



Canada Border  
Services Agency

Agence des services  
frontaliers du Canada

4214-26 (AM)  
AD/1385  
4218-27  
CVD/125

OTTAWA, September 8, 2009

## **STATEMENT OF REASONS**

**Concerning the initiation of investigations into the dumping and subsidizing of**

### **CERTAIN OIL COUNTRY TUBULAR GOODS ORIGINATING IN OR EXPORTED FROM THE PEOPLE'S REPUBLIC OF CHINA**

## **DECISION**

Pursuant to subsection 31(1) of the *Special Import Measures Act*, the President of the Canada Border Services Agency initiated investigations on August 24, 2009, respecting the alleged injurious dumping and subsidizing of oil country tubular goods originating in or exported from the People's Republic of China, made of carbon or alloy steel, welded or seamless, heat-treated or not heat-treated, regardless of end finish, having an outside diameter from 2 3/8 inches to 13 3/8 inches (60.3 mm to 339.7 mm), meeting or supplied to meet American Petroleum Institute (API) specification 5CT or equivalent standard, in all grades, excluding drill pipe and excluding seamless casing up to 11 3/4 inches (298.5 mm) in outside diameter.

Cet énoncé des motifs est également disponible en français. Veuillez consulter la section "Information".  
This Statement of Reasons is also available in French. Please refer to the "Information" section.

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## **SUMMARY**

[1] On July 14, 2009, the Canada Border Services Agency (CBSA) received a written complaint from Tenaris Canada Inc. of Calgary, Alberta, Evraz Inc. NA Canada of Regina, Saskatchewan and Lakeside Steel Corporation of Welland, Ontario (the “Complainants”) alleging that imports of certain oil country tubular goods (“OCTG”) originating in or exported from the People’s Republic of China (“China”) are being dumped and subsidized and causing injury to the Canadian industry.

[2] On July 24, 2009, pursuant to subsection 32(1) of the *Special Import Measures Act* (SIMA), the CBSA informed the Complainants that the complaint was properly documented. The CBSA also notified the government of China (“GOC”) that a properly documented complaint had been received and provided the GOC with the non-confidential version of the subsidy portion of the complaint.

[3] The Complainants provided evidence to support the allegations that OCTG from China have been dumped and subsidized. The evidence also discloses a reasonable indication that the dumping and subsidizing have caused injury and are threatening to cause injury to the Canadian industry producing these goods.

[4] On August 14, 2009 consultations were held with the GOC in Beijing pursuant to Article 13.1 of the *Agreement on Subsidies and Countervailing Measures*. During these consultations, China made representations with respect to its views on the evidence presented in the non-confidential version of the subsidy portion of the complaint.<sup>1</sup>

[5] On August 24, 2009, pursuant to subsection 31(1) of SIMA, the President of the CBSA (President) initiated investigations respecting the dumping and subsidizing of OCTG from China.

## **INTERESTED PARTIES**

### **Complainant**

[6] The Complainants are major producers of OCTG in Canada, accounting for almost all production of like goods in the domestic industry. The Complainants’ goods are produced at manufacturing facilities in Sault Ste. Marie and Welland, Ontario, Regina, Saskatchewan and also in Red Deer, Calgary and Camrose, Alberta.

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<sup>1</sup> Excluding sections dealing with normal value, export price, margin of dumping and surrogate country information.

The names and addresses of the Complainants are:

Tenaris Canada  
Tenaris Global Services Inc.  
TenarisAlgomaTubes  
TenarisPrudential  
530 8 Ave SW, Suite 400  
Calgary, Alberta T2P 3S8

Evraz Inc. NA Canada  
P.O. Box 1670  
100 Armour Road  
Regina, Saskatchewan S4P 3C7

Lakeside Steel Corporation  
160 Dain Avenue, P.O. Box 1010  
Welland, Ontario L3B 5Y6

[7] One other small producer of like goods, Welded Tube of Canada Partnership, in Concord, Ontario was not included as a Complainant, nor has it expressed any view to date, for or against the complaint. Welded Tube of Canada produces welded OCTG specifications.

#### **Exporters**

[8] The CBSA identified 106 potential exporters of the subject goods from CBSA import documentation and from information submitted in the complaint.

#### **Importers**

[9] The CBSA has identified 51 potential importers of the subject goods from CBSA import documentation and from information submitted in the complaint.

#### **Government of China**

[10] For the purposes of this investigation, "Government of China" refers to all levels of government, i.e. federal, central, provincial/state, regional, municipal, city, township, village, local, legislative, administrative or judicial, singular, collective, elected or appointed. It also includes any person, agency, enterprise, or institution acting for, on behalf of, or under the authority of any law passed by, the government of that country or that provincial, state or municipal or other local or regional government.

## **PRODUCT INFORMATION**

### **Definition**

[11] For the purpose of this investigation, the subject goods are defined as:

Oil country tubular goods originating in or exported from the People's Republic of China, made of carbon or alloy steel, welded or seamless, heat-treated or not heat-treated, regardless of end finish, having an outside diameter from 2  $\frac{3}{8}$  inches to 13  $\frac{3}{8}$  inches (60.3 mm to 339.7 mm), meeting or supplied to meet American Petroleum Institute (API) specification 5CT or equivalent standard, in all grades, excluding drill pipe and excluding seamless casing up to 11  $\frac{3}{4}$  inches (298.5 mm) in outside diameter.

### **Additional Product Information**

[12] Oil country tubular goods (OCTG) are carbon or alloy steel pipes used for the exploration and exploitation of oil and natural gas. The product definition includes certain casing, tubing, tubular products for use in the production of OCTG ("green tubes"), coupling stock, and non-prime and secondary pipes ("limited service products"). The product definition does not include seamless casing originating in or exported from the People's Republic of China in sizes with an outside diameter not exceeding 11  $\frac{3}{4}$  inches (298.5 mm) since these products are already subject to a finding by the Canadian International Trade Tribunal (Tribunal) in NQ-2007-001. The product definition also does not include unattached couplings and stainless steel products.

[13] Casing is used to prevent the walls of an oil or gas well from collapsing, both during drilling and after the well has been completed. Tubing is used within the casing to convey oil and gas to the surface.

[14] Both OCTG casing and tubing must be able to withstand outside pressure and internal yield pressures within an oil or gas well. They must also have sufficient joint strength to hold their own weight and must be equipped with threads sufficiently tight to contain the well pressure where lengths are joined. Threading may be performed by the manufacturer or a third party threading operation.

[15] OCTG tubing and casing include both heat-treated and not heat-treated grades. Heat-treated grades are more sophisticated grades of pipes and are used in deeper wells and more severe environments such as low temperature services, sour service, heavy oil recovery, etc. These grades are made beginning with the use of a specific chemistry in the steel (either in billet for the seamless process or the steel coil in the Electric Resistance Welded process) and are transformed in the heat-treatment process to attain certain combinations of mechanical properties and/or resistance to corrosion and environmental cracking.

[16] For example, heat-treatment is used to confer maximum strength (N80, P110, Q125), high-strength with low ductility (normally proprietary enhancements of API grades), or high-strength combined with resistance to corrosion and environmental cracking (L80, CR13, C90, C95, C110, T95 and proprietary enhancements).

[17] The most common grades of low-strength casing/tubing include J/K55 and H40.

[18] Typical casing and tubing end finishes include: plain end, beveled, external upset ends, non-upset ends, threaded, or threaded and coupled. As previously stated, unattached couplings are not subject to this investigation.

[19] OCTG subject to this investigation meet or are supplied to meet American Petroleum Institute (API) specification 5CT, in all grades including and not limited to, H40, J55, K55, M65, N80, L80, L80 HC, L80 Chrome 13, L80 LT, L80 SS, C90, C95, C110, P110, P110 HC, P110 LT, T95, T95 HC, and Q125, or proprietary grades manufactured as substitutes for these specifications.

[20] Subject goods also include green tubes and coupling stock. A tube for which the API 5CT specification requires additional processing such as heat-treatment and/or testing is referred to in the industry as a "green tube". A green tube for a higher strength grade can have a chemistry that meets a lower grade like H40 or J55 that does not require heat-treatment, and could just be tested and threaded to meet the lower grade. Coupling stock is a seamless thick-wall tube intended for use in the manufacture of coupling blanks.

### **Production Process**

[21] OCTG casing and tubing are made on the same production equipment according to the production process (i.e. seamless OCTG is made on different equipment from welded OCTG).

[22] Canadian seamless tubing and casing is produced by first forming a central cavity in a solid steel billet (shell) that has the chemistry required to meet the grade of the final product. The shell is then rolled on a retained mandrel and reduced in a stretch reduction mill to produce the finished size before cooling on a walking beam cooling bed.

[23] The Electric Resistance Welded (ERW) process begins with a steel sheet (coil) that has been slit from coils of flat steel sheet into the desired width that will determine the outside diameter. The slit sheet is then bent and welded to form a tube. The wall thickness is defined by the coil thickness and the outside diameter is defined by the coil width.

[24] The production machinery used to make pipe in the ERW process are an uncoiler, end-welder, accumulator, breakdown stands, forming cage, fin stands, weld station and internal diameter/outside diameter trim equipment, seam annealers, pull-out stand quench section, mill sonic testing, sizing section, turkshead stand and flying cutoff machine.

[25] Certain specifications require normalization (heat-treatment) to be transformed into the appropriate grade. The heat-treatment transforms the microstructure of the pipe to meet the higher API specifications.

[26] All tubes are then straightened, inspected and threaded on both ends. Inspection includes Nondestructive Examination (NDE) by Electro-magnetic inspection (EMI) and, in some cases, Ultrasonic (UT) inspection processes for longitudinal and transverse defects. A special

inspection by Magnetic Particle Inspection is done at the end areas. Samples from each production heat will be cut and tested for hardness, tensile, impact, microstructure and corrosion properties. Wall thickness verification and drift tests will be conducted. A hydro test will assure appropriate yield strength and wall thickness.

[27] From this point, there are certain minor differences in finishing. Generally, a coupling and coupling protector is applied to one end of the casing or tubing and thread protectors are applied to the other end, making the OCTG ready for shipment. In cases where the client wishes to employ its own choice of premium connection, Canadian producers will supply a plain-end product. This product is shipped to the customer's preferred third party threader who will then thread the premium connection. Tubing requires that the pipe ends be upset and normalized before threading, to ensure a stronger connection with the coupling.<sup>2</sup>

### **Classification of Imports**

[28] The subject goods are usually classified under the following 26 Harmonized System (HS) classification codes:

|               |               |
|---------------|---------------|
| 7304.29.00.31 | 7306.29.10.29 |
| 7304.29.00.39 | 7306.29.10.31 |
| 7304.29.00.51 | 7306.29.10.39 |
| 7304.29.00.59 | 7306.29.10.41 |
| 7304.29.00.61 | 7306.29.10.49 |
| 7304.29.00.69 | 7306.29.90.11 |
| 7304.29.00.71 | 7306.29.90.19 |
| 7304.29.00.79 | 7306.29.90.21 |
| 7304.39.10.00 | 7306.29.90.29 |
| 7304.59.10.00 | 7306.29.90.31 |
| 7306.29.10.11 | 7306.29.90.39 |
| 7306.29.10.19 | 7306.29.90.41 |
| 7306.29.10.21 | 7306.29.90.49 |

[29] The listing of HS codes is for convenience of reference only. Refer to the product definition for authoritative details regarding the subject goods.

### **LIKE GOODS**

[30] Subsection 2(1) of SIMA defines "like goods", in relation to any other goods, as goods that are identical in all respects to the other goods, or in the absence of identical goods, goods for which the uses and other characteristics closely resemble those of the other goods.

[31] OCTG produced by the domestic industry compete directly with and have the same end uses as the subject goods imported from China. The goods produced in Canada and China are completely substitutable. Therefore, the CBSA has concluded that the OCTG produced by the Canadian industry constitute like goods to the subject goods.

<sup>2</sup> Complaint Narrative (NC) – Page 8.

[32] OCTG can be considered as a single class of goods. Although the subject goods may be further differentiated in terms of casing and tubing, seamless and welded, those differences relate more to product size and tolerances to environmental stresses, rather than differences in its principal usage. The Tribunal has previously recognized OCTG as a single class of goods in NQ-2007-001 respecting certain seamless carbon or alloy steel oil and gas well casing (Seamless Casing).

### **THE CANADIAN INDUSTRY**

[33] The Complainants are estimated to account for about 99% of the entire domestic production of OCTG.

#### **Standing**

[34] SIMA requires that the following conditions be met in order to initiate an investigation:

- the complaint is supported by domestic producers whose production represents more than fifty per cent of the total production of like goods by those domestic producers who express either support for or opposition to the complaint; and
- the production of the domestic producers who support the complaint represents twenty-five per cent or more of the total production of like goods by the domestic industry.

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

### **CANADIAN MARKET**

[36] The Complainants stated that both domestically produced goods and imported subject goods are generally sold to oilfield supply distributors that, in turn, sell the products to end-users. Some sales are made directly to large volume end-users (oil and gas operating companies) without passing through a distributor. Shipments of OCTG are made primarily from stockyards or stock points that are situated throughout the major petroleum exploration regions. These stock points are owned and maintained by independent oilfield hauling companies that use the inventory in their yards as the basis for their hauling business. Either the manufacturer or distributor may own the inventory. However, for some projects, the pipes are delivered directly from the manufacturer to the project location rather than from stock on the ground in stock yards.

[37] The Complainants provided estimates respecting the Canadian market for OCTG. These figures are based on their own domestic sales reports and on publicly available import data obtained through Statistics Canada.

[38] The CBSA conducted its own analysis of imports of goods under the applicable tariff classification numbers based on actual import data from CBSA documentation. The

classification numbers under which the subject goods are imported encompass the scope of subject goods with only minor overlap on non-subject goods.<sup>3</sup>

[39] A review of CBSA import data demonstrated similar trends and volumes with respect to subject good imports to those provided by the Complainants.

[40] Detailed information regarding the volume of subject imports and domestic production cannot be divulged for confidentiality reasons. The CBSA has, however, prepared the following table to show the estimated import share of subject OCTG in Canada.

**CBSA Estimates of Import Share**  
**(By Volume)**

| <b>Country</b>        | <b>2006</b> | <b>2007</b> | <b>2008</b> | <b>Q1-Q2<br/>2009</b> |
|-----------------------|-------------|-------------|-------------|-----------------------|
| Imports China         | 34.7%       | 26.6%       | 52.9%       | 69.3%                 |
| Imports U.S.A.        | 39.7%       | 26.7%       | 18.0%       | 21.4%                 |
| Other Country Imports | 25.6%       | 46.7%       | 29.1%       | 9.3%                  |
| <b>Total Imports</b>  | <b>100%</b> | <b>100%</b> | <b>100%</b> | <b>100%</b>           |

**EVIDENCE OF DUMPING**

[41] The Complainants allege that subject goods from China have been injuriously dumped into Canada. Dumping occurs when the normal value of the goods exceeds the export price to importers in Canada. The Complainants provided information to support the allegation that the OCTG sector in China may not be operating under competitive market conditions and as such, normal values should be determined under section 20 of SIMA. This included reference to the CBSA's previous section 20 determination in respect of its Seamless Casing final determination on February 7, 2008.

[42] Normal values are generally based on the domestic selling price of like goods in the country of export where competitive market conditions exist, or on the full cost of the goods plus a reasonable amount for profit. If there is sufficient reason to believe that conditions described in section 20 of SIMA exist in the sector under investigation, normal values may be based on the selling price or cost of like goods in another country designated by the President, or on the basis of the facts available.

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

[44] Estimates of normal value and export price are discussed below.

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<sup>3</sup> For example, the tariff classifications for casing with an outside diameter above 11 ¾ inches may include goods that are also over 13 ¾ inches, the latter of which would be non-subject to this investigation.

## Normal Value

[45] The Complainants have provided information supporting a request that a section 20 inquiry should be initiated in investigating their allegation of injurious dumping of the subject goods. For this reason and due also to the lack of available information, the Complainants did not provide any analysis regarding the domestic selling price of OCTG in China.

[46] The Complainants proposed the use of the United States (U.S.) as a surrogate country in part on the basis that the U.S. market for OCTG is the most transparent in the world with publicly available pricing available on a monthly basis. The Complainants also supported the use of the U.S. as a surrogate country given that both it and China are of comparable market size (recognized as the two largest consumers of OCTG in the world).

[47] Accordingly, the Complainants' estimate of normal values for subject goods was constructed on the basis of a surrogate country, using published U.S. domestic OCTG prices.

[48] The Complainants used a deductive methodology to estimate normal values, beginning with the published U.S. domestic prices from distributors to end-users. Those prices were then adjusted using figures supported by documentation provided to account for the distributor's commission and for inland freight. The Complainants were thus able to arrive at a normal value estimate using the U.S. values. Estimates of normal values were provided for models of OCTG that represent a major proportion of goods normally sold in Canada by the Complainants.

[49] For the purpose of its analysis, the CBSA estimated normal values using a 'cost-plus' methodology. This is a constructive methodology based on an estimated full cost of the goods plus an amount for profit, for goods produced and sold in a competitive market. The CBSA used the Complainants' submission on costs as the basis for its estimate.

[50] Although the Complainants did not provide a detailed breakdown of production costs by grade (i.e. J55, N80 etc.), they did provide sufficient aggregate information of estimated costs by both the seamless and welded production methods. This allowed the CBSA to construct a normal value estimate, using these costs of production as a reference.

[51] The CBSA took information provided by the Complainants in respect of the relevant cost factors and constructed costs which were then adjusted downward. In so doing, the CBSA reduced the Complainants' substrate (billet and coil) cost estimates as well as the tube production cost premium. This formed the basis for the CBSA's cost-based normal value estimations.

[52] While relying on the costs provided by the Complainants in constructing this normal value estimation, the CBSA also reviewed available source material in an attempt to validate the most significant cost components of the subject goods. In the case of seamless products, the major input cost is the billet and in the case of welded products, the major input cost is the steel coil.

[53] However, the fluctuating price for raw material inputs such as iron ore and coking coal in 2008 make this analysis difficult. This is particularly so given the spike in price for these

materials in the middle of 2008, where the rise in production costs led in large part to the substantial increase in prices for further processed goods, including billets and steel coils. Those prices then began a downward trend at the end of 2008 and into Q1-2009. This downward trend was the basis for the CBSA's downward adjustment to the costs estimated by the Complainants.

[54] In addition, the CBSA accepted the Complainants' estimation for labour which was calculated at 6% of actual Canadian labour costs.

[55] In estimating normal values, the CBSA used conservative estimates for profit and general selling and administrative expenses (GS&A) to mitigate its use of estimated costs that may exceed the actual cost of production for the POI. To this extent, the CBSA agreed with the Complainants' estimates for these factors as being conservative and calculated them in accordance with their estimates.

### **Export Price**

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

[57] The Complainants estimated export prices of the selected specifications of subject OCTG based on actual re-sale prices in Canada with which the Complainants had to compete. From these prices, the Complainants deducted estimated commissions and freight charges to arrive at an estimated ex-factory net export price in China. An estimated export price was calculated for each of the specifications selected by the Complainants.

[58] The CBSA relied on actual import data from its internal information system to estimate export prices. The CBSA's review included commercial invoices during the period of July 1, 2008 through June 30, 2009.

[59] It is clear from this documentation that the majority of sales involve at least one intermediary party or vendor from the time the goods are exported from China and imported into Canada. Consequently, the Canadian importer's purchase price from the identified vendor of the subject goods is unlikely to represent the true 'export price' of the goods under SIMA. Rather, this transaction value will reflect the 'export price' plus incremental costs incurred by the vendor(s) and an amount for profit earned on its sale to Canada.

[60] For the purposes of obtaining a more accurate export price estimate, the CBSA's estimation of export prices included a sample of invoices involving only direct sales from parties resident in China to importers in Canada.

## Estimated Margins of Dumping

[61] The CBSA estimated margins of dumping by comparing its estimates of normal values (based on the cost-plus methodology), with the export prices obtained from actual CBSA import data.

[62] Based on this analysis, it is estimated that the subject goods from China were dumped. The overall weighted average margin of dumping is estimated to be 11.6 %, expressed as a percentage of export prices.

## MARGIN OF DUMPING AND VOLUME OF DUMPED GOODS

[63] Under section 35 of SIMA, if, at any time before the President makes a preliminary determination, the President is satisfied that the margin of dumping of the goods of a country is insignificant or the actual and potential volume of dumped goods of a country is negligible, the President must terminate the investigation with respect to that country.

[64] Pursuant to subsection 2 (1) of SIMA, a margin of dumping of less than 2% of the export price is defined as insignificant and a volume of dumped goods is considered negligible if it accounts for less than 3% of the total volume of goods that are released into Canada from all countries that are of the same description as the dumped goods.

[65] On the basis of the estimated margins of dumping and the import data for the period of July 1, 2008 to June 30, 2009, summarized in the table below, the estimated margin of dumping and the estimated volume of dumped goods are above the thresholds outlined above.

### **ESTIMATED MARGIN OF DUMPING AND IMPORTS OF SUBJECT OCTG July 1, 2008 to June 30, 2009**

| <b>Country</b>       | <b>Estimated share of Total Imports by volume</b> | <b>Estimated Margin of Dumping as % Export Price</b> |
|----------------------|---|--|
| China                | 63.7%   | 11.6%  |
| USA                  | 16.9%   | N/A*   |
| Other Countries      | 19.4%   | N/A*   |
| <b>Total Imports</b> | <b>100%</b>                                       | <b>N/A*</b>  |

\*N/A indicates Not Applicable.

## SECTION 20 INQUIRY

[66] Section 20 is a provision under SIMA that may be applied to determine the normal value of goods in an anti-dumping investigation where certain conditions prevail in the domestic market of the exporting country. In the case of a prescribed country under paragraph 20(1)(a) of SIMA,<sup>4</sup> it is applied where, in the opinion of the President, the government of that country

<sup>4</sup> China is a prescribed country under SIM Regulation 17.1 for purposes of this provision.

substantially determines domestic prices and there is sufficient reason to believe that the domestic prices are not substantially the same as they would be in a competitive market.

[67] As previously noted, the Complainants have provided information to support the section 20 allegations that the steel industry in China, including the subject goods, does not operate under competitive market conditions and consequently, prices established in the Chinese domestic market for OCTG are not reliable for determining normal values. The Complainants have relied heavily on the CBSA's final determination on Seamless Casing in support of this position.

[68] The Complainants allege that the conditions of section 20 of SIMA apply to the OCTG steel sector in China due to the "substantial evidence of control of domestic prices" by the GOC.<sup>5</sup> The Complaint noted the significant degree of state ownership in the Chinese OCTG steel sector as part of this allegation.<sup>6</sup>

[69] The information currently available to the CBSA indicates that there are numerous GOC industrial policies that have been implemented which influence the steel sector in China, including the OCTG sector. In previous section 20 inquiries, the GOC's National Steel Policy has been found to strongly influence the decisions of steel enterprises in China. The GOC's 2009 Steel Revitalization/Rescue Plans provide further directives on the steel industry in China to sustain the domestic market, improve the export environment, limit the gross steel output of the Chinese industry, expedite the elimination of out-dated capacity and focus on the development of high-end steel products that meet international specifications.

[70] With respect to the OCTG steel product segment, the CBSA has information that shows that the prices of OCTG products may be significantly affected by the GOC actions and as a result, prices of OCTG in China are not substantially the same as they would be if they were determined in a competitive market.

[71] Consequently, on August 24, 2009, the CBSA initiated a section 20 inquiry based on the information available in order to determine whether the conditions set forth in paragraph 20(1)(a) of SIMA prevail in the steel OCTG sector in China. A section 20 inquiry refers to the process whereby the CBSA collects information from various sources so that the President may, on the basis of this information, form an opinion regarding the presence of the conditions described under section 20 of SIMA, in the sector under investigation.

[72] As part of this section 20 inquiry, the CBSA sent section 20 questionnaires to all known exporters and producers of OCTG in China, as well as to the GOC requesting detailed information related to the steel OCTG sector in China. In addition, the CBSA requested that producers in other countries, who are not subject to the present investigation, provide domestic pricing and costing information concerning OCTG.

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<sup>5</sup> Complaint Narrative (NC), page 13.

<sup>6</sup> Complaint Narrative (NC), page 14.

[73] In the event that the President forms the opinion that domestic prices in the steel OCTG sector are substantially determined by the GOC and there is sufficient reason to believe that the domestic prices are not substantially the same as they would be if they were determined in a competitive market, the normal values of the goods under investigation will be determined, where such information is available, on the basis of the domestic price or cost of the like goods sold by producers in any country designated by the President and adjusted for price comparability; or the selling price in Canada of like goods imported from a designated country and adjusted for price comparability.

### **EVIDENCE OF SUBSIDIZING**

[74] In accordance with SIMA, a subsidy exists if there is a financial contribution by a government of a country other than Canada that confers a benefit on persons engaged in the production, manufacture, growth, processing, purchase, distribution, transportation, sale, export or import of goods. A subsidy also exists in respect of any form of income or price support within the meaning of Article XVI of the *General Agreement on Tariffs and Trade*, 1994, being part of Annex 1A to the *World Trade Organization (WTO) Agreement*, that confers a benefit.

[75] Pursuant to subsection 2(1.6) of SIMA, a financial contribution exists where:

- a) practices of the government involve the direct transfer of funds or liabilities or the contingent transfer of funds or liabilities;
- b) amounts that would otherwise be owing and due to the government are exempted or deducted or amounts that are owing and due to the government are forgiven or not collected;
- c) the government provides goods or services, other than general governmental infrastructure, or purchases goods, or;
- d) the government permits or directs a non-governmental body to do any thing referred to in any of paragraphs (a) to (c) above where the right or obligation to do the thing is normally vested in the government and the manner in which the non-governmental body does the thing does not differ in a meaningful way from the manner in which the government would do it.

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

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

- a) there is exclusive use of the subsidy by a limited number of enterprises;
- b) there is predominant use of the subsidy by a particular enterprise;

- c) disproportionately large amounts of the subsidy are granted to a limited number of enterprises; and
- d) the manner in which discretion is exercised by the granting authority indicates that the subsidy is not generally available.

[78] For purposes of a subsidy investigation, the CBSA refers to a subsidy that has been found to be specific as an “actionable subsidy”, meaning that it is countervailable.

[79] The Complainants have alleged that the subject goods originating in China have benefited from actionable subsidies provided by various levels of the GOC, which may include the governments of the respective provinces in which the exporters are located, and from the governments of the respective municipalities in which the exporters are located. In support of their allegations, the Complainants have provided documents such as CBSA’s Statements of Reasons for various investigations,<sup>7</sup> a U.S. countervailing duty investigation,<sup>8</sup> relevant Chinese laws and regulations, media sources and government reports.<sup>9</sup>

[80] Due to the scarcity of publicly available information regarding subsidy programs in China, the Complainants were unable to provide exhaustive information regarding all subsidy programs. Instead, the details and terms of the alleged countervailable subsidy programs were generally described and the documents that formed the basis for these allegations were included in the complaint.

### **Programs Being Investigated**

[81] In reviewing the information provided by the Complainants and obtained by the CBSA through its own research, the CBSA has developed the following list of programs and incentives that may be provided to manufacturers of the subject goods in China:

1. Special Economic Zones (SEZ) and other Designated Areas Incentives;
2. Grants;
3. Equity Programs;
4. Preferential Loan Programs;
5. Preferential Income Tax Programs;
6. Relief from Duties and Taxes on Materials and Machinery;
7. Reduction in Land Use Fees; and
8. Goods/Services Provided by the Government at Less than Fair Market Value.

[82] A full listing of all programs to be investigated by the CBSA, as well as the reasons for their investigation, may be found **Appendix 1**. As explained in more detail therein, there is sufficient reason to believe that these programs may constitute actionable subsidies provided by the GOC and that the exporters and producers of the subject goods benefit from these programs.

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<sup>7</sup> See Appendices 9, 11 & 26 of the complaint.

<sup>8</sup> See Appendix 13 of the complaint, DOC initiation memorandum regarding certain OCTG from China.

<sup>9</sup> See Appendix 12 of the complaint.

[83] In the case of programs where an enterprise's eligibility or degree of benefit is contingent upon export performance or the use of goods that are produced or originate in the country of export, such programs may constitute prohibited subsidies under SIMA.

[84] For those programs where incentives are provided to enterprises operating in specified areas such as the Pudong New Area of Shanghai or Special Economic Zones, the CBSA considers that these may constitute actionable subsidies for the reason that eligibility is limited to enterprises operating in such regions.

[85] As well, the CBSA is satisfied that there is sufficient evidence indicating that the exporters of subject goods may receive benefits under programs in the form of grants, preferential loans, relief from duties or taxes, and provision of goods and services that are not generally granted to all companies in China.

[86] The CBSA will investigate whether such programs constitute actionable subsidies.

### **Programs Not Being Investigated**

[87] The following 12 alleged subsidy programs were identified by the Complainants under the category of "grants". Based on the CBSA's analysis, these 12 subsidy programs will not form part of this investigation:

- A. Grant for Key Enterprises in Equipment Manufacturing Industry of Zhongshan<sup>10</sup>
- B. Training Program for Rural Surplus Labor Force Transfer Employment<sup>11</sup>
- C. Inward Remittance of Export Earnings
- D. Interest Subsidies for Loans Secured by Tax Refund Accounts<sup>12</sup>
- E. Special Support Fund for Non-State-Owned Enterprises
- F. State Fund with Interest Discount
- G. Support Fund for Key Commercial and Industrial Enterprises<sup>13</sup>
- H. Innovation Fund for Medium and Small Business
- I. Special Project Support Fund
- J. Special Fund for Brand Development<sup>14</sup>
- K. Key Export Enterprise Assistance Fund<sup>15</sup>

<sup>10</sup> According to the *Notice of Issuing "Method for Determination of Key Enterprises in Equipment Manufacturing Industry of Zhongshan"*, *Zhong Fa (2005) No. 127*, only enterprises located in Zhongshan, Guangdong province may qualify for this program.

<sup>11</sup> According to the *Implemental Scheme of Training Program for Rural Surplus Labor Force Transfer Employment of Taishan City from the Year 2005 to 2009*, only enterprises located in Taishan, Guangdong province may qualify for this program.

<sup>12</sup> See Exhibits 34 (*Investing in China: Incentives Offered by Local Governments*) and 37 (*Investment Guide to Zhengzhou, Henan Province*) of Appendix 12 of the complaint. Only FIEs located in Zhengzhou, Henan province may qualify for Programs C and D.

<sup>13</sup> See Exhibit 35 (*Notions Concerning Accelerating the Growth of the Non-State-Owned Economy, Yunan Province*) of Appendix 12 of the complaint. Only enterprises located in Hunan province may qualify for Programs E, F and G.

<sup>14</sup> See Exhibits 38, 41 and 42 of Appendix 12 of the complaint.

<sup>15</sup> See Exhibit 36 (*Measures for Managing Xiamen's Key Export Enterprise Assistance Fund*) of Appendix 12 of the complaint. Only enterprises located in Xiamen, Fujian province may qualify for this program.

L. Matching Funds for International Market Development for Small and Medium-sized Enterprises (SMEs)

[88] Eight of the programs (Programs A to G and K) are location-specific programs and none of the identified OCTG producers are located in those specific regions. Three of the programs (Programs H, I and J) were found to be generally available to all SMEs and to not be specific in accordance with subsection 7.1 of SIMA. Furthermore, Program L was found to be a duplication of one of the programs to be investigated.<sup>16</sup>

[89] Two other programs: *Hot-rolled Steel Provided by Government at Less than Fair Market Value* and *Purchase of Goods from State-owned Enterprises*, were also identified by the Complainants. Based on the CBSA's analysis, the program *Purchase of Goods from State-owned Enterprises* was found to be identical to the program *Raw Materials Provided by Government at Less than Fair Market Value*. As a result, the CBSA will only investigate one program.

[90] The above-mentioned programs will not be investigated by the CBSA unless sufficient information is provided to justify their investigation. In this respect, the CBSA may further examine the location-specific subsidy programs in the event that similar programs are found in the areas where the identified OCTG producers are located.

### **Conclusion**

[91] Sufficient evidence is available to support the allegation that the subsidy programs outlined in **Appendix I** are available to exporters and producers of the subject goods in China. In investigating these programs, the CBSA will request information from the GOC, exporters and producers to determine whether these programs are "actionable subsidies" and, therefore, countervailable under SIMA.

### **Estimated Amount of Subsidy**

[92] The Complainants allege that these programs significantly lower the cost of production of the subject goods; however, the Complainants were unable to accurately assess the value of the alleged subsidies on a per-unit basis, due to a scarcity of available information.

[93] For purposes of this initiation, the CBSA estimated the amount of subsidy conferred to producers of the subject goods by comparing their cost of production, as estimated by the CBSA, with the average selling prices of like goods sold in the Chinese domestic market.

[94] The CBSA's analysis of the information indicates that goods imported into Canada during the period from January 1, 2008 to June 30, 2009, were subsidized and that the estimated average amount of subsidy is equal to 31.9% of the export price of the subject goods.

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<sup>16</sup> Program L is identical to the program *Export Assistance Grant*.

## AMOUNT OF SUBSIDY AND VOLUME OF SUBSIDIZED GOODS

[95] Under section 35 of SIMA, if, at any time before the President makes a preliminary determination, the President is satisfied that the amount of subsidy on the goods of a country is insignificant or the actual and potential volume of subsidized goods of a country is negligible, the President must terminate the investigation with respect to that country. Under subsection 2(1) of SIMA, an amount of subsidy of less than 1% of the value of the goods is considered insignificant and a volume of subsidized goods of less than 3% of total imports is considered negligible, the same threshold for the volume of dumped goods.

[96] However, according to section 41.2 of SIMA, the President is required to take into account Article 27.10 of the *WTO Agreement on Subsidies and Countervailing Measures* when conducting a subsidy investigation. This provision stipulates that a countervailing duty investigation involving a developing country should be terminated as soon as the authorities determine that the overall level of subsidies granted upon the product in question does not exceed 2% of its value calculated on a per unit basis or the volume of subsidized imports represents less than 4% of the total imports of the like product in the importing Member.

[97] SIMA does not define or provide any guidance regarding the determination of a “developing country” for purposes of Article 27.10 of the *WTO Agreement on Subsidies and Countervailing Measures*. As an administrative alternative, the CBSA refers to the *Development Assistance Committee List of Official Development Assistance Recipients* (DAC List of ODA Recipients) for guidance<sup>17</sup>. As China is included in the listing, the CBSA will extend developing country status to China for purposes of this investigation. Therefore, the investigation will be terminated if the amount of subsidy does not exceed 2% of its value calculated on a per unit basis or if the volume of subsidized goods represents less than 4% of total imports of like goods.

[98] The CBSA used actual import data for all countries for the period of January 1, 2008 to June 30, 2009. On the basis of this information, the volume of subsidized goods as a percentage of the volume of total imports is estimated as follows:

### **Estimated Amount of Subsidy January 1, 2008 to June 30, 2009**

| Country | Percentage of Total Imports | Estimated Subsidized Goods as % of Country Total | Estimated Subsidized Goods as % of Total Imports | Estimated Amount of Subsidy as % of Export Price |
|---------|-----------------------------|--|--|--|
| China   | 57.4%                       | 100%   | 57.4%  | 31.9%  |

[99] The volume of subsidized goods, estimated to be 57.4% of total imports from all countries, is greater than the threshold of 4% and is therefore not considered negligible. The

<sup>17</sup> The Organization for Economic Co-operation and Development, DAC List of ODA Recipients as at January 1, 2006, the document is available at [www.oecd.org/dataoecd/23/34/37954893.pdf](http://www.oecd.org/dataoecd/23/34/37954893.pdf).

amount of subsidy, estimated to be 31.9% of the export price, is greater than the threshold of 2% and is therefore not considered insignificant.

## **EVIDENCE OF INJURY**

[100] The Complainants have alleged that the subject goods have been and are being dumped and subsidized, and that such dumping and subsidizing have caused or are threatening to cause material injury to the OCTG industry in Canada.

[101] SIMA refers to material injury caused to the production of like goods in Canada. The CBSA has accepted that the OCTG produced by the Complainants are like goods to those imported from China. The CBSA's analysis primarily included information on the Complainants' domestic sales, with a focus on the impact of the allegedly dumped and subsidized goods on their production of like goods in Canada.

[102] In support of its allegations, the Complainants provided evidence of increased volumes of dumped and subsidized goods, lost sales, price erosion, price suppression, lost revenues, reduced gross margins, reduced profitability, loss of market share, loss of employment, reduced returns on investment, and underutilization of capacity.

[103] The Complainants allege that the threat of divergence of subject goods to Canada in response to the case against Chinese OCTG in the United States,<sup>18</sup> the available production capacity in China to produce subject goods<sup>19</sup> and the current inventory levels of Chinese subject goods believed to exist in Canada<sup>20</sup> at this time all pose significant threats of injury to the Canadian industry.

[104] The Complainants have provided sufficient support for these allegations and concerns. The complaint cited the increase in subject welded casing/tubing immediately following the Tribunal Finding on Seamless Casing as evidence that in the absence of full protection on OCTG products, the threat of injury on substitutable goods will persist.

### **Volume of Subject Goods**

[105] The Complainants' estimates of import volumes show a continuing trend of rising imports from China, which have increased its market share in Canada substantially from the 6% the Complainants estimate it held in 2006.<sup>21</sup>

[106] Import data generated by the CBSA shows comparable trends to those provided by the Complainants in terms of the relative share of imports in comparison to other countries and the total share of imports.

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<sup>18</sup> Complaint Narrative (NC), page 38.

<sup>19</sup> Complaint – Appendix 20 (NC) – Steel Business Briefing Article: “China faces falling OCTG demand both home and abroad,” May 25, 2009.

<sup>20</sup> Complaint Narrative (NC) – page 37.

<sup>21</sup> Complaint Narrative (NC) – Page 28.

[107] Furthermore, CBSA data for the POI indicates that Chinese subject imports accounted for 64% of all imports, substantially above the figures reported in earlier years where the previous high was about 35% in 2006.

[108] The CBSA's analysis details a trend of decreasing Canadian market share for the Complainants and a corresponding increase in Canadian market share held by the Chinese subject imports.

### **Lost Sales**

[109] The Complainants submitted documentation in their complaint in respect of specific instances where sales to Canadian customers were lost to alleged dumped and subsidized imports of subject goods.

[110] The Complainants identified lost sales on a customer-by-customer basis. There were numerous examples of lost sales as a result of competing bids on alleged Chinese dumped and subsidized subject goods.

[111] The Complainants also included internal correspondence related to sales negotiations that document their inability to compete against low-priced import competition, which is alleged to be of Chinese origin.

### **Price Erosion and Price Suppression**

[112] In the face of rising material costs, the Complainants allege that the dumped and subsidized imports from China suppressed their ability to raise prices accordingly.

[113] The Complainants provided summary reports by customer over the last year which documented instances where not only were prices suppressed, but they were forced to lower prices in response to alleged dumped/subsidized imports from China.

### **Lost Revenues**

[114] As a result of a significant number of sales lost to Chinese OCTG as provided in their complaint, as well as reductions in prices to maintain customers in the face of allegedly dumped and subsidized Chinese OCTG, the Complainants allege there is evidence that they have lost significant revenue.

### **Reduced Gross margins**

[115] The information provided in the complaint demonstrates that the Complainants experienced decreasing gross margins beginning in Q3-2008 and through Q1-2009.

## **Reduced Profitability**

[116] Similarly, profitability of the Canadian industry declined in consecutive quarters, Q4-2008 and Q1-2009 after a high in Q3-2008.

## **Loss of Market Share**

[117] The Complainants allege their market share has steadily diminished in recent periods and the CBSA's analysis confirms this decrease. In fact, according to the CBSA's analysis, the Complainants' share of the Canadian market has decreased every year since 2006. In addition, in each quarter in 2008, there was a relative decrease in market share from one quarter to the next. This trend continued into Q1-2009, where the Complainants' share of the Canadian market dropped substantially below where it had been in the same quarter in 2008, while the share of the Chinese imports steadily increased.

## **Loss of Employment**

[118] The Complainants contend that a decline in orders for their like goods is directly attributable to the alleged dumped and subsidized imports of subject goods from China. As a result, employment in the Canadian industry declined substantially from 2008 to Q1-2009.

[119] By Q2-2009 employment for the Complainants fell well below levels from Q1-2009. The Complainants indicated that while there have been attempts to maintain skilled employees through work-sharing programs, the need to lay off employees due to lack of orders, caused by allegedly dumped and subsidized Chinese goods, will have ongoing consequences.

[120] The Complainants have asserted that invariably, some employees who have been laid off will find other opportunities. This will require significant training investments for new employees that will impair the ability of the Canadian industry to rapidly re-establish production to accommodate an increase in market demand.<sup>22</sup>

## **Reduced Returns on Investment**

[121] With reduced revenues and profits, naturally there are reduced returns on investment. It is important for producers in the steel industry to maximize their profits during peak periods given the enormous capital investments required to operate steelmaking facilities, and to maintain them over time. Given the cyclical nature of the industry, it is understood that there will be periods of depressed sales, followed by periods of high returns. The Complainants allege that even during the peak periods in 2008, they were unable to maximize the returns they require due to the importation of allegedly dumped and subsidized subject goods from China.

## **Underutilization of Capacity**

[122] The Complainants reported capacity utilization declines from 2008 to Q1-2009, with further declines into Q2-2009. The Complainants also reported that the use of production

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<sup>22</sup> Complaint narrative (NC) – page 31.

facilities for OCTG has fallen dramatically when comparing Q2-2009 with 2008 levels. The Complainants allege that unsold Chinese subject goods in Canadian inventory continue to hold back recovery in capacity utilization.<sup>23</sup>

## **CONCLUSION**

[123] Based on information provided in the complaint, other available information, and the CBSA's internal data on imports, there is evidence that certain OCTG originating in or exported from China has been dumped and subsidized, and there is a reasonable indication that such dumping and subsidizing has caused or is threatening to cause injury to the Canadian industry. As a result, based on the CBSA's examination of the evidence and its own analysis, dumping and countervailing investigations were initiated on August 24, 2009.

## **SCOPE OF THE INVESTIGATION**

[124] The CBSA will conduct investigations to determine whether the subject goods have been dumped and/or subsidized.

[125] The CBSA has requested information relating to the subject goods imported into Canada from China during the period of July 1, 2008 to June 30, 2009, the selected period of investigation for dumping. The information requested from identified exporters and importers will be used to estimate normal values and export prices and ultimately to determine whether the subject goods have been dumped.

[126] The CBSA has also requested information from producers in multiple countries with open market economies. Where sufficiently available, this information will be used to determine normal values of the goods in the event that the President of the CBSA forms an opinion that the evidence in this investigation demonstrates that the section 20 conditions apply in the steel OCTG sector in China.

[127] Information relating to shipments into Canada of the subject goods from January 1, 2008 to June 30, 2009, the selected period of investigation for subsidizing, has been requested from the GOC and the identified exporters. The information requested will be used to determine whether the subject goods have been subsidized and to estimate the amounts of subsidy.

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

## **FUTURE ACTION**

[129] The Tribunal will conduct a preliminary inquiry to determine whether the evidence discloses a reasonable indication that the alleged dumping and subsidizing of the goods has caused or is threatening to cause injury to the Canadian industry. The Tribunal must make its decision within 60 days after the date of the initiation of the investigations. If the Tribunal

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<sup>23</sup> Complaint narrative (NC) – page 31.

concludes that the evidence does not disclose a reasonable indication of injury to the Canadian industry, the investigations will be terminated.

[130] If the Tribunal finds that the evidence discloses a reasonable indication of injury to the Canadian industry and the ongoing CBSA investigations reveal that the goods have been dumped and/or subsidized, the CBSA will make a preliminary determination of dumping and/or subsidizing within 90 days after the date of the initiation of the investigations, by November 23, 2009. Where circumstances warrant, this period may be extended to 135 days from the date of the initiation of the investigations.

[131] If, in respect of the named country, the CBSA's investigations reveal that imports of the subject goods have not been dumped or subsidized, that the margin of dumping or amount of subsidy is insignificant or that the actual and potential volume of dumped or subsidized goods is negligible, the investigations will be terminated.

[132] Imports of subject goods released by the CBSA on and after the date of a preliminary determination of dumping and/or subsidizing may be subject to provisional duty in an amount not greater than the estimated margin of dumping or the estimated amount of subsidy on the imported goods.

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

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

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

### **RETROACTIVE DUTY ON MASSIVE IMPORTATIONS**

[136] When the Tribunal conducts an inquiry concerning material injury to the Canadian industry, it may consider if dumped and/or subsidized goods that were imported close to or after the initiation of an investigation constitute massive importations over a relatively short period of time and have caused injury to the Canadian industry.

[137] Should the Tribunal issue such a finding, anti-dumping and countervailing duties may be imposed retroactively on subject goods imported into Canada and released by the CBSA during

the period of 90 days preceding the day of the CBSA making a preliminary determination of dumping and/or subsidizing.

[138] In respect of importations of subsidized goods that have caused injury, however, this provision is only applicable where the CBSA has determined that the whole or any part of the subsidy on the goods is a prohibited subsidy, as explained in the previous section “Evidence of Subsidizing”. In such a case, the amount of countervailing duty applied on a retroactive basis will be equal to the amount of subsidy on the goods that is a prohibited subsidy.

## **UNDERTAKINGS**

[139] After a preliminary determination of dumping by the CBSA, an exporter may submit a written undertaking to revise selling prices to Canada so that the margin of dumping or the injury caused by the dumping is eliminated. An acceptable undertaking must account for all or substantially all of the exports to Canada of the dumped goods.

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

[141] Interested parties may provide comments regarding the acceptability of undertakings within nine days of the receipt of an undertaking by the CBSA. The CBSA will maintain a list of parties who wish to be notified should an undertaking proposal be received. Those who are interested in being notified should provide their name, telephone and fax numbers, mailing address and e-mail address, if available, to one of the officers identified in the “Information” section of this document.

[142] If an undertaking were to be accepted, the investigations and the collection of provisional duty would be suspended. Notwithstanding the acceptance of an undertaking, an exporter may request that the CBSA’s investigations be completed and that the Tribunal complete its injury inquiry.

## **PUBLICATION**

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

## **INFORMATION**

[144] Interested parties are invited to file written submissions presenting facts, arguments, and evidence that they feel are relevant to the alleged dumping and subsidizing. Written submissions should be forwarded to the attention of one of the officers identified below.

[145] To be given consideration in this phase of these investigations, all information should be received by the CBSA by **September 30, 2009**.

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

[147] Confidential information submitted to the President will be disclosed on written request to independent counsel for parties to these proceedings, subject to conditions to protect the confidentiality of the information. Confidential information may also be released to the Tribunal, any court in Canada, or a WTO/NAFTA dispute settlement panel. Additional information respecting the Program’s policy on the disclosure of information under SIMA may be obtained by contacting one of the officers identified below or by visiting the CBSA’s Web site.

[148] The investigation schedules and a complete listing of all exhibits and information are available at [www.cbsa-asfc.gc.ca/sima/sor-list-e.html](http://www.cbsa-asfc.gc.ca/sima/sor-list-e.html). The exhibits listing will be updated as new exhibits and information is made available.

[149] This *Statement of Reasons* has been provided to persons directly interested in these proceedings. It is also posted on the CBSA's Web site at the address below. For further information, please contact the officers identified as follows:

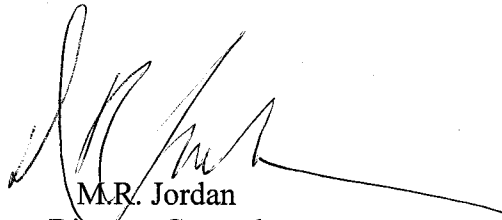
**Mail:** SIMA Registry and Disclosure Unit  
Anti-dumping and Countervailing Program  
Canada Border Services Agency  
100 Metcalfe Street, 11th floor  
Ottawa, ON K1A 0L8  
Canada

**Telephone:** Andrew Manera 613-946-2052  
Robert Veilleux 613-954-1666

**Fax:** 613-948-4844

**E-mail:** [simaregistry@cbsa-asfc.gc.ca](mailto:simaregistry@cbsa-asfc.gc.ca)

**Web site:** <http://www.cbsa-asfc.gc.ca/sima-lmsi/i-e/menu-eng.html>



M.R. Jordan  
Director General  
Trade Programs Directorate

## **APPENDIX I - DESCRIPTION OF IDENTIFIED PROGRAMS AND INCENTIVES**

Evidence provided by the Complainants suggests that the Government of China may have provided support to manufacturers of subject goods in the following manner. For purposes of this investigation, "Government of China" (GOC) refers to all levels of government, i.e. federal, central, provincial/state, regional municipal, city, township, village, local, legislative, administrative or judicial. Benefits provided by state-owned enterprises operating under the direct or indirect control or influence of the GOC may also be considered to be provided by the GOC for purposes of this investigation.

### **1. Special Economic Zone (SEZ) Incentives and other Designated Areas**

- Program 1: Preferential Tax Policies for Enterprises with Foreign Investment (FIEs) Established in Special Economic Zones (excluding Shanghai Pudong Area)
- Program 2: Preferential Tax Policies for FIEs Established in the Coastal Economic Open Areas and in the Economic and Technological Development Zones
- Program 3: Preferential Tax Policies for FIEs Established in the Pudong Area of Shanghai
- Program 4: Preferential Tax Policies in the Western Regions
- Program 5: Corporate Income Tax Exemption and/or Reduction in SEZs and other Designated Areas
- Program 6: Local Income Tax Exemption and/or Reduction in SEZs and other Designated Areas
- Program 7: Exemption/Reduction of Special Land Tax and Land Use Fees in SEZs and Other Designated Areas
- Program 8: Tariff and Value-added Tax (VAT) Exemptions on Imported Materials and Equipment in SEZs and other Designated Areas
- Program 9: Income Tax Refund where Profits Re-invested in SEZs and other Designated Areas
- Program 10: Preferential Costs of Services and/or Goods Provided by Government or State-owned Enterprises (SOEs) in SEZs and Other Designated Areas

### **2. Grants**

- Program 11: The State Key Technology Renovation Projects
- Program 12: Reimbursement of Anti-dumping and/or Countervailing Legal Expenses by the Local Governments
- Program 13: Accelerated Depreciation on Fixed Assets in Binhai New Area of Tianjin
- Program 14: Supportive Fund provided by the Government of Xuyi County, Jiangsu Province
- Program 15: Repaying Foreign Currency Loan by Returned VAT
- Program 16: Government Export Subsidy and Product Innovation Subsidy
- Program 17: Export Assistance Grant
- Program 18: Research & Development (R&D) Assistance Grant
- Program 19: Innovative Experimental Enterprise Grant
- Program 20: Superstar Enterprise Grant

- Program 21: Awards to Enterprises Whose Products Qualify for “Well-Known Trademarks of China” or “Famous Brands of China”
- Program 22: Export Brand Development Fund
- Program 23: Provincial Scientific Development Plan Fund
- Program 24: Technical Renovation Loan Interest Discount Fund
- Program 25: Venture Investment Fund of Hi-Tech Industry
- Program 26: National Innovation Fund for Technology Based Firms
- Program 27: Guangdong – Hong Kong Technology Cooperation Funding Scheme
- Program 28: Grants for Encouraging the Establishment of Headquarters and Regional Headquarters with Foreign Investment
- Program 29: Five Points, One Line Strategy in Liaoning Province

### **3. Equity Programs**

- Program 30: Debt-to-Equity Swaps
- Program 31: Exemptions for SOEs from Distributing Dividends to the State

### **4. Preferential Loans**

- Program 32: Loans and Interest Subsidies provided under the Northeast Revitalization Program
- Program 33: Preferential Loans

### **5. Preferential Income Tax Programs**

- Program 34: Reduced Tax Rate for Productive FIEs Scheduled to Operate for a Period not less than 10 Years
- Program 35: Preferential Tax Policies for Foreign Invested Export Enterprises
- Program 36: Preferential tax policies for FIEs which are technology intensive and knowledge intensive
- Program 37: Preferential Tax Policies for the Research and Development of FIEs
- Program 38: Preferential tax policies for FIEs and Foreign Enterprises which have establishments or places in China and are engaged in production or business operations purchasing domestically produced equipments
- Program 39: Preferential tax policies for domestic enterprises purchasing domestically produced equipments for technology upgrading purpose
- Program 40: Income Tax Refund for Re-investment of FIE Profits by Foreign Investors
- Program 41: VAT and Income Tax exemption /reduction for Enterprises adopting Debt-to-Equity Swaps
- Program 42: Stamp Exemption on Share Transfers under Non-tradable Share Reform

### **6. Relief from Duties and Taxes on Materials and Machinery**

- Program 43: Exemption of Tariff and Import VAT for the Imported Technologies and Equipment
- Program 44: Relief from Duties and Taxes on Imported Material and other Manufacturing Inputs

## **7. Reduction in Land Use Fees**

Program 45: Reduction in Land Use Fees

## **8. Goods/Services Provided by Government at Less than Fair Market Value**

Program 46: Raw Materials Provided by Government at Less than Fair Market Value

### **DETERMINATIONS OF SUBSIDY AND SPECIFICITY**

Available information indicates that the programs identified under: *SEZ and Other Designated Areas Incentives*; *Preferential Loans*; *Preferential Income Tax Programs*; *Relief from Duties and Taxes on Materials and Machinery*; and *Reduction in Land Use Fees*, would likely constitute a financial contribution pursuant to paragraph 2(1.6)(b) of SIMA, in that amounts that would otherwise be owing and due to the government are reduced and/or exempted, and would confer a benefit to the recipient equal to the amount of the reduction/exemption.

*Grants and Equity Programs* would likely constitute a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA in that they involve the direct transfer of funds or liabilities or the contingent transfer of funds or liabilities; and pursuant to paragraph 2(1.6)(b) of SIMA as amounts owing and due to the government that are forgiven or not collected.

*Goods/Services Provided by Government at Less than Fair Market Value* would likely constitute a financial contribution pursuant to paragraph 2(1.6)(c) of SIMA as they involve the provision of goods or services, other than general governmental infrastructure.

Benefits provided to certain types of enterprises or limited to enterprises located in certain areas under program categories: *SEZ and Other Designated Areas Incentives*; *Preferential Loans*; *Preferential Income Tax Programs*; *Relief from Duties and Taxes on Materials and Machinery*; and *Reduction in Land Use Fees*, would likely be considered specific pursuant to paragraph 2(7.2)(a) of SIMA.

As well, *Grants, Equity Programs* and *Goods/Services Provided by Government at Less than Fair Market Value* would likely be considered specific pursuant to subsection 2(7.3) of SIMA in that the manner in which discretion is exercised by the granting authority indicates that the subsidy may not be generally available.