marmen Inc. and Marmen Énergie Inc.’s holding company parent, Gestion Marmen Inc., are referred to collectively as “Marmen” hereafter.

¹³ For further discussion, see the “Attribution of Subsidies” section of this memorandum *infra*.

¹⁴ See Marmen Request for Clarification and Notification of Potential Reporting Difficulties.

¹⁵ See Petitioner Comments – Marmen Notification of Reporting Difficulties

¹⁶ See Marmen IQR.

¹⁷ See GOC IQR; GOO IQR; and GOQ IQR.

¹⁸ See Marmen First SQR; Marmen Second SQR Part 1; Marmen Second SQR Part 2; Marmen Third SQR; and Marmen Fourth SQR.

In October 2019, we issued additional supplemental questionnaires to the GOC, the GOO, and the GOQ. We received timely responses to these supplemental questionnaires in November 2019.¹⁹

In October and November 2019, the petitioner timely submitted NFI to rebut, clarify, and/or correct information in the respondents' QRs, pursuant to 19 CFR 351.301(c)(1)(v), and comments.²⁰ Also in November 2019, the petitioner requested alignment of the CVD final determination with the AD final determination.²¹ In November, the GOQ and Marmen timely submitted NFI with regard to this investigation, pursuant to 19 CFR 351.102(a)(21) and the deadline set by Commerce.²² In addition, in the same month, Marmen and the GOQ submitted pre-preliminary comments.²³

In November 2019, we issued additional supplemental questionnaires to the GOO and the GOQ.²⁴ We received timely responses to these supplemental questionnaires in November 2019.²⁵

D. New Subsidy Allegations

On September 16, 2019, the petitioner timely submitted twelve NSAs with respect to Marmen.²⁶ Between September 26 and 30, 2019, the GOC and the GOQ provided timely NFI in response to the allegations, pursuant to 19 CFR 351.301(c)(2)(vi).²⁷ On October 24, 2019, the petitioner responded to Commerce's NSA Questionnaire.²⁸ We are still considering the NSAs and intend to issue a decision whether to initiate on the NSAs after this preliminary determination. For any programs for which we decide to initiate, we intend to issue NSA questionnaires to the relevant parties and will consider that information for purposes of examining these programs in a post-preliminary determination.

E. Potential Benchmark Data

In October and November 2019, we received timely-filed NFI in accordance with 19 CFR 351.505(a) from the GOC and Marmen regarding benchmarks to measure the benefit of land

¹⁹ See GOC First SQR Part 1; GOC First SQR Part 2; GOC First SQR Part 3; GOC Second SQR; GOO First SQR; and GOQ First SQR.

²⁰ See Petitioner Factual Information – Rebuttal; Petitioner Comments – GOQ IQR; and Petitioner Comments – Pre-Prelim.

²¹ See Petitioner Request – Alignment.

²² See GOQ Factual Information; Marmen Benchmark Submission; and Extension of Factual Information Submission Memorandum.

²³ See Marmen Comments – Pre-Prelim; and GOQ Comments – Pre-Prelim.

²⁴ See Supplemental Questionnaire – GOO II; Supplemental Questionnaire – GOO III; and Supplemental Questionnaire – GOQ II.

²⁵ See GOO Second SQR; GOO Third SQR; and GOQ Second SQR.

²⁶ See NSA Submission.

²⁷ See GOC Comments – NSA; and GOQ Comments – NSA.

²⁸ See Petitioner NSA QR.

sales/leases, loans, purchases of equipment, and purchases of wind towers under the Québec and Ontario local content programs.²⁹

F. Postponement of the Preliminary Determination

On August 30, 2019, the petitioner requested that Commerce postpone the preliminary determination of this investigation.³⁰ Commerce granted the petitioner's request and, on September 13, 2019, we postponed the date of the preliminary determination until December 6, 2019, in accordance with section 703(c)(1)(A) of the Act and 19 CFR 351.205(b)(2).³¹

G. Period of Investigation

The POI is January 1, 2018 through December 31, 2018.

H. Alignment

On November 27, 2019, the petitioner requested that Commerce align the date of the CVD final determination with that of the AD final determination.³² Therefore, in accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4), and based on the petitioner's request, we are aligning the final CVD determination in this investigation with the final determination in the companion AD investigation of wind towers from Canada. Consequently, the final CVD determination will be issued on the same date as the final AD determination, which is currently scheduled to be issued no later than April 20, 2020.

III. SCOPE OF THE INVESTIGATION

The product covered by this investigation is wind towers from Canada. We did not receive comments concerning the scope of the AD and CVD investigations as it appeared in the *Initiation Notice*. As such, we preliminarily find no basis for altering the scope language as it appeared in the *Initiation Notice*.³³ We will issue a final scope decision on the records of the wind tower investigations after considering any party comments. For a full description of the scope of this investigation, see this memorandum's accompanying *Federal Register* notice at Appendix I.

IV. INJURY TEST

Because Canada is a "Subsidies Agreement Country" within the meaning of section 701(b) of the Act, the USITC is required to determine whether imports of the subject merchandise from Canada materially injure, or threaten material injury to, a U.S. industry. On August 28, 2019, the

²⁹ See GOC IQR at Exhibit GOC-Benchmark; and Marmen Benchmark Submission

³⁰ See Petitioner Request – Postponement.

³¹ See *Postponement*, 84 FR at 48330.

³² See Petitioner Request – Alignment.

³³ See *Initiation Notice*, 84 FR at 38220-38221.

USITC determined that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of wind towers from Canada.³⁴

V. SUBSIDIES VALUATION

A. Allocation Period

Commerce normally allocates the benefits from non-recurring subsidies over the AUL of renewable physical assets used in the production of subject merchandise.³⁵ Commerce finds the AUL period in this proceeding to be 12 years, pursuant to 19 CFR 351.524(d)(2) and the U.S. Internal Revenue Service's Depreciation Range System, as revised.³⁶ Commerce notified the respondents of the 12-year AUL period in the initial questionnaire and requested data accordingly. No party in this proceeding has disputed this allocation period. We, therefore, preliminarily determine that a 12-year AUL period is appropriate to allocate benefits from non-recurring subsidies.

Furthermore, for non-recurring subsidies, we have applied the "0.5 percent test," as described in 19 CFR 351.524(b)(2). Under this test, we divide the amount of the subsidies approved under a given program in a particular year by the relevant sales value (*e.g.*, total sales or export sales) for the same year. If the amount of the subsidies is less than 0.5 percent of the relevant sales value, then the benefits are allocated to the year of receipt rather than across the AUL period.

B. Attribution of Subsidies

Cross-Ownership

In accordance with 19 CFR 351.525(b)(6)(i), Commerce normally attributes a subsidy to the products produced by the company that received the subsidy. However, 19 CFR 351.525(b)(6)(ii)-(v) provides additional rules for the attribution of subsidies received by respondents with cross-owned affiliates. Subsidies to the following types of cross-owned affiliates are covered in these additional attribution rules: (ii) producers of the subject merchandise; (iii) holding companies or parent companies; (iv) producers of an input that is primarily dedicated to the production of the downstream product; or (v) an affiliate producing non-subject merchandise that otherwise transfers a subsidy to a respondent.

According to 19 CFR 351.525(b)(6)(vi), cross-ownership exists between two or more corporations where one corporation can use or direct the individual assets of the other corporation(s) in essentially the same ways it can use its own assets. This section of Commerce's regulations states that this standard will normally be met where there is a majority voting ownership interest between two corporations or through common ownership of two (or more) corporations. The *Preamble*³⁷ to Commerce's regulations further clarifies Commerce's

³⁴ See *ITC Preliminary Determination*.

³⁵ See 19 CFR 351.524(b).

³⁶ See U.S. Internal Revenue Service Publication 946 (2015), "How to Depreciate Property" at Table B-2: Table of Class Lives and Recovery Periods.

³⁷ See *Preamble*.

cross-ownership standard. According to the *Preamble*, relationships captured by the cross-ownership definition include those where:

{T}he interests of two corporations have merged to such a degree that one corporation can use or direct the individual assets (or subsidy benefits) of the other corporation in essentially the same way it can use its own assets (or subsidy benefits). . . . Cross-ownership does not require one corporation to own 100 percent of the other corporation. Normally, cross-ownership will exist where there is a majority voting ownership interest between two corporations or through common ownership of two (or more) corporations. In certain circumstances, a large minority voting interest (for example, 40 percent) or a “golden share” may also result in cross-ownership.³⁸

Thus, Commerce’s regulations make clear that the agency must look at the facts presented in each case in determining whether cross-ownership exists. The CIT has also upheld Commerce’s authority to attribute subsidies based on whether a company could use or direct the subsidy benefits of another company in essentially the same way it could use its own subsidy benefits.³⁹

Marmen

Marmen responded to Commerce’s initial questionnaire on behalf of the following affiliated companies:

- Marmen Inc., a producer and exporter of the subject merchandise selected for individual examination;
- Marmen Énergie Inc., a producer and exporter of the subject merchandise selected for individual examination;
- Gestion Marmen Inc., a holding company parent of Marmen Inc. and Marmen Énergie, Inc.⁴⁰

Marmen reported that Marmen Inc., Marmen Énergie, Inc., Gestion Marmen Inc. were cross-owned, and we preliminarily find these companies to be cross-owned, within the meaning of 19 CFR 351.525(b)(6)(vi). Marmen Inc. and Marmen Énergie, Inc., both produced the subject merchandise, while Gestion Marmen Inc. was a holding company parent of Marmen Inc. and Marmen Énergie, Inc. No other companies supplied an input product to Marmen Inc. or Marmen Énergie, Inc. for the production of a downstream product during the AUL period, or received a subsidy and transferred it to either Marmen Inc. or Marmen Énergie, Inc. during the AUL period.⁴¹ Moreover, Marmen reported that Gestion Marmen Inc. did not receive any forms of government assistance.⁴² Accordingly, we preliminary find that only Marmen Inc. and Marmen

³⁸ *Id.* at 65401.

³⁹ *See FFC.*

⁴⁰ *See* Marmen AFFR; Marmen IQR at Marmen Inc. Response, Marmen Énergie, Inc. Response, and Gestion Marmen, Inc. Response. Marmen also reported that it is cross-owned with Marmen Energy, a U.S. producer of wind towers (*see* Marmen AFFR at Attachment).

⁴¹ *See* Marmen AFFR; and Marmen First SQR.

⁴² *See* Marmen AFFR at 1; and Marmen IQR at Gestion Marmen, Inc. Response.

Énergie, Inc. received subsidy benefits subject to our attribution rules under 19 CFR 351.525(b)(6)(i)-(v) and 351.525(c). For any subsidies received by either Marmen Inc. or Marmen Énergie, Inc., we have preliminarily attributed the benefit to the combined FOB sales value (net of intercompany transactions) of both companies, pursuant to 19 CFR 351.525(b)(6)(ii).

C. Denominators

In accordance with 19 CFR 351.525(b)(1)-(5), Commerce considers the basis for the respondents' receipt of benefits under each program when attributing subsidies, *e.g.*, to the respondents' export or total sales. The denominators we used to calculate the countervailable subsidy rate for the various subsidy programs described below are identified in the Preliminary Calculation Memorandum prepared for this preliminary determination.⁴³

D. Loan Benchmarks and Interest Rates

Section 771(5)(E)(ii) of the Act provides that the benefit for loans is the “difference between the amount the recipient of the loan pays on the loan and the amount the recipient would pay on a comparable commercial loan that the recipient could actually obtain on the market,” indicating that a benchmark must be a market-based rate. In addition, 19 CFR 351.505(a)(3)(i) stipulates that, when selecting a comparable commercial loan that the recipient “could actually obtain on the market,” Commerce will normally rely on actual loans obtained by the firm. However, when there are no comparable commercial loans during the period, Commerce “may use a national average interest rate for comparable commercial loans,” pursuant to 19 CFR 351.505(a)(3)(ii). In addition, 19 CFR 351.505(a)(2)(ii) states that Commerce will not consider a loan provided by a government-owned special-purpose bank for purposes of calculating benchmark rates.⁴⁴ In the absence of reported long-term loan interest rates, we are preliminarily using the below-discussed interest rates as discount rates for purposes of allocating non-recurring benefits over time, pursuant to 19 CFR 351.524(d)(3)(i)(B).⁴⁵

Short-Term and Long-Term Loans

Based on Marmen's responses, we preliminarily determine that none of these companies received comparable Canadian dollar-denominated short-term or long-term loans from commercial banks for certain years for which we must calculate benchmark and discount rates. Thus, we do not have loan information from Marmen in the year subsidies were provided. As such loan rates were not available, we are preliminarily using national average interest rates, pursuant to 19 CFR 351.505(a)(3)(ii). Specifically, we used national average of chartered bank administered interest rates for prime business (the prime business loan rates) from the Bank of Canada, Data and Statistics Office as benchmark rates for Canadian dollar-denominated short-

⁴³ See Marmen Preliminary Calculation Memorandum, dated concurrently with these preliminary results.

⁴⁴ See, *e.g.*, *Shrimp from India* and accompanying IDM at “Benchmark and Discount Rates” section.

⁴⁵ See, *e.g.*, *Certain Pasta from Italy* at “C. Loan Benchmarks and Discount Rates.”

term and long-term loans.⁴⁶ We preliminarily find that the average of the Bank of Canada prime business loan rates provides a reasonable representation of both short-term and long-term interest rates for Canadian dollar-denominated loans available to Marmen.

Discount Rates

Consistent with 19 CFR 351.524(d)(3)(i), we used, as our discount rates, the interest rates calculated according to the methodology described above for the year in which the government provided non-recurring subsidies. The interest-rate benchmarks and discount rates used in our preliminary calculations are provided in the preliminary calculation memoranda.

VI. ANALYSIS OF PROGRAMS

Based upon our analysis of the record and the responses to our questionnaires, we preliminarily determine the following:

A. Programs Preliminarily Determined to Be Countervailable

Tax Programs

Federal

1. Federal Accelerated Capital Cost Allowance for Class 29 Assets

Marmen reported receiving assistance under the FACCA Class 29 assets program during the POI (as well as the CCA under Class 53, the successor to Class 29).⁴⁷ Class 29 assets are machinery used in manufacturing and processing operations.⁴⁸ Under this program, Class 29 assets can be fully depreciated at an accelerated rate, over a minimum of three years, and the amount of depreciation can be claimed as a deduction to reduce the taxpayer's taxable income.⁴⁹ Class 53 is property covered by Class 29 but acquired after 2015, and before 2026.⁵⁰ The CITA provides for deductions from taxable income for the capital cost of property.⁵¹ According to the CITR, tax deductions for depreciation of Class 29 and 53 assets are permissible deductions under the CITA;⁵² however, the CITR's definition of manufacturing and processing explicitly excludes

⁴⁶ See Marmen Preliminary Calculation Memorandum at Attachment "IMF IFS Yearbook" at page 260, Attachment "IMF IFS World and County Notes" at 57; and the accompanying Microsoft Excel Worksheet at workbook "7B. Interest Rates Benchmarks."

⁴⁷ See Marmen IQR at Marmen Inc. Response at MARMEN-7, Exhibit CCA-01, Exhibit CCA-02, Exhibit CCA-03, Exhibit CCA-04, and Exhibit CCA-06; and Marmen Énergie Inc. Response at ÉNERGIE-7, Exhibit CCA-01, Exhibit CCA-02, Exhibit CCA-03, Exhibit CCA-05, and Exhibit CCA-07.

⁴⁸ See GOC IQR at Exhibit GOC-CLA-CLASS29-1, Standard Questions Appendix, at 10-11.

⁴⁹ *Id.*; see also GOC First SQR at 7.

⁵⁰ See GOC IQR at Exhibit GOC-CLA-CLASS29-1, Standard Questions Appendix, at 1 and Exhibit GOC-CLA-CLASS29-2.

⁵¹ See GOC IQR at Exhibits GOC-CLA-CLASS29-1, Standard Questions Appendix, at 2-3 and GOC-CRA-CLASS29-2; see also GOC First SQR Part 1 at Exhibit GOC-SUPP1-CRA-CLASS29-1.

⁵² *Id.*

certain industries from benefitting from this deduction.⁵³ This program was previously countervailed in *Uncoated Groundwood Paper from Canada Final Determination*. Marmen reported that it used the accelerated depreciation to reduce its taxable income under this program during the POI.⁵⁴

We preliminarily determine that the FACCA Class 29 assets program is *de jure* specific within the meaning of section 771(5A)(D)(i) of the Act, because, as a matter of law, eligibility for this tax program is expressly limited to certain industries, *i.e.*, those industries not specifically excluded by CITR's definition of manufacturing and processing. We preliminarily determine that there is a financial contribution in the form of revenue forgone, within the meaning of section 771(5)(D)(ii) of the Act. We preliminarily determine that the tax credit provides a benefit in the amount of the difference between the tax the company paid and the tax the company would have paid absent the tax credit, as provided in 19 CFR 351.509(a)(1). In the absence of the Class 29 provision, the manufacturing or processing assets acquired would otherwise have been included in Class 43, which is the depreciation class which applied prior to the program, and which would apply in the absence of the program.⁵⁵ Accordingly, the benefit conferred is the tax savings of the difference between the deduction calculated using the Class 29 accelerated rate of depreciation and the deduction calculated using the Class 43 standard rate of depreciation.

In accordance with 19 CFR 351.524(c)(1), we are treating this subsidy as a recurring subsidy, and to calculate the tax savings on this difference, we multiplied the difference in the deductions by the effective federal corporate tax rate of 15 percent.⁵⁶ We then divided the calculated benefit by Marmen's total sales during the POI. On this basis, we preliminarily calculate a net countervailable subsidy of 0.10 percent *ad valorem* for Marmen.⁵⁷

2. Atlantic Investment Tax Credit

Marmen reported receiving assistance under the AITC program during the POI.⁵⁸ This program is administered by the CRA and was implemented in 1977.⁵⁹ It is a credit against federal income tax owed, and its purpose is to encourage investment in the Atlantic provinces and Québec's Gaspé Peninsula.⁶⁰ It is available to all businesses in the Atlantic provinces (*i.e.*, Nova Scotia, New Brunswick, Prince Edward Island, and Newfoundland) and Québec's Gaspé Peninsula.⁶¹

⁵³ See GOC IQR at Exhibit GOC-CRA-CLASS29-2.

⁵⁴ See, *e.g.*, Marmen IQR at Marmen Inc. Response at MARMEN-7.

⁵⁵ See GOC IQR at Exhibit GOC-CLA-CLASS29-1, Standard Questions Appendix, at 2 and, Tax Program Appendix, at 1-2. See also Marmen IQR at Exhibit CCA-02 and Exhibit CCA-03.

⁵⁶ *Id.* at Exhibit GOC-CRA-CLASS29-4. See also Marmen IQR at Marmen Inc. Response at Exhibit CCA-01, Exhibit CCA-04, and Exhibit CCA-06, and Marmen Énergie Inc. Response at Exhibit CCA-01, Exhibit CCA-04, and Exhibit CCA-06.

⁵⁷ To calculate this figure, we used the benefit information supplied by Marmen.

⁵⁸ See Marmen IQR at Marmen Énergie Inc Response at ÉNERGIE-8, Exhibit AITC-01, and Exhibit AITC-06.

⁵⁹ See GOC IQR at Exhibit GOC-CRA-AITC-1, Standard Questions Appendix, at 1 and 3.

⁶⁰ *Id.* at Exhibit GOC-CRA-AITC-1, Standard Questions Appendix, at 1.

⁶¹ *Id.* at Exhibits GOC-CRA-AITC-1, Standard Questions Appendix, at 1 and GOC-CRA-AITC-3.

This program was previously countervailed in *Certain Softwood Lumber Products from Canada Final Determination*.

This tax credit is provided for in Section 127 of the CITA and section 4600 of the CITR.⁶² The CITA and CITR provide the definitions that identify the property and the locations that qualify for this tax credit.⁶³

Taxpaying companies in the Atlantic Region can earn ITCs equal to 10 percent of the value of investments that the company has made in qualified property located in the Atlantic Region that is to be used in certain sectors.⁶⁴ Qualified property includes machinery and equipment used for manufacturing, and for farming, logging, and fishing.⁶⁵ Taxpaying companies would file for the amount of the ITCs if they have acquired qualified property in a taxation year.⁶⁶ The ITCs are available to be applied against federal taxes payable three years back and 20 years forward.⁶⁷

This federal tax credit is limited by geographic region to companies with projects in the Atlantic Region of Canada and the Gaspé region of Québec.⁶⁸ Because this program is available only to companies or projects within a designated geographical region within the jurisdiction of the authority providing the subsidy, we preliminarily determine that this program is regionally specific, in accordance with section 771(5A)(D)(iv) of the Act. Further, we preliminarily determine that the tax programs discussed below constitute a financial contribution in the form of revenue forgone, within the meaning of section 771(5)(D)(ii) of the Act.

We also preliminarily determine that a benefit is conferred to Marmen in the amount of the tax credit used to reduce taxes payable under 19 CFR 351.509(a)(1). In accordance with 19 CFR 351.524(c)(1), we are treating this subsidy as a recurring subsidy, and are measuring the benefit as the tax credit applied to the payment of income tax during the POI. In order to calculate the countervailable subsidy rate for Marmen, in accordance with 19 CFR 351.525(b)(6)(i), we divided the amount of the tax credit that Marmen received during the POI, as reflected on its tax return filed during the POI, by Marmen's total sales during the POI, to determine a countervailable subsidy rate for Marmen of 0.02 percent *ad valorem*.⁶⁹

⁶² See GOC IQR at Exhibit GOC-CRA-AITC-3; see also GOC First SQR Part 1 at Exhibit GOC-SUPP1-CRA-AITC-1.

⁶³ See GOC IQR at Exhibits GOC-CRA-AITC-2 and GOC-CRA-AITC-3; see also GOC First SQR Part 1 at Exhibit GOC-SUPP1-CRA-AITC-1.

⁶⁴ *Id.* at Exhibits GOC-CRA-AITC-1 through GOC-CRA-AITC-3.

⁶⁵ *Id.*

⁶⁶ *Id.* at Exhibits GOC-CRA-AITC-1, Standard Questions Appendix, at 4 and GOC-CRA-AITC-3.

⁶⁷ *Id.* Exhibits GOC-CRA-AITC-1, Standard Questions Appendix, at 1 and GOC-CRA-AITC-4.

⁶⁸ *Id.* at Exhibits GOC-CRA-AITC-1, Standard Questions Appendix, at 8

⁶⁹ See Marmen Preliminary Calculation Memorandum.

3. Additional Depreciation for Class 1 Assets

Marmen reported that it used accelerated depreciation under this program to reduce its taxable income during the POI.⁷⁰ Class 1 assets are most buildings purchased after 1987, as well as certain additions or alterations made after 1987.⁷¹ The standard CCA rate for Class 1 is four percent.⁷² Under Class 1, eligible non-residential buildings acquired after March 18, 2007, are eligible for an additional CCA of six percent (for a total of ten percent) if at least 90 percent of an eligible building's floor space is used in manufacturing and processing operations.⁷³ If an eligible non-residential building does not qualify for the additional six percent, it may still qualify for an additional CCA of two percent (for a total of six percent) as long as at least 90 percent of the floor space of the building is used for a non-residential use in Canada.⁷⁴ In summary, if at least 90 percent of an eligible building's floor space is used in manufacturing or processing, a taxpayer may claim additional CCA of 6 percent (for a total of ten percent) or alternatively two percent (for a total of six percent).⁷⁵ The CITR's definition of manufacturing and processing explicitly excludes certain industries from benefitting from this deduction.⁷⁶

We preliminarily determine that the additional depreciation for the Class 1 assets program is *de jure* specific within the meaning of section 771(5A)(D)(i) of the Act because, as a matter of law, eligibility for this tax program is expressly limited to certain industries, *i.e.*, those industries not specifically excluded by CITR's definition of manufacturing and processing.⁷⁷ We preliminarily determine that there is a financial contribution in the form of revenue forgone, within the meaning of section 771(5)(D)(ii) of the Act. We preliminarily determine that the tax credit provides a benefit in the amount of the difference between the tax the company paid and the tax the company would have paid absent the tax credit, as provided in 19 CFR 351.509(a)(1). In the absence of the Class 1 accelerated depreciation provisions, the Class 1 assets acquired would otherwise have been subject to normal, *i.e.*, nonaccelerated, depreciation.⁷⁸ Accordingly, the benefit conferred is the tax savings of the difference between the deduction calculated using the Class 1 accelerated rate of depreciation and the deduction calculated using the standard rate of depreciation.

In accordance with 19 CFR 351.524(c)(1), we are treating this subsidy as a recurring subsidy, and to calculate the tax savings on this difference, we multiplied the difference in the deductions by the effective corporate tax rate of 15 percent plus the provincial tax rate. We then divided the

⁷⁰ See Marmen IQR at Marmen Inc. Response at MARMEN-9, Exhibit CCA1-01, and Exhibit CCA1-04, CCA1-06; and Marmen Énergie Inc. Response at ÉNERGIE-9, Exhibit CCA1-01, Exhibit CCA-02, Exhibit CCA-03, Exhibit CCA1-05, and Exhibit CCA1-07.

⁷¹ See GOC First SQR Part 1 at 37.

⁷² *Id.* at 37 and 57.

⁷³ *Id.* at 37-38 and Exhibit GOC-SUPP1-CRA-CLASS1-1.

⁷⁴ *Id.* at 38 and Exhibit GOC-SUPP1-CRA-CLASS1-1.

⁷⁵ *Id.* at 38.

⁷⁶ See GOC IQR at 16-17 and Exhibit GOC-CRA-CLASS29-2; see also GOC First SQR Part 1 at Exhibits GOC-SUPP1-CRA-CLASS29-1 and GOC-SUPP1-CRA-CLASS1-1.

⁷⁷ *Id.*

⁷⁸ See GOC IQR at 16-17 and Exhibit GOC-CRA-CLASS1-1; see also GOC First SQR Part 1 at 37-38, 57, and Exhibit GOC-CRA-CLASS29-2.

calculated benefit by Marmen's total sales during the POI. On this basis, we preliminarily calculate a net countervailable subsidy rate of 0.08 percent *ad valorem* for Marmen.⁷⁹

Québec

4. Tax Credit for the Acquisition of Manufacturing and Processing Equipment in Québec

Marmen reported receiving assistance under this program during the POI.⁸⁰ The GOQ provides a tax credit for investment in manufacturing or processing equipment. According to the GOQ, this credit was implemented in order to stimulate investments in such equipment and to support certain regions with struggling economies.⁸¹ To qualify for the tax credit, property must, among other things, be manufacturing or processing equipment, be hardware used primarily for manufacturing or processing, or have been acquired after March 20, 2012, for purposes of smelting, refining, or hydrometallurgy activities related to ore extracted from a mineral resource located in Canada.⁸² Where the qualified property was acquired after December 2, 2014, the tax credit for investment is calculated on the portion of eligible expenses that exceeds CAD 12,500. The basic rate of the tax credit for investment is four percent. The rate is increased where the property is acquired to be used primarily in a resource region and based on the size of the business that acquires it.⁸³ Between January 1, 2017, and August 15, 2018, this tax credit was only for eligible investment in a resource region.⁸⁴ This program was previously countervailed in *Uncoated Groundwood Paper from Canada Final Determination*.

We preliminarily determine that the tax credits provided under this program constitute financial contributions in the form of revenue forgone by the GOQ under section 771(5)(D)(ii) of the Act, and this program provides a benefit to the recipient in the amount of the difference between the taxes it paid on the qualified property and the amount of taxes that it would have paid in the absence of this program, pursuant to 19 CFR 351.509(a)(1). We also preliminarily determine that the tax credit is *de jure* specific for property acquired before January 1, 2017, within the meaning of section 771(5A)(D)(i) of the Act because the recipients are limited to companies who purchase qualified manufacturing and processing equipment.⁸⁵ We preliminarily find that the tax credit is geographically specific for property acquired after December 31, 2016, as it is limited to property used mainly in a remote zone, in the eastern part of the Bas-Saint-Laurent region, or in an intermediate zone.⁸⁶ Therefore, we preliminarily find this program countervailable.

⁷⁹ See Marmen Preliminary Calculation Memorandum.

⁸⁰ See Marmen IQR at Marmen Inc. Response at MARMEN-16, Exhibit QCITC-01, Exhibit QCITC-01, Exhibit QCITC-01, Exhibit QCITC-01, Exhibit QCITC-01, Exhibit QCITC-01, Exhibit QCITC-02, Exhibit QCITC-03, Exhibit QCITC-04, Exhibit QCITC-05, Exhibit QCITC-06, Exhibit QCITC-07, and Exhibit QCITC-08, and Marmen Énergie Inc. Response at ÉNERGIE-16, Exhibit QCITC-01, Exhibit QCITC-02, Exhibit QCITC-03, Exhibit QCITC-04, Exhibit QCITC-05, Exhibit QCITC-06, Exhibit QCITC-07, and Exhibit QCITC-08.

⁸¹ See GOQ IQR at Exhibit QC-C85-A.

⁸² *Id.*

⁸³ *Id.*

⁸⁴ *Id.*

⁸⁵ *Id.*

⁸⁶ *Id.*

To measure the benefit, we divided the amount of the tax savings received in the POI by Marmen by its total sales during the POI. On this basis, we preliminarily determine that Marmen received a countervailable subsidy rate of 0.01 percent *ad valorem* under this program.⁸⁷

5. Québec Capital Cost Allowance for Property Used in Manufacturing and Processing

Marmen reported receiving assistance under the Québec Capital Cost Allowance for Property Used in Manufacturing and Processing program (ACCA) during the POI.⁸⁸ This program is available for two classes of property: Class 29 and Class 53.⁸⁹ Class 29 is machinery and equipment acquired after March 18, 2007, and before 2016.⁹⁰ Class 29 assets are eligible for a Capital Cost Allowance rate of 50 percent, according to the straight-line depreciation method.⁹¹ Class 53 is property covered by Class 29 but acquired after December 31, 2015, and before January 1, 2026.⁹² Class 53 assets are eligible for an ACCA rate of 50 percent on a declining-balance basis.⁹³ Certain manufacturing industries are explicitly excluded from benefitting from this deduction (*e.g.*, farming or fishing, logging, construction, mineral extraction, petroleum and natural gas extraction).⁹⁴

We preliminarily determine that the ACCA program is *de jure* specific within the meaning of section 771(5A)(D)(i) of the Act, because, as a matter of law, eligibility for this tax program is expressly limited to certain industries, *i.e.*, those industries not specifically excluded by the program. We preliminarily determine that there is a financial contribution in the form of revenue forgone, within the meaning of section 771(5)(D)(ii) of the Act. We preliminarily determine that the tax credit provides a benefit in the amount of the difference between the tax the company paid and the tax the company would have paid absent the tax credit, as provided in 19 CFR 351.509(a)(1). In the absence of the Class 29 provision, the manufacturing or processing assets acquired would otherwise have been included in Class 43, which is subject to normal, *i.e.*, nonaccelerated, depreciation.⁹⁵ Accordingly, the benefit conferred is the tax savings equal to the difference between the deduction calculated using the Class 29 accelerated rate of depreciation and the deduction calculated using the Class 43 standard rate of depreciation.

In accordance with 19 CFR 351.524(c)(1), we are treating this subsidy as a recurring subsidy, and to calculate the tax savings on this difference, we multiplied the difference in the deductions

⁸⁷ See Marmen Preliminary Calculation Memorandum.

⁸⁸ See Marmen IQR at Marmen Inc. Response at MARMEN-16-17, Exhibit CCA-01, Exhibit CCA-02, Exhibit CCA-08, Exhibit CCA-10; and Marmen Énergie Inc. Response at ÉNERGIE-16 CCA-01-CCA-02, CCA-09, CCA-11.

⁸⁹ See GOQ IQR at Exhibit QC-CCA-1, Standard Questions Appendix at 7.

⁹⁰ *Id.*

⁹¹ *Id.*

⁹² *Id.*

⁹³ *Id.*

⁹⁴ See GOQ IQR at Exhibit QC-CCA-3.

⁹⁵ *Id.* at Exhibit QC-CCA-5.

by the effective provincial corporate tax rate of 11.8 percent.⁹⁶ We then divided the calculated benefit by Marmen's total sales during the POI. On this basis, we preliminarily calculate a net countervailable subsidy of 0.08 percent *ad valorem* for Marmen.⁹⁷

6. Revenue Québec – Additional Depreciation for Class 1a Assets/Additional Depreciation for Building (Class 1)

Marmen reported that it used accelerated depreciation under this program to reduce its taxable income during the POI.⁹⁸ The capital cost allowance for buildings in Class 1 is four percent (the basic rate).⁹⁹ An additional six percent allowance applies when at least 90 percent of a building is used for manufacturing or processing goods for sale or lease.¹⁰⁰ If less than 90 percent of the building is used for manufacturing or processing but at least 90 percent is used for non-residential purposes nonetheless, the additional allowance is two percent, as opposed to six percent.¹⁰¹ The building must be classified as a Class 1 building and have been acquired after March 18, 2007, and must not have been used or acquired for use before March 19, 2007.¹⁰² The program's definition of manufacturing and processing explicitly excludes certain industries from benefitting from this deduction.¹⁰³

We preliminarily determine that the additional depreciation for the Class 1 assets program is *de jure* specific within the meaning of section 771(5A)(D)(i) of the Act, because, as a matter of law, eligibility for this tax program is expressly limited to certain industries, *i.e.*, those industries not specifically excluded by the program.¹⁰⁴ We preliminarily determine that there is a financial contribution in the form of revenue forgone, within the meaning of section 771(5)(D)(ii) of the Act. We preliminarily determine that the tax credit provides a benefit in the amount of the difference between the tax the company paid and the tax the company would have paid absent the tax credit, as provided in 19 CFR 351.509(a)(1). In the absence of the Class 1 accelerated depreciation provisions, the Class 1 assets acquired would otherwise have been subject to the normal, *i.e.*, basic, rate.¹⁰⁵ Accordingly, the benefit conferred is the tax savings equal to the difference between the deduction calculated using the Class 1 accelerated rate of depreciation and the deduction calculated using the basic rate.

In accordance with 19 CFR 351.524(c)(1), we are treating this subsidy as a recurring subsidy, and to calculate the tax savings on this difference, we multiplied the difference in the deductions

⁹⁶ *Id.* at Exhibit GOC-CRA-CLASS29-4; *see also* Marmen IQR, Marmen Inc., at MARMEN-16-17, Exhibit CCA-01, Exhibit CCA-02, Exhibit CCA-08, Exhibit CCA-10; and Marmen Énergie Inc. Response at ÉNERGIE-16 CCA-01-CCA-02, CCA-09, CCA-11.

⁹⁷ *See* Marmen Preliminary Calculation Memorandum.

⁹⁸ *See* Marmen IQR, Marmen Inc. Response at MARMEN-21, Exhibit CCA1-01, Exhibit CCA1-02, Exhibit CCA1-08 and Exhibit CCA1-10; and Marmen Énergie Inc. Response at ÉNERGIE-20, Exhibit CCA1-01, Exhibit CCA1-02, Exhibit CCA1-09, and Exhibit CCA1-19..

⁹⁹ *See* GOQ IQR at Exhibit QC-CCAB-A.

¹⁰⁰ *Id.*

¹⁰¹ *Id.*

¹⁰² *Id.*

¹⁰³ *See* GOQ IQR at Exhibit QC-CCAB-3.

¹⁰⁴ *Id.*

¹⁰⁵ *See* GOQ IQR at Exhibit QC-CCAB-A.

by the effective corporate tax rate of 11.8 percent plus the provincial tax rate. We then divided the calculated benefit by Marmen's total sales during the POI. On this basis, we preliminarily calculate a net countervailable subsidy of 0.06 percent *ad valorem* for Marmen.¹⁰⁶

7. Revenue Québec - Tax Credit for On-The-Job Training

In 1994, the GOQ established a tax credit for on-the-job training, to encourage businesses to hire trainees and improve their professional skills.¹⁰⁷ A corporation that hires a student or an apprentice who is enrolled in a qualified training program can claim a tax credit at a rate of 24 percent for: (1) the salary or wages paid to the student or apprentice; and/or (2) the salary or wages paid to an employee for the hours they devote to supervision of the students and apprentices.¹⁰⁸ Individuals engaged in business activities can also claim the tax credit but the tax credit rates for individuals are reduced by 50 percent, *i.e.*, the credit is available at the rate of 11.8 percent.¹⁰⁹ Marmen received tax refunds under this program during the POI.¹¹⁰

We preliminarily determine that this program constitutes a financial contribution in the form of revenue forgone, within the meaning of section 771(5)(D)(ii) of the Act. Because the actual recipients, which benefited from this tax credit, relative to the total number of tax filers, inclusive of corporations and individuals in business, during the POI, are limited in number on an enterprise basis,¹¹¹ we preliminarily determine that this program is *de facto* specific, in accordance with section 771(5A)(D)(iii)(I) of the Act. The tax incentive conferred a benefit equal to the amount of the tax savings pursuant to 19 CFR 351.509(a)(1). Because this is a recurring subsidy under 19 CFR 351.524(c), we divided the amount of the tax refund received during the POI by Marmen's total sales during the POI. We preliminarily calculate a net countervailable subsidy rate of 0.01 percent *ad valorem* for Marmen.¹¹²

8. Revenue Québec – Tax Credit to Promote Employment in Gaspésie and Certain Maritime Regions of Québec

The Tax Credit to Promote Employment in Gaspésie and Certain Maritime Regions of Québec program was introduced to encourage job creation in selected regions, including the Bas-Saint-Laurent, Cote Nord, and Gaspésie-Iles-de-la-Madeleine regions.¹¹³ To be eligible for the credit, a company must carry out recognized business in one or more of the following sectors of activity: marine biotechnology and mariculture, recreational tourism, processing of marine products, and certain manufacturing.¹¹⁴ For corporations in the marine biotechnology and mariculture sector and recreational tourism sector, the tax credit is refundable at a rate of 30

¹⁰⁶ See Marmen Preliminary Calculation Memorandum.

¹⁰⁷ See GOQ IQR at Exhibit QC-C09-A.

¹⁰⁸ *Id.*

¹⁰⁹ *Id.*

¹¹⁰ See Marmen IQR, Marmen Inc. Response at MARMEN-21, Exhibit INTERNTC-01, Exhibit INTERNTC-02, Exhibit INTERNTC-03, Exhibit INTERNTC-04, Exhibit INTERNTC-05, and Exhibit INTERNTC-06.

¹¹¹ See GOQ IQR at Exhibit QC-C09-17 and Exhibit QC-C09-18.

¹¹² See Marmen Preliminary Calculation Memorandum.

¹¹³ See GOQ IQR at Exhibit QC-C101-A.

¹¹⁴ *Id.*

percent of total salary and eligible wages paid to eligible employees.¹¹⁵ For other sectors, the tax credit is refundable at a rate of 15 percent of total salary and eligible wages paid to eligible employees.¹¹⁶

This provincial tax credit is limited by geographic region to companies in the Bas-Saint-Laurent, Cote Nord, and Gaspesie-Iles-de-la-Madeleine regions.¹¹⁷ Because this program is available only to companies or projects within a designated geographical region within the jurisdiction of the authority providing the subsidy, we preliminarily determine that this program is regionally specific, in accordance with section 771(5A)(D)(iv) of the Act. Further, we preliminarily determine that the tax programs discussed below constitute a financial contribution in the form of revenue forgone, within the meaning of section 771(5)(D)(ii) of the Act. Marmen received tax refunds under this program during the POI.¹¹⁸

We also preliminarily determine that a benefit is conferred to Marmen in the amount of the tax credit used to reduce taxes payable under 19 CFR 351.509(a)(1). In accordance with 19 CFR 351.524(c)(1), we are treating this subsidy as a recurring subsidy, and are measuring the benefit as the tax credit applied to the payment of income tax during the POI. In order to calculate the countervailable subsidy rate for Marmen, in accordance with 19 CFR 351.525(b)(6)(i), we divided the amount of the tax credit that Marmen received during the POI, as reflected on its tax return filed during the POI, by Marmen's total sales during the POI, to determine a countervailable subsidy rate for Marmen of 0.73 percent *ad valorem*.¹¹⁹

B. Programs Preliminary Found Not to Be Countervailable

1. MPPD

The MPPD program provides a deduction to the general corporate tax rate that is available to companies that carry on manufacturing or processing activities in Canada for goods for sale or lease.¹²⁰ Since January 1, 2004, the rate of the deduction for the MPPD has been set at “an amount equal to the corporation's general rate reduction percentage...”¹²¹ In the absence of the MPPD program, or if a company chose not to take the deduction available under the MPPD, the company would still be eligible for the general rate reduction percentage available to all companies.¹²² Given that MPPD is set at a rate equal to the general rate reduction percentage available to all companies, under 19 CFR 351.509(a)(1), for a tax program, “a benefit exists to the extent that the tax paid by a firm as a result of the program is less than the tax the firm would have paid in the absence of the program.” As such, consistent with *Certain Softwood Lumber*

¹¹⁵ *Id.*

¹¹⁶ *Id.*

¹¹⁷ *Id.*

¹¹⁸ See Marmen IQR, Marmen Énergie Inc. Response at ÉNERGIE-21, Exhibit GASPETC-01, Exhibit GASPETC-02, Exhibit GASPETC-03, Exhibit GASPETC-04, Exhibit GASPETC-05, Exhibit GASPETC-06, Exhibit GASPETC-07, and Exhibit GASPETC-08.

¹¹⁹ See Marmen Preliminary Calculation Memorandum.

¹²⁰ See GOC First SQR Part 1 at 15.

¹²¹ *Id.* at 16 and Exhibit GOC-SUPP1-CRA-MPPD-2.

¹²² *Id.* at 15-17 and 36

Products from Canada Final Results of Expedited Review, 2015,¹²³ we preliminarily determine that the MPPD does not confer a benefit to companies at the federal level because a company does not pay less in taxes using the MPPD than it would pay in the absence of the program.

2. CEP

Marmen Inc. self-reported assistance under Emploi Québec's CEP program during the AUL period.¹²⁴ In *Certain Softwood Lumber Final Determination*, Commerce found the CEP program to be not specific, and therefore not countervailable.¹²⁵ Nothing on the record of this investigation would cause Commerce to reconsider the countervailability of this program. As such, consistent with *Certain Softwood Lumber Final Determination*, we continue to find this program not to be countervailable.

C. Programs Preliminarily Determined to Be Tied to Non-Subject Merchandise

1. Sales to the St. Lawrence Seaway Management Corporation

Marmen self-reported the sales of machined parts to the SLSMC, a non-for-profit corporation.¹²⁶ Marmen provided invoices for these sales to demonstrate that the sales to SLSMC was related to machined parts.¹²⁷ On the basis of this information, we preliminarily determine that these sales to the SLSMC are tied to non-subject merchandise. We intend to verify this after the preliminary determination.

2. Hydro Québec – Industrial Systems Program/Hydro-Québec Funding for Lighting

During the POI, Marmen received a grant from Hydro-Québec for the installation of LED lighting at its machining facility in Trois-Rivieres.¹²⁸ To be eligible for this grant, Marmen had to specify the NAICS code for goods produced at the location for the lighting replacement project.¹²⁹ The application and project confirmation documents indicate that the NAICS code for the project applies to machine shops, unrelated to wind tower production.¹³⁰ On the basis of this information, we preliminarily determine that these benefits are tied to non-subject merchandise. We intend to verify this after the preliminary determination.

¹²³ See *Certain Softwood Lumber Products from Canada Final Results of Expedited Review, 2015* and accompanying IDM at 13.

¹²⁴ See Marmen IQR, Marmen Inc. Response at Marmen-23.

¹²⁵ See *Certain Softwood Lumber Products from Canada Preliminary Determination* and accompanying PDM at 91 (“E. Programs Determined To Be Not Countervailable”) (finding that the program is not *de jure* specific because, as a matter of law, it is available to all employers, employees, employee associations, professional groups, and workers subject to collective lay-offs; and that the program is not *de facto* specific because the actual recipients of the assistance is not limited on an enterprise or industry basis), unchanged in *Certain Softwood Lumber Products from Canada Final Determination*.

¹²⁶ See Marmen IQR at Marmen-26 and Exhibit Marmen-07.

¹²⁷ See Marmen Third SQR at Exhibit SALE-03.

¹²⁸ See Marmen IQR at Exhibit HQGRANT-01.

¹²⁹ *Id.*

¹³⁰ *Id.*

3. Sectoral Committee on Labor in Industrial Metallic Manufacturing (PERFORM)

Marmen received funding from PERFORM for worker training programs during the POI and AUL period.¹³¹ Marmen provided email correspondence between itself and PERFORM to demonstrate that this training was related to the Marmen’s machining operations, unrelated to the production of wind towers.¹³² On the basis of this information, we preliminarily determine that these benefits are tied to non-subject merchandise. We intend to verify this after the preliminary determination.

4. Investissement Québec Loan

Marmen qualified for a loan from Investissement Québec for the expansion of Marmen’s machining capacity.¹³³ Marmen provided the proposal document, the loan agreement, and a press release issued by the GOQ to confirm that the loan was tied at the time of bestowal to Marmen’s non-subject merchandise.¹³⁴ On the basis of this information, we preliminarily determine that these benefits are tied to non-subject merchandise. We intend to verify this after the preliminary determination.

5. City of Trois-Rivieres Property Tax Credit

During the POI, Marmen received a property tax credit because the company expanded its machining and fabrication facilities.¹³⁵ Marmen provided the Evaluator’s Certificates, issued by a city inspection upon visiting each property and establishing the value added to each building, confirm that the buildings in question are “machine shops.”¹³⁶ Because the City of Trois-Rivières knew the property tax credit was provided for expansions of the company’s machining and fabrication facilities (not its separate wind tower facility), the assistance is tied to non-subject merchandise. On the basis of this information, we preliminarily determine that these benefits are tied to non-subject merchandise. We intend to verify this after the preliminary determination.

D. Programs Preliminarily Determined Not to Provide Measurable Benefits During the POI

Marmen reported receiving benefits under various programs, some of which were specifically alleged and others of which were self-reported. Based on the record evidence, we preliminarily determine that the benefits from certain programs: (1) were fully expensed prior to the POI; and (2) are less than 0.005 percent *ad valorem* when attributed to the respondent’s applicable sales as discussed above in the “Attribution of Subsidies” section above. Consistent with Commerce’s practice,¹³⁷ we have not included the programs which provided no measurable benefit in our

¹³¹ See Marmen IQR at Exhibit PERFORM-01.

¹³² *Id.*

¹³³ See Marmen IQR at Exhibit IQLOAN-01, IQLOAN-04, and IQLOAN-06.

¹³⁴ *Id.*

¹³⁵ See Marmen IQR at Exhibit TRPTC-01.

¹³⁶ *Id.*

¹³⁷ See, e.g., *CFS from the PRC Final Determination* and accompanying IDM at “Analysis of Programs, Programs Determined Not To Have Been Used or Not To Have Provided Benefits During the POI for GE;” *Steel Wheels from*

preliminary subsidy rate calculations. Therefore, we determine that it is unnecessary for Commerce to make a preliminary determination as to the countervailability of these programs.

For a list of the subsidy programs that do not provide a benefit for each respondent, *see* Appendix II attached to this memorandum.

E. Programs Preliminarily Determined Not to Be Used or Confer a Benefit During the POI

1. Purchase of Wind Towers for MTAR / Québec Local Content Requirements

The Régie de l'énergie establishes blocks of energy produced from wind turbines as a procurement goal and a necessary part of the energy supply in Québec.¹³⁸ The Régie de l'énergie authorizes the GOQ to issue orders with respect to Hydro-Québec Distribution's electricity supply.¹³⁹ Hydro-Québec Distribution is the division of Hydro-Québec responsible for the distribution of electricity.¹⁴⁰ Hydro-Québec is a utility wholly-owned by the GOQ.¹⁴¹ Since 2003, Hydro-Québec Distribution launched calls for tender for the purchase of energy blocks produced by wind farms.¹⁴² As part of these calls for tender, Hydro-Québec Distribution included in its contracts minimum thresholds for expenditures to be incurred in Québec in connection with the wind farms, and for some of the tenders, a minimum expenditure requirement applicable to specific regions of Québec in connection with the manufacture of wind turbines.¹⁴³ These two requirements are contractually defined as regional content and Québec local content.¹⁴⁴ Hydro-Québec Distribution purchased wind power from the electricity supply contracts resulting from its tenders for wind power.¹⁴⁵ Hydro-Québec Distribution does not have a contractual relationship with the wind turbine manufacturers or with the mandatory respondent company that sold towers or tower sections to the wind tower manufacturers.¹⁴⁶

Bidders responding to calls for tender were required to submit projects meeting the minimum expenditure thresholds.¹⁴⁷ Bidders were required to attach a joint declaration with their designated wind turbine manufacturer to the effect they had entered into an agreement for the manufacture and delivery of the wind turbines required for the wind farm.¹⁴⁸ They also had to identify the wind turbine components that the manufacturer promised to have manufactured in

the PRC Final Determination and accompanying IDM at "Income Tax Reductions for Firms Located in the Shanghai Pudong New District;" *Aluminum Extrusions from the PRC 2010-2011 Admin Review Final Results* and accompanying IDM at "Programs Used By the Alnan Companies;" and *CRS from Russia Final Determination* and accompanying IDM at "Tax Deduction for Research and Development Expenses."

¹³⁸ *See* GOQ IQR at 32.

¹³⁹ *Id.*

¹⁴⁰ *Id.* at 30.

¹⁴¹ *Id.* at 38.

¹⁴² *Id.*

¹⁴³ *Id.* at 33.

¹⁴⁴ *Id.*

¹⁴⁵ *Id.*

¹⁴⁶ *Id.* at 39.

¹⁴⁷ *Id.*

¹⁴⁸ *Id.* at 36.

the eligible region or elsewhere in Québec so as to enable an evaluation of the bidders ability to comply with those requirements.¹⁴⁹

Marmen reported that it made sales of wind towers which satisfied the Québec local content requirements during the AUL period.¹⁵⁰ Specifically, Marmen produced its wind towers in Québec, and sold those towers to wind turbine manufacturers, also referred to as OEMs, that, in turn, sold the complete generating set through installation to the wind farm developers, meeting the local content requirements.¹⁵¹ The wind farm developers then sold the wind energy generated from the Marmen-produced wind towers to the Hydro-Québec Distribution.¹⁵²

In the Initiation Checklist, based on the petitioner's allegation, we stated that, in investigating this program, we intended to consider whether the subsidy benefit under the program should be measured pursuant to 19 CFR 351.503 in the form of enhanced revenue or pursuant to section 771(5)(D)(iv) of the Act in the form of purchases of wind towers for MTAR.¹⁵³

Because the alleged program involves the purchases of goods (specifically, an allegation that by imposing the local content requirements, the GOQ "entrusted and directed" wind farm developers within the meaning of section 771(5)(B)(iii) of the Act, through the OEMs, to purchase wind towers manufactured by Marmen in Québec), we examined whether benefits under this program were provided for MTAR. Section 351.512 of Commerce's regulations pertains to the purchase of goods. This section of our regulations is designated as "[Reserved]." We stated in the *Preamble* that this designation was driven by our lack of experience with procurement subsidies, and that, as a result, we "are not issuing regulations concerning the government purchase of goods."¹⁵⁴ We also stated that we expect that any analysis of the adequacy of remuneration will follow the same basic principle set forth under 19 CFR 351.511 for the provision of a good or service, with a focus on what a market-determined price for the good in question would be.¹⁵⁵ In past cases, Commerce generally has treated MTAR benefits as recurring benefits to be allocated in the year of receipt, similar to its treatment of LTAR benefits under 19 CFR 351.511(b) and (c) and 19 CFR 351.524.¹⁵⁶ Following that practice, because Marmen did not make sales of wind towers in Québec during the POI, we preliminarily determine that this program did not confer any benefit on Marmen, and, therefore, was not used by Marmen. As a result, we find that it is unnecessary for Commerce to make a preliminary determination as to the countervailability of this program.

2. Purchase of Wind Towers for MTAR / Ontario Local Content Requirements

The GOO's FIT program was implemented by a September 24, 2009 letter of direction issued from the Minister of the OME pursuant to the EA in order to encourage and promote greater use

¹⁴⁹ *Id.*

¹⁵⁰ *See, e.g.,* Marmen Second SQR Part 2 at LOCAL CONTENT-5 and LCQ-02.

¹⁵¹ *See, e.g.,* Marmen Second SQR Part 2 at LOCAL CONTENT-05.

¹⁵² *Id.*

¹⁵³ *See* Initiation Checklist at 24.

¹⁵⁴ *See Preamble*, 63 FR at 65379.

¹⁵⁵ *Id.*

¹⁵⁶ *See, e.g., Certain Softwood Lumber Final Determination* IDM at 166.

of energy, including from wind power.¹⁵⁷ The FIT program is administered by the IESO (previously by its predecessor, the OPA).¹⁵⁸ In exchange for guaranteed, long-term pricing for the electricity generated by wind farms, versions 1 and 2 of the FIT program required that FIT suppliers (*i.e.*, renewable energy facility developers including wind farm developers) achieve a minimum local content level of up to 50 percent for wind power facilities with a capacity greater than 10 kW.¹⁵⁹ The EA contained a requirement that the Minister of the OME issue directions that set out goals relating to local (*i.e.*, Ontario) content to be achieved until such a requirement was repealed.¹⁶⁰ Pursuant to the EA, the FIT rules applicable to versions 1 and 2 of the FIT program specified the local content requirements.¹⁶¹ Further, the FIT contracts applicable to such versions of the FIT program listed 18 designated activities to carry out in Ontario to meet such requirements.¹⁶² According to the GOO, as an alternative, the FIT suppliers could meet the local content requirements by using steel plate made in Ontario which was formed and shaped into wind towers elsewhere.¹⁶³ That is, wind tower manufacturers outside of Ontario could produce wind towers for use by FIT suppliers whose FIT contract was subject to local content requirements using steel plates made in Ontario that were formed and shaped into wind towers outside of Ontario.¹⁶⁴

Though the local content requirements were only in effect between September 9, 2009 and July 23, 2014 under versions 1 and 2 of the FIT program, FIT suppliers with contracts under such versions of the FIT program continued to be subject to the local content requirements under those contracts.¹⁶⁵ Marmen reported that it sold wind towers using steel plate manufactured in Ontario for wind farm projects subject to the local content requirements under versions 1 and 2 of the FIT program during the POI.¹⁶⁶ Specifically, Marmen reported that in order to sell wind towers in Ontario which contribute to satisfying the local content requirements, Marmen was required by its OEM customer to purchase steel plates from a third-party Ontario steel mill.¹⁶⁷ The OEM customers then sold the complete wind power generating set to the wind farm developers to meet the local requirements. Additionally, Marmen reported that the wind farm developer earned credit (9%) under the FIT program from the Ontario-produced steel in

¹⁵⁷ See GOO IQR at ON-27.

¹⁵⁸ See GOO First SQR at ON-3

¹⁵⁹ See GOO IQR at ON-27 – ON-32 and Exhibits ON-FIT-4 and ON-FIT-5; see also GOO Third SQR at ON-1.

¹⁶⁰ *Id.* at ON-27 – ON-28 and Exhibits ON-FIT-1-A and ON-FIT-1-B.

¹⁶¹ *Id.* at ON-28, ON-31 and Exhibits ON-FIT-4 and ON-FIT-5. According to the GOO, the later versions of the FIT program (versions 3 through 5) does not have the local content requirements. *Id.* at ON-28 – ON-29 and Exhibits ON-FIT-6 through ON-FIT-8.

¹⁶² *Id.* at ON-32 and Exhibits ON-FIT-4 and ON-FIT-5. According to the GOO, the later versions of the FIT program (versions 3 through 5) does not have the local content requirements. *Id.* at ON-28 – ON-29 and Exhibits ON-FIT-6 through ON-FIT-8; see also GOO IQR at ON-32.

¹⁶³ *Id.* at ON-32.

¹⁶⁴ *Id.*

¹⁶⁵ See GOO Second SQR at ON-14 – ON-15.

¹⁶⁶ See Marmen Third SQR at Exhibit 6; Marmen Fourth SQR at Exhibit Supp-03; and Marmen Comments – Pre-Prelim at 11.

¹⁶⁷ See Marmen Second SQR Part 2 at LCONTENT-13, LCONTENT-17, LCONTENT-22 – LCONTENT-24 and Exhibits LCO-01 and LCO-02; Marmen Third SQR at Exhibit 6; Marmen Fourth SQR at Exhibit Supp-03; and GOO Third SQR at ON-2.

Marmen's wind towers.¹⁶⁸ Marmen also indicated that OEMs purchased wind towers from other North American wind tower producers outside of Ontario aside from Marmen, and required such producers to source steel from Ontario in order to earn the 9% credit, including U.S. producers.¹⁶⁹

Although bearing some similarity to the GOQ's local content requirement program discussed above, the petitioner alleges that by imposing the local content requirements under the FIT program, the GOO "entrusted and directed" Ontario wind farm developers within the meaning of section 771(5)(B)(iii) of the Act, through the OEMs, to purchase wind towers manufactured by Marmen in Québec which utilized Ontario-produced steel.

We note that the FIT program was previously the subject of a WTO dispute. The United States, participating as a third-party in that dispute, described the program as follows:

The FIT program thus combines two different policy objectives - encouraging the production of wind and solar electricity, *and localizing production in Ontario of the equipment to generate that electricity at the expense of manufacturers in the rest of Canada and the rest of the world*. In the present dispute, the Panel found that the Government of Ontario imposes domestic content requirements as a condition for accessing the FIT program. In this case, where in addition to encouraging the increased production and use of green electricity, the Government of Ontario also seeks to localize production in Ontario *at the expense of producers in the rest of Canada and the rest of the world*, a finding of financial contribution and benefit will also result in a finding of a prohibited subsidy. In analyzing if there is a benefit, there is no basis in the text for taking into account Ontario's policy objectives in a benchmark. Conversely, absent the Government of Ontario's domestic content requirement, a proper benchmark would not appear to result in a finding that the FIT program is a prohibited subsidy.¹⁷⁰

The United States also recognized: "{T}he undisputed fact that solar and wind producers, due to much higher costs, would not enter the Ontario electricity market but for the FIT program. By making a financial contribution that allows otherwise unviable producers to enter the market, the FIT program clearly confers a benefit."¹⁷¹

As recognized by the United States, the benefits under the FIT program which were discussed in that dispute were provided to local wind electricity producers in Ontario, either through production of wind electricity equipment or the steel used in such equipment, at the expense of

¹⁶⁸ See Marmen Second SQR Part 2 at LCONTENT-26; Marmen Third SQR at 13; and GOO Second SQR at ON-13 and ON-14.

¹⁶⁹ See GOO IQR at ON-32 ("{O}ne FIT Supplier whose FIT Contract was subject to local content requirements used steel plates made in Ontario that were formed and shaped into wind towers at the Vestas tower manufacturing facility in Pueblo, Colorado"); see also Marmen Comments – Pre Prelim at 11 and Footnote 28.

¹⁷⁰ Third Participant Oral Statement of the United States of America, *Canada-Certain Measures Affecting The Renewable Energy Generation Sector* (AB-2013-1/DS412) (Mar. 14, 2013), at 4 (emphasis added) (Exhibit 3 of Petitioner's Pre-Prelim Comments).

¹⁷¹ *Id.* at 3.

(or to the detriment) of non-Ontario producers. Here, Marmen is not a wind electricity producer located in Ontario, nor is it a producer of wind electricity equipment in Ontario or a producer of steel used in such equipment located in Ontario. Rather, the record demonstrates that Marmen is a wind tower producer located in Québec. Further, the record demonstrates that certain of Marmen’s sales to Ontario through the OEMs qualified as Local Content sales because its towers were manufactured using Ontario-produced steel, at the request of the OEM customer. Additionally, Marmen has reported that the program requirements present a burden, not a benefit.¹⁷² Moreover, the record does not demonstrate that, but for the FIT program, Marmen would not be able to make sales in Ontario, in the same way that Ontario wind producers would not enter the Ontario electricity market but for the FIT program, as discussed above.

Based on the foregoing, we preliminarily find that Marmen, as a wind tower producer located outside of Ontario, does not benefit under the FIT program. We also preliminarily find that there is insufficient evidence to demonstrate that the GOO has “entrusted and directed” Ontario wind farm developers, through the OEMs, to purchase wind towers manufactured by Marmen which confers a benefit on Marmen. As a result, we preliminarily find that this program did not provide a financial contribution or confer a benefit on Marmen, and, therefore, was not used by Marmen.

3. Other Assistance

Marmen reported non-use of certain programs on which Commerce initiated. For a list of the subsidy programs not used by each respondent, *see* Appendix II attached to this memorandum.

VIII. RECOMMENDATION

We recommend that you approve the preliminary findings described above.

Agree

Disagree

12/6/2019

X 

Signed by: JEFFREY KESSLER

Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance

¹⁷² *See* Marmen Comments – Pre Prelim at 8.

APPENDIX I

A. ACROYNM AND ABBREVIATION TABLE

This section is sorted by Complete Name.

Acronym/Abbreviation	Complete Name
ACCA	Accelerated Capital Cost Allowances
AD	Antidumping Duty
AFFR	Affiliation Response
AJCTC	Apprenticeship Job Creation Tax Credit
AITC	Atlantic Investment Tax Credit
AUL	Average Useful Life
CCA	Capital Cost Allowance
CITA	Canadian Income Tax Act
CITR	Canadian Income Tax Regulation
CRA	Canada Revenue Agency
CEP	Consultations for Employment Program
CVD	Countervailing Duty
EA	Electricity Act, 1998
EDC	Export Development Canada
EFSEI	Export Financing for Steel Export Insurance
EFSL	Export Financing for Steel Loans
EFSLG	Export Financing for Steel Loan Guarantees
EGP	Export Guarantee Program
FACCA	Federal Accelerated Capital Cost Allowances
FAITCCE	Federal Affairs and International Canada CanExport
FAJCTC	Federal Apprenticeship Job Creation Tax Credit
FIT	Feed-In Tariff
FR	Federal Register
FSREDTC	Federal Scientific Research and Experimental Development Tax Credit
GOC	Government of Canada
GOO	Government of Ontario
GOQ	Government of Québec
HTSUS	Harmonized Tariff Schedule of the United States
ITA	Income Tax Act
ITR	Income Tax Regulations
IESO	Independent Electricity System Operator
IQR	Initial Questionnaire Response
IDM	Issues and Decision Memorandum
ITC	Investment Tax Credit
kW	Kilowatt
LTAR	Less than adequate remuneration

Marmen	Marmen Inc., Marmen Énergie Inc., and Gestion Marmen, Inc.
MPPD	Manufacturing and Processing Profits Deduction
MTAR	More Than Adequate Remuneration
NFI	New Factual Information
NSA	New Subsidy Allegation
NAICS	North American Industry Classification System
OME	Ontario Ministry of Energy
OPA	Ontario Power Authority
POI	Period of Investigation
PDM	Preliminary Decision Memorandum
QR	Questionnaire Response
SLSMC	St. Lawrence Seaway Management Corporation
SMB	Small and Medium-Sized Businesses
SQR	Supplemental Questionnaire Response
The Act	Tariff Act of 1930, as Amended
CBP	U.S. Customs and Border Protection
Commerce	U.S. Department of Commerce
USITC	U.S. International Trade Commission
Wind Towers	Utility Scale Wind Towers
COALITION	Wind Tower Trade Coalition <i>a.k.a.</i> the petitioner or Petitioner

B. ADMINISTRATIVE DETERMINATIONS AND NOTICES TABLE

Short Citation	Administrative Case Determinations
<i>Initiation Notice</i>	<i>See Utility Scale Wind Towers from Canada, Indonesia, and the Socialist Republic of Vietnam: Initiation of Countervailing Duty Investigations, 84 FR 38216 (August 6, 2019)</i>
<i>Aluminum Extrusions from the PRC 2010-2011 Admin Review Final Results</i>	<i>Aluminum Extrusions from the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2010 and 2011</i>
<i>Certain Pasta from Italy</i>	<i>Certain Pasta from Italy: Final Results of Countervailing Duty Administrative Review; 2012, 80 FR 11172 (March 2, 2015)</i>
<i>Certain Softwood Lumber Products from Canada Preliminary Determination</i>	<i>Certain Softwood Lumber Products from Canada: Preliminary Affirmative Countervailing Duty Determination, and Alignment of Final Determination with Final Antidumping Duty Determination, 82 FR 19657 (April 28, 2017)</i>
<i>Certain Softwood Lumber Products from Canada Final Determination</i>	<i>Certain Softwood Lumber Products from Canada: Final Affirmative Countervailing Duty Determination, and Final Negative Determination of Critical Circumstances, 82 FR 51814 (November 8, 2017)</i>

<i>Uncoated Groundwood Paper from Canada Preliminary Determination</i>	<i>Certain Uncoated Groundwood Paper from Canada: Preliminary Affirmative Countervailing Duty Determination, and Alignment of Final Determination with Final Antidumping Duty Determination, 83 FR 2133 (January 16, 2018)</i>
<i>Uncoated Groundwood Paper from Canada Final Determination</i>	<i>Certain Uncoated Groundwood Paper from Canada: Final Affirmative Countervailing Duty Determination, 83 FR 39414 (August 9, 2018)</i>
<i>CFS from the PRC Final Determination</i>	<i>Coated Free Sheet Paper from the People’s Republic of China: Final Affirmative Countervailing Duty Determination, 72 FR 60645 (October 25, 2007)</i>
<i>Steel Wheels from the PRC Final Determination</i>	<i>Certain Steel Wheels from the People’s Republic of China: Final Affirmative Countervailing Duty Determination, Final Affirmative Critical Circumstances Determination, 77 FR 17017 (March 23, 2012)</i>
<i>CRS from Russia Final Determination</i>	<i>Countervailing Duty Investigation of Certain Cold-Rolled Steel Flat Products from the Russian Federation: Final Affirmative Countervailing Duty Determination and Final Negative Critical Circumstances Determination, 81 FR 49935 (July 29, 2016)</i>
<i>CVD Preamble</i>	<i>Countervailing Duties; Final Rule, 63 FR 65348 (November 25, 1998)</i>
<i>ITC Preliminary Determination</i>	<i>Utility Scale Wind Towers from Canada, Indonesia, Korea, and Vietnam, 84 FR 45171 (August 28, 2019).</i>
<i>Postponement</i>	<i>Utility Scale Wind Towers from Canada, Indonesia, and the Socialist Republic of Vietnam: Postponement of Preliminary Determinations in the Countervailing Duty Investigations, 84 FR 48329 (September 13, 2019)</i>
<i>Preamble</i>	<i>Countervailing Duties; Final Rule, 63 FR 65347 (November 25, 1998)</i>
<i>Shrimp from India</i>	<i>Certain Frozen Warmwater Shrimp from India: Final Affirmative Countervailing Duty Determination, 78 FR 50385 (August 19, 2013)</i>
<i>Certain Softwood Lumber Products from Canada Final Results of Expedited Review, 2015</i>	<i>Certain Softwood Lumber Products from Canada: Final Results of Countervailing Duty Expedited Review, 84 FR 32121 (July 5, 2019)</i>
<i>Certain Pasta from Italy; 2014 Preliminary Results</i>	<i>Pasta from Turkey: Preliminary Results of Countervailing Duty Administrative Review; 2014, 81 FR 52825 (August 10, 2016), and accompanying PDM at “Investment Encouragement Program (IEP): Customs Duty and VAT Exemptions,” unchanged in <i>Pasta from Turkey: Final Results of Countervailing Duty Administrative Review; 2014, 81 FR 90775 (December 15, 2016)</i></i>

C. CASE-RELATED DOCUMENTS

This section is sorted by Short Citation.

Emphasis, symbols, and short site setups were removed from all document titles.

Short Citation	Complete Document Title
CBP Data Release Letter	Commerce’s Letter, “Utility Scale Wind Towers from Canada Countervailing Duty Petition: Release of Customs Data from U.S. Customs and Border Protection,” dated July 22, 2019
Consultations Memorandum	Memorandum, “Consultations with Government Officials from the Government of Canada on the Countervailing Duty Petition Regarding Utility Scale Wind Towers from Canada,” dated July 24, 2019
Extension of Factual Information Submission Memorandum	Memorandum, “Extension of Time to Submit Factual Information on the Record of the Countervailing Duty Investigation on Utility Scale Wind Towers from Canada,” dated November 5, 2019
GOC Comments – NSA	GOC’s Letter, “Government of Canada’s Comments on Petitioner’s New Subsidy Allegation Utility Scale Wind Towers from Canada (C-122-868),” dated September 30, 2019
GOC IQR	GOC’s Letter, “Section II Questionnaire Response of the Government of Canada for Federal Programs Utility Scale Wind Towers from Canada (C-122-868),” dated October 9, 2019
GOC First SQR Part 1	GOC’s Letter, “Countervailing Duty Investigation of Utility Scale Wind Towers from Canada: Response of the Government of Canada to the First Supplemental Questionnaire,” dated November 8, 2019
GOC First SQR Part 2	GOC’s Letter, “Countervailing Duty Investigation of Utility Scale Wind Towers from Canada: Response of the Government of Canada to Questions 5 and 14 of the First Supplemental Questionnaire,” dated November 12, 2019
GOC First SQR Part 3	GOC’s Letter, “Countervailing Duty Investigation of Utility Scale Wind Towers from Canada: Response of the Government of Canada to the First Supplemental Questionnaire,” dated November 14, 2019
GOC Second SQR	GOC’s Letter, “Countervailing Duty Investigation of Utility Scale Wind Towers from Canada: Response of the Government of Canada to the Second Supplemental Questionnaire,” dated November 5, 2019
GOO IQR	GOO’s Letter, “Utility Scale Wind Towers from Canada: Initial Questionnaire Response” dated October 9, 2019; and “Utility Scale Wind Towers from Canada: Exhibits ON-FIT-1 through ON-FIT-3,” dated October 10, 2019
GOO First SQR	GOO’s Letter, “Utility Scale Wind Towers from Canada: First Supplemental Questionnaire Response,” dated November 6, 2019

GOO Second SQR	GOO's Letter, "Utility Scale Wind Towers from Canada: Second Supplemental Questionnaire Response," dated November 20, 2019
GOO Third SQR	GOO's Letter, "Utility Scale Wind Towers from Canada: Third Supplemental Questionnaire Response," dated November 26, 2019
GOQ Comments – NSA	GOQ's Letter, "Utility Scale Wind Towers from Canada: the Government of Québec's Comments on Petitioner's New Subsidy Allegations," dated September 26, 2019
GOQ Comments – Pre-Prelim	GOQ's Letter, "Utility Scale Wind Towers from Canada: The Government of Québec's Pre-Preliminary Comments," dated November 27, 2019
GOQ Factual Information	GOQ's Letter, "Utility Scale Wind Towers from Canada: Government of Québec Submission of Factual Information," dated November 15, 2019
GOQ First SQR	GOQ's Letter, "Utility Scale Wind Towers from Canada: the Government of Québec's Response to the Department's First Supplemental Questionnaire," dated November 6, 2019
GOQ IQR	GOQ's Letter, "Utility Scale Wind Towers from Canada: the Government of Québec's Response to the Department's August 28, 2019 Initial Questionnaire," dated October 9, 2019
GOQ Second SQR	GOQ's Letter, "Utility Scale Wind Towers from Canada: the Government of Québec's Response to the Department's Second Supplemental Questionnaire," dated November 22, 2019
Initial Questionnaire	Commerce's Letter to the GOC (and the mandatory respondents), "Countervailing Duty Investigation of Utility Scale Wind Towers from Canada: Countervailing Duty Questionnaire," dated August 28, 2019
Initiation Checklist	Memorandum, "Countervailing Duty Investigation Initiation Checklist: Utility Scale Wind Towers from Canada," July 29, 2019
Marmen AFFR	Marmen's Letter, "Utility Scale Wind Towers from Canada: Affiliated Companies Response," September 11, 2019
Marmen Benchmark Submission	Marmen's Letter, "Utility Scale Wind Towers from Canada: Benchmark Submission," dated November 15, 2019
Marmen Comments – Pre-Prelim	Marmen's Letter, "Utility Scale Wind Towers from Canada: Pre-Preliminary Determination Comments," dated November 20, 2019
Marmen First SQR	Marmen's Letter, "Response to First Supplemental Questionnaire," September 25, 2019
Marmen Fourth SQR	Marmen's Letter, "Response to the November 15, 2019, Fourth Supplemental Questionnaire," November 22, 2019
Marmen IQR	Marmen's Letter, "Utility Scale Wind Towers from Canada: Section III Response," dated October 9, 2019
Marmen Preliminary Calculation Memorandum	Memorandum, "Preliminary Determination of the Countervailing Duty Investigation on Utility-Scale Wind Towers from Canada: Preliminary Determination Calculations for Marmen Inc., Marmen Énergie Inc., and their cross-owned affiliates," dated concurrently with this memorandum

Marmen Request for Clarification and Notification of Potential Reporting Difficulties	Marmen's Letter, "Utility Scale Wind Towers from Canada: Request for Clarification of the Questionnaire and Notification of Potential Reporting Difficulties," dated September 11, 2019
Marmen Second Request for Clarification	Marmen's Letter, "Utility Scale Wind Towers from Canada: Request for Extension of Time to Respond to Question 3 of the Second Supplemental Questionnaire and Request for Clarification of the Questionnaire," dated September 30, 2019
Marmen Second SQR Part 1	Marmen's Letter, "Response to Questions 1A, 1B, 2, and 4 through 7 of the September 25, 2019, Supplemental Questionnaire," October 2, 2019
Marmen Second SQR Part 2	Marmen's Letter, "Utility Scale Wind Towers from Canada: Response to Question 2.B and the "local content requirement" questions of Section III General Questions of the Department's Countervailing Duty Questionnaire, and Questions 1.C, 3, and 8-17 of the Second Supplemental Questionnaire," October 15, 2019
Marmen Third SQR	Marmen's Letter, "Response to Third Supplemental Questionnaire," November 7, 2019
NSA Questionnaire – Petitioner	Commerce's Letter, "Utility Scale Wind Towers from Canada: New Subsidy Allegations Supplemental Questions," dated October 22, 2019
NSA Submission	Petitioner's Letter, "Utility Scale Wind Towers from Canada: New Subsidy Allegation," dated September 16, 2019
Petition	Petitioner's Letter, "Petitions for the Imposition of Antidumping Duties and Countervailing Duties on Utility Scale Wind Towers from Canada, Indonesia, the Republic of Korea, and the Socialist Republic of Vietnam," dated July 9, 2019
Petitioner Comments – GOQ IQR	Petitioner's Letter, "Utility Scale Wind Towers from Canada: Submission of Supplemental Questions for the Department's Consideration," dated November 15, 2019
Petitioner Comments – Marmen's Notification of Reporting Difficulties	Petitioner's Letter, "Utility Scale Wind Towers from Canada: Response to Marmen's Notification of Reporting Difficulties," dated September 17, 2019
Petitioner Comments – Pre-Prelim	Petitioner's Letter, "Utility Scale Wind Towers from Canada: Petitioner's Pre-Preliminary Determination Comments," dated November 15, 2019
Petitioner Factual Information – Rebuttal	Petitioner's Letter, "Utility Scale Wind Towers from Canada: Rebuttal Factual Information on the Government of Canada's Section II Response," dated October 23, 2019
Petitioner NSA QR	Petitioner's Letter, "Utility Scale Wind Tower from Canada: Response to New Subsidy Allegations Supplemental Questionnaire," dated October 24, 2019
Petitioner Request – Alignment	Petitioner's Letter, "Utility Scale Wind Towers from Canada: Request to Align Countervailing Duty Investigation Final Determination with Antidumping Duty Investigation Final Determination," dated November 27, 2019

Petitioner Request – Postponement	Petitioner’s Letter, “Utility Scale Wind Towers from Canada: Request to Postpone Preliminary Determination,” dated August 30, 2019
Respondent Selection Memorandum	Memorandum, “Countervailing Duty Investigation of Utility Scale Wind Towers from Canada: Respondent Selection,” dated August 21, 2019
Supplemental Questionnaire – GOC I	Commerce’s Letter, “Countervailing Duty Investigation of Utility Scale Wind Towers from Canada: First Supplemental Questionnaire,” dated October 28, 2019
Supplemental Questionnaire – GOC II	Commerce’s Letter, “Countervailing Duty Investigation of Utility Scale Wind Towers from Canada: Second Supplemental Questionnaire,” dated October 31, 2019
Supplemental Questionnaire – GOO I	Commerce’s Letter, “Countervailing Duty Investigation of Utility Scale Wind Towers from Canada: First Supplemental Questionnaire,” dated October 28, 2019
Supplemental Questionnaire – GOO II	Commerce’s Letter, “Countervailing Duty Investigation of Utility Scale Wind Towers from Canada: Second Supplemental Questionnaire,” dated November 14, 2019
Supplemental Questionnaire – GOO III	Commerce’s Letter, “Countervailing Duty Investigation of Utility Scale Wind Towers from Canada: Third Supplemental Questionnaire,” dated November 19, 2019
Supplemental Questionnaire – GOQ I	Commerce’s Letter, “Countervailing Duty Investigation of Utility Scale Wind Towers from Canada: First Supplemental Questionnaire,” dated October 28, 2019
Supplemental Questionnaire – GOQ II	Commerce’s Letter, “Countervailing Duty Investigation of Utility Scale Wind Towers from Canada: {Second} Supplemental Questionnaire,” dated November 15, 2019
Supplemental Questionnaire – Marmen I	Commerce’s Letter, "Countervailing Duty Investigation of Utility Scale Wind Towers from Canada: Supplemental Questionnaire for Marmen Inc. and Marmen Énergie Inc." dated September 18, 2019
Supplemental Questionnaire – Marmen II	Commerce’s Letter, "Countervailing Duty Investigation of Utility Scale Wind Towers from Canada: Questions Regarding Marmen Inc.’s and Marmen Énergie Inc.’s Request for Clarification of the Questionnaire and Notification of Potential Reporting Difficulties," dated September 25, 2019
Supplemental Questionnaire – Marmen III	Commerce’s Letter, "Countervailing Duty Investigation of Utility Scale Wind Towers from Canada: Questions Regarding Marmen Inc.’s and Marmen Énergie Inc.’s Request for Clarification of the Questionnaire and Notification of Potential Reporting Difficulties," dated October 25, 2019
Supplemental Questionnaire – Marmen IV	Commerce’s Letter, "Countervailing Duty Investigation of Utility Scale Wind Towers from Canada: Supplemental Questionnaire," dated November 15, 2019

D. MISCELLANEOUS TABLE (REGULATORY, COURT CASES, ARTICLES, ETC.)

Short Citation	Complete Title
<i>FFC</i>	Fabrique de Fer de Charleroi, SA v. United States, 166 F. Supp. 2d 593, 600-604 (CIT 2001)
IRS Pub 946	U.S. Internal Revenue Service Publication 946 (2008), "How to Depreciate Property," at Table B-2: Table of Class Lives and Recovery Periods
SAA	The Statement of Administrative Action, URAA, H. Doc. 316, Vol. 1, 103d Cong. (1994)

APPENDIX II

NOT-USED AND NOT-MEASURABLE PROGRAMS

Marmen

Programs Preliminarily Determined Not to Provide Measurable Benefits to Marmen During the POI

Count	Title
	Government of Canada Programs
1	Federal Apprenticeship Job Creation Tax Credit
	Province of Québec Programs
2	Revenue Québec - Additional Deduction for Depreciation of Goods Used in Manufacturing, Processing or Computer-Related Activities
3	Land purchases and Leases / Land Transactions in Trois-Rivieres
4	Ministry of Economy and Innovation (MEI) - Export Program
5	Emploi Québec - Mesure: Formation de la Main-D'Oeuvre volet Entreprises (MFOR)
6	Emploi Québec - Le Programme d'aide à l'intégration des Immigrants et des Minorités Visibles en Emploi (PRIME)
7	Emploi Québec: Subvention salariale / Insertion en employ / Emploi Québec - Wage Assistance
8	Carrefour Jeunesse Emploi (Wage Assistance)

Programs Preliminarily Determined Not to Be Used or Confer a Benefit by Marmen During the POI

Count	Title
	Government of Canada Programs
1	Foreign Affairs and International Trade Canada CanExport Program
2	Export Guarantee Program
3	Export Development Canada Export Financing for Steel Loans
4	Export Development Canada Export Financing for Steel Loan Guarantees
5	Export Development Canada Export Financing for Steel Export Insurance
6	Federal Accelerated Capital Cost Allowances for Class 43.1 and 43.2 Assets
7	Federal Scientific Research and Experimental Development Tax Credit
8	Export Development Canada Export Financing for Steel Export Insurance
	Province of Ontario Programs
9	Ontario Employer Trainer Grant (Canada-Ontario Job Grant)
10	Independent Electricity System Operator (IESO) Demand Response
11	Purchase of Wind Towers for MTAR / Ontario Local Content Requirements

	Province of Québec Programs
12	Hydro Québec Interruptible Electricity Option Program
13	Hydro Québec Electricity Discount Program for Capital Investments
14	Hydro Québec Electricity Discount Program for Industrial Users
15	ESSOR Program - Investment Projects Support Component Grants
16	ÉcoPerformance - MERN (TEQ)/ Energy Efficiency Conversion Projects
17	ESSOR Program - Investment Projects Support Component Loans
18	ESSOR Program - Investment Projects Support Component Loan Guarantees
19	Québec Tax Holiday for Large Investment Projects
20	Québec Columbia Scientific Research and Experimental Development Tax Credit
21	Transport Québec: Programme visant la réduction des émissions de GES par le développement du transport intermodal / Reduction Assistance Program to avoid greenhouse gas emissions by the development of intermodal transport
22	Purchase of Wind Towers for MTAR / Québec Local Content Requirements