

Alert | International Trade



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Duties Imposed on Imports of Wind Towers

Imports of wind towers from India, Malaysia, and Spain are now subject to antidumping duties (AD) and countervailing duties (CVD) upon entry into the United States. These duties are being imposed as a result of preliminary determinations by the U.S. Department of Commerce (Commerce) in AD and CVD investigations into wind towers designed to support the nacelle and rotor blades in a wind turbine with a minimum electrical power generation capacity in excess of 100 kw and with a minimum height of 50 meters.¹

Wind towers from Spain are subject to an additional 73% duty, from Malaysia a 6.32% duty, and from India a 3.74% additional duty.² Importantly, these current rates are cash deposit rates; final duty liability

¹ The complete description of the covered products is as follows: Wind towers, whether or not tapered, and sections thereof, are designed to support the nacelle and rotor blades in a wind turbine with a minimum-rated electrical power generation capacity in excess of 100 kilowatts and with a minimum height of 50 meters (164 feet) measured from the base of the tower to the bottom of the nacelle when fully assembled. A wind tower section consists of, at a minimum, multiple steel plates rolled into cylindrical or conical shapes and welded together (or otherwise attached) to form a steel shell, regardless of coating, end-finish, painting, treatment, or method of manufacture, and with or without flanges, doors, or internal or external components attached to the wind tower section. Several wind tower sections are normally required to form a completed wind tower. Specifically excluded from the scope are (1) nacelles and rotor blades, regardless of whether they are attached to the wind tower; (2) any internal or external components that are not attached to the wind towers or sections thereof, unless those components are shipped with the tower sections.

² The following Indian companies received individually calculated rates: Vestas Wind Technology India Private Limited: 3.74%. The other companies that received an individual rate, based on adverse facts available, of 397.16% are: Naiks Brass & Iron Works, Nordex India Pvt, Prommada Hindustan, Suzion Energy, Vinayaka Energy Tek, Wish Energy Solutions Pvt Ltd., and Zeeco India Pvt. Ltd.

may increase or decrease based on Commerce's administrative reviews of the rates that take place in 2022-2023.

Agency Next Steps

On June 10, 2021, the U.S. International Trade Commission (ITC) will hold a public hearing in the final phase of its investigation of injury to U.S. industry. It is expected that the ITC and Commerce will issue final determinations, with duty rates, between July and September 2021.

Duties will continue to apply to imports of wind towers from the investigated countries for at least the next five years, but the duty rates may vary in the future based on Commerce's administrative reviews.

Importer Next Steps

Importers need to be aware that shipments of wind towers within the scope of the order are now subject to the increased duties, even though only preliminary, not final, determinations have been made. Note that it is a violation of U.S. law to have AD and/or CVD duties reimbursed by a foreign supplier. However, language can be added to downstream U.S. customer agreements regarding AD/CVD duties. Importers should also be careful to understand the scope of the merchandise covered under the order, as not all wind towers are subject to the new duties.

Finally, importers may wish to mitigate the additional duty burden. Mitigation strategies may include:

- Use "first sale" valuation, which is a duty savings program that shrinks the value of the imported merchandise, thereby reducing the duty liability.
- Determine whether certain components of the value declared at entry can legally be deducted to lower duty liability.
- Use a Foreign Trade Zone (FTZ), which is considered outside the commerce of the United States. An FTZ would defer, but not reduce, duty payments.
- Consider participating in Commerce's administrative reviews to seek lower duty rates.

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