

Court of International Trade Upholds Injury Determination in Wind Towers Trade Case

June 17, 2014

Washington, DC – Judge Mark A. Barnett of the U.S. Court of International Trade (USCIT) today upheld a federal agency’s determination that the U.S. utility scale wind tower industry is threatened with material injury by reason of unfairly traded imports from China and Vietnam. Today’s ruling out of New York ensures that the antidumping and countervailing duties imposed on these imports in 2013 will remain in place.

“We are very pleased with the Court’s decision,” said Alan H. Price, chair of Wiley Rein’s International Trade Practice and lead counsel to the Wind Tower Trade Coalition (W TTC). He added that the court’s ruling “ensures that the U.S. industry and its workers will have a full and fair opportunity to recover from the devastation caused by unfair price competition from Chinese and Vietnamese wind tower producers.”

The W TTC, a coalition of U.S. producers of utility scale wind towers, filed petitions with the U.S. International Trade Commission (ITC) and U.S. Department of Commerce (DOC) on December 29, 2011, alleging that certain Chinese and Vietnamese wind towers were being sold in the United States at unfairly traded prices, and that these sales were injuring the U.S. wind tower industry. The petitions covered utility scale wind towers with a minimum height of 50 meters that are designed to support turbines with generating capacities in excess of 100 kilowatts.

Based on the petitions, the agencies initiated antidumping and countervailing duty investigations regarding the Chinese and Vietnamese imports. DOC concluded that the imports were indeed being sold at unfair prices and on January 18, 2013, the ITC issued a final determination that the unfairly priced imports threatened to

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materially injure the U.S. wind tower industry. DOC then imposed antidumping and countervailing duties on wind towers imported from China and Vietnam in amounts equal to the dumping/subsidy margins that it had earlier calculated.

Shortly after duties were imposed, affected foreign wind tower producers—along with a U.S. importer—appealed the ITC’s threat finding to the USCIT. In today’s ruling, Judge Barnett found that plaintiffs had failed to show that the ITC’s decision was not an affirmative threat finding as a matter of law, or to show that the agency lacked substantial record evidence to support its determination. The ruling ensures that these imports will remain subject to trade duties until at least 2018.