



OTTAWA, February 9, 2017

FISC 2016 IN

## STATEMENT OF REASONS

Concerning the preliminary determinations with respect to the dumping of

**CERTAIN FABRICATED INDUSTRIAL STEEL COMPONENTS  
ORIGINATING IN OR EXPORTED FROM  
THE PEOPLE'S REPUBLIC OF CHINA, THE REPUBLIC OF KOREA AND  
THE KINGDOM OF SPAIN**

and the subsidizing of

**CERTAIN FABRICATED INDUSTRIAL STEEL COMPONENTS  
ORIGINATING IN OR EXPORTED FROM  
THE PEOPLE'S REPUBLIC OF CHINA**

and regarding the termination of the investigation with respect to  
the dumping of

**CERTAIN FABRICATED INDUSTRIAL STEEL COMPONENTS  
ORIGINATING IN OR EXPORTED FROM THE UNITED ARAB EMIRATES AND  
THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND**

## DECISION

Pursuant to subsection 38(1) of the *Special Import Measures Act* (SIMA), the Canada Border Services Agency (CBSA) made preliminary determinations on January 25, 2017 respecting the dumping of certain fabricated industrial steel components originating in or exported from the People's Republic of China, the Republic of Korea, and the Kingdom of Spain, and the subsidizing of certain fabricated industrial steel components originating in or exported from the People's Republic of China.

On January 25, 2017, pursuant to paragraph 35(2)(a) of SIMA, the CBSA terminated the dumping investigation with respect to certain fabricated industrial steel components originating in or exported from the United Arab Emirates and the United Kingdom of Great Britain and Northern Ireland.

Cet Énoncé des motifs est également disponible en français.  
This *Statement of Reasons* is also available in French.

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## **SUMMARY OF EVENTS**

[1] On July 22, 2016, the Canada Border Services Agency (CBSA) received a written complaint from Supermetal Structures Inc. (Supermetal), located in Lévis, Québec, Supreme Group LP (Supreme), located in Edmonton, Alberta and Waiward Steel LP (Waiward), located in Edmonton, Alberta (hereinafter “the complainants”), alleging that imports of certain fabricated industrial steel components (FISC) originating in or exported from the People’s Republic of China (China), the Republic of Korea (Korea), the Kingdom of Spain (Spain), the United Arab Emirates (UAE) and the United Kingdom of Great Britain and Northern Ireland (UK) (hereinafter “named countries”) are being dumped, and that FISC originating in or exported from China are being subsidized. The complainants allege that the dumping and subsidizing have caused injury and are threatening to cause injury to the Canadian industry producing like goods.

[2] On August 12, 2016, pursuant to paragraph 32(1)(a) of the *Special Import Measures Act* (SIMA), the CBSA informed the complainants that the complaint was properly documented. The CBSA also notified the governments of China, Korea, Spain, the UAE and the UK that a properly documented complaint had been received. The Government of China (GOC) was provided with the non-confidential version of the subsidy complaint and was invited for consultations prior to the initiation of the subsidy investigation, pursuant to Article 13.1 of the *Agreement on Subsidies and Countervailing Measures*; however, no such consultations took place.

[3] The complainants provided evidence to support the allegations that FISC from China, Korea, Spain, the UAE and the UK have been dumped and that FISC from China have been subsidized. The evidence also disclosed a reasonable indication that the dumping and subsidizing have caused injury and are threatening to cause injury to the Canadian industry producing like goods.

[4] On September 12, 2016, pursuant to subsection 31(1) of SIMA, the CBSA initiated investigations respecting the dumping of FISC from the named countries and the subsidizing of FISC from China.

[5] Upon receiving notice of the initiation of the investigations, the Canadian International Trade Tribunal (CITT) commenced a preliminary injury inquiry, pursuant to subsection 34(2) of SIMA, into whether the evidence discloses a reasonable indication that the alleged dumping and subsidizing of FISC from the named countries have caused injury or retardation or are threatening to cause injury to the Canadian industry producing the like goods.

[6] On November 11, 2016, pursuant to subsection 37.1(1) of SIMA, the CITT made a preliminary determination that there is evidence that discloses a reasonable indication that the alleged dumping and subsidizing of FISC from the named countries have caused injury or are threatening to cause injury to the domestic industry.

[7] On December 6, 2016, due to the complexity and novelty of the issues presented by the investigation, the CBSA extended the 90-day period for making the preliminary determinations or terminating all or part of the investigation to 135 days pursuant to subsection 39(1) of SIMA.

[8] On January 25, 2017, pursuant to paragraph 35(2)(a) of SIMA, the CBSA terminated the dumping investigation with respect to certain FISC originating in or exported from the UAE and the UK. The volume of subject goods imported during the period of investigation from the UAE and the UK were found to be negligible for the purposes of SIMA (i.e. less than 3% of volume of imported goods).

[9] On January 25, 2017, as a result of the CBSA's preliminary investigations and pursuant to subsection 38(1) of SIMA, the CBSA made preliminary determinations of dumping of FISC originating in or exported from China, Korea, and Spain, and the subsidizing of FISC originating in or exported from China.

[10] On January 25, 2017, pursuant to subsection 8(1) of SIMA, provisional duty was imposed on imports of dumped and subsidized goods that are of the same description as any goods to which the preliminary determinations apply, and that are released during the period commencing on the day the preliminary determinations were made and ending on the earlier of the day on which the CBSA causes the investigations to be terminated pursuant to subsection 41(1) of SIMA or the day the CITT makes an order or finding pursuant to subsection 43(1) of SIMA.

### **PERIOD OF INVESTIGATION**

[11] The Period of Investigation (POI) for these investigations is January 1, 2014, to June 30, 2016.

### **PROFITABILITY ANALYSIS PERIOD**

[12] The Profitability Analysis Period for these investigations is also January 1, 2014, to June 30, 2016.

### **INTERESTED PARTIES**

#### **Complainants**

[13] The complainants account for a major proportion of the production of like goods in Canada as defined in subsection 2(1) of SIMA. The names and addresses of the complainants are as follows:

Supermetal Structures Inc.  
1955, 5e Rue  
Lévis, QC  
G6W 5M6

Supreme Group LP  
10457 – 184 Street NW  
Edmonton, AB  
T5S 1G1

Waiward Steel LP  
10030 – 34 Street NW  
Edmonton, AB  
T6B 2Y5

*Supermetal Structures Inc.*

[14] Supermetal is a producer and installer (erector) of FISC, in addition to fabricated structural steel components for bridges and commercial buildings.<sup>1</sup> The company's main production facility is in Lévis, Québec. In Canada, Supermetal also has production facilities in Sherbrooke, Québec and in Leduc, Alberta. The company operates a plant in South Carolina, in the United States of America. FISC produced in Québec is produced not only for projects in the eastern parts of the country but also for projects in western Canada, as the FISC can be transported by train or truck to western provinces.

*Supreme Group LP*

[15] Supreme is the parent company of several FISC manufacturing companies in Canada, with its head office in Edmonton, Alberta.<sup>2</sup> Supreme's fabrication business focuses primarily on the fabricated structural steel sector, which includes FISC. The company estimates that approximately 85% of its steel fabrication was of FISC, namely producing fabricated steel and certain plate-work components for industrial projects, particularly oil and gas and mining projects. The rest of its production was for bridges, commercial projects and industrial uses that were not the subject of the complaint. Among its 12 companies, five core companies manufacturing FISC operate under the Supreme Steel LP banner, and are located in Edmonton, Alberta, Winnipeg, Manitoba, Welland, Ontario and Saskatoon, Saskatchewan. Another company, Canron Western Constructors Ltd., manufactures FISC and is located in Delta, British Columbia. Quality Fabricating and Supply LP, located in Edmonton, Alberta, can also produce FISC when required. Supreme also provides steel structure erection services and produces other steel products, such as pressure piping.

*Waiward Steel LP*

[16] Waiward, located in Edmonton, Alberta is a large producer and installer (erector) of FISC.<sup>3</sup> The company estimates that 85% of its FISC production is for the oil and gas industry and 13% for the mining industry, with the remaining 2% for other industrial end uses.

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<sup>1</sup> Exhibit 2 (NC) – FISC Complaint; Public Attachment 5.

<sup>2</sup> Exhibit 2 (NC) – FISC Complaint; Public Attachment 2.

<sup>3</sup> Exhibit 2 (NC) – FISC Complaint; Public Attachment 1.

### **Other Producers in Canada**

[17] The complaint was supported by MacDougall Steel Erectors Inc. of Borden Carleton, Prince Edward Island, MQM Quality Manufacturing Ltd. of Tracadie-Sheila, New Brunswick, Ocean Steel & Construction Ltd. of Saint John, New Brunswick and Walters Inc. of Hamilton, Ontario.<sup>4</sup>

[18] Other known producers in Canada are: ADF Group Inc. of Terrebonne, Québec; Burnco Mfg Inc. of Vaughan, Ontario; Canam Group Inc. of Boucherville, Québec; Coastal Metals Ltd. of Beresford, New Brunswick; Beauce Atlas Steel Fabricators of Sainte-Marie de Beauce, Québec; IWL Steel Fabricators LP of Saskatoon, Saskatchewan; Proco Constructions Inc. of Saint-Nazaire, Québec; Saskarc Fabrication, of Oxbow, Saskatchewan; and Structures GB Ltée of Rimouski, Québec.<sup>5</sup>

### **Importers**

[19] At the initiation of the investigation, the CBSA identified 89 potential importers of the subject goods based on both information provided by the complainants and CBSA import entry documentation.

[20] The CBSA sent an Importer Request for Information (RFI) to all potential importers of the goods. The CBSA received 12 substantially complete responses.

### **Exporters and/or Foreign Producers**

[21] At the initiation of the investigation, the CBSA identified 155 potential exporters and/or producers of the subject goods from information provided by the complainant and CBSA import entry documentation. The CBSA sent an Exporter RFI – Dumping (Dumping RFI) to each of the potential exporters and/or producers. The CBSA also sent Section 20 and Subsidy RFIs to exporters and producers in China. Eleven exporters and/or producers provided a substantially complete response, including six in China, four in Korea and one in Spain. See “Dumping Investigation” for detailed information on each of these companies.

[22] The CBSA also received responses to the Dumping RFI from two processing companies in China which were involved in the further processing of FISC projects. The responses were limited only to the goods processed for eventual exports to Canada by another producer/exporter in China.

[23] Incomplete responses were received from six exporters and/or producers including: Shanghai Baoye (located in China); Sinohydro Jiajiang Hydraulic Machinery Co., Ltd (located in China); SK Engineering & Construction (located in Korea); Inco International FZ (located in the UAE); William Hare UAE LLC (located in the UAE); and Allerton Steel Ltd. (located in the UK).

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<sup>4</sup> Exhibit 2 (NC) – FISC Complaint; Public Attachment 116 – Letters of Support.

<sup>5</sup> Exhibit 2 (NC) – FISC Complaint; Revised Public Attachment 7.

[24] Deficiencies were communicated to these companies, however, complete information was not subsequently provided in time for purposes of the preliminary decisions. Accordingly, the CBSA was unable to use the information provided by Shanghai Baoye, Sinohydro Jiajiang Hydraulic Machinery Co., Ltd, and SK Engineering & Construction for the purposes of the preliminary determinations.

### **Surrogate Producers**

[25] As part of the section 20 inquiry to examine the extent of the GOC's involvement in pricing in the fabricated structural steel sector, which includes FISC, the CBSA requested that producers in other countries (specifically the Federal Republic of Germany (Germany), the Republic of India (India), Malaysia, and the United States of America (USA)) provide domestic pricing and costing information concerning FISC. These countries were selected as they are all major exporters of FISC to Canada.

[26] The CBSA had not received any responses to the Surrogate RFI as of the preliminary determination.

### **Vendors**

[27] Incomplete responses were received from Air Liquide Global E&C Solutions Germany GmbH, a German vendor of goods originating in China; Técnicas Reunidas SA., a Spanish vendor of goods originating in Korea; and Fives Solios, a French vendor of goods originating in China, the UAE and the UK.

### **Government of China**

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

[29] The CBSA sent a government Subsidy RFI and government Section 20 RFI to the GOC. No response, nor any other information with respect to the investigations, has been received from the GOC as of the date of the preliminary determinations.

## **PRODUCT INFORMATION**

### **Definition**

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

Fabricated structural steel and plate-work components of buildings, process equipment, process enclosures, access structures, process structures, and structures for conveyancing and material handling, including steel beams, columns, braces, frames, railings, stairs, trusses, conveyor belt frame structures and galleries, bents, bins, chutes, hoppers, ductwork, process tanks, pipe racks and apron feeders, whether assembled or partially assembled into modules, or unassembled, for use in structures for: 1. oil and gas extraction, conveyance and processing; 2. mining extraction, conveyance, storage, and processing; 3. industrial power generation facilities; 4. petrochemical plants; 5. cement plants; 6. fertilizer plants; and 7. industrial metal smelters; but excluding electrical transmission towers; rolled steel products not further worked; steel beams not further worked; oil pump jacks; solar, wind and tidal power generation structures; power generation facilities with a rated capacity below 100 megawatts; goods classified as “prefabricated buildings” under HS Code 9406.00.90.30; structural steel for use in manufacturing facilities used in applications other than those described above; and products covered by Certain Fasteners (RR-2014-001), Structural Tubing (RR-2013-001), Carbon Steel Plate (III) (RR-2012-001), Carbon Steel Plate (VII) (NQ-2013-005), and Steel Grating (NQ-2010-002); originating in or exported from the People’s Republic of China, the Republic of Korea, the Kingdom of Spain, the United Arab Emirates and the United Kingdom of Great Britain and Northern Ireland.

### **Additional Product Information**<sup>6</sup>

[31] Goods falling within the product definition are fabricated steel components such as angles, columns, beams, girders, base plates, trusses, kits of fabricated structural shapes and “plate-work” components, such as bins, hoppers, chutes and the like, as well as related steel products that have been custom fabricated into articles suitable for erection or assembly into a variety of structures according to specific custom plans.

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<sup>6</sup> Exhibit 2 (NC) – FISC Complaint; paras. 32-53.



[32] With regards to fabricated industrial steel components, “industrial” is not a technical term, but a reference to the seven end uses identified in the product definition. FISC is used in the construction industry for support frameworks and integrated basic processing equipment traditionally fabricated by FISC suppliers. FISC are inherently structural. They are components specifically designed to be assembled into a particular structure. In their simplest form, they are custom structural components that form the skeleton of a structure. These components are custom fabricated into pieces that precisely fit together to form support structures. Structures may include an enclosed structure, such as a building, or a structure that is open to the elements. Many of these components will consist of beams and columns. Columns are steel shapes used as vertical supports in a building. Beams which may not be readily distinguished from columns in terms of shape and appearance are steel shapes used horizontally in structures to provide floor support, floor beams, or connect columns girders. FISC includes walkways, ladders and handrails that form part of the steel structure.

[33] In some cases, FISC will include the skeleton framework and integrated structural objects supported by the framework, such as hoppers, chutes and bins. These objects are typically constructed from steel plate and are closely related to the structure or are integrated as part of it. For example, in an oil sands project or similar open pit mining operation, large trucks will dump ore into a very large hopper that funnels the ore to a conveyor or crusher that begins preparing the ore for processing. The FISC fabricator will provide the structural steel components for the hopper structure, which may stand several hundred feet tall. It will also fabricate the hopper components from steel plate. The hopper components are large pieces of steel plate precisely fabricated in a FISC producer’s facility so as to be assembled within the hopper structure. Similarly, FISC producers will supply the structure for surge bins (a process tank which holds crushed ore) and the components that comprise the surge bin. Other examples of plate-work components include ducts, chutes, bins and bents.

[34] Plate-work refers to custom fabricated structural components made from steel plate. For example, a hopper would consist of a significant amount of plate-work. Some fabricated components will involve plate-work as part of the connection system or to strengthen beams. Some FISC modules also include significant amounts of plate-work depending on the design. Plate-work could also include large ducts or tanks that comprise part of the project.

[35] FISC also includes structural components of heavy equipment, such as conveyance machinery. In mining and oil sands extraction, ore and other raw materials are carried along large, heavy conveyance systems. FISC producers will fabricate the galleries, trusses, and apron feeder components for these pieces of machinery. These FISC are structural frameworks designed to support a particular piece of integrated machinery.

[36] The product definition is based on a specific set of “end uses”. “Oil and gas extraction, conveyance and processing” includes FISC used to fabricate steel frameworks and plate-work components to support the processes and facilities used to extract resources and process them into a marketable product. It also includes FISC used to support the facilities that process oil and gas, such as refining.

[37] FISC used in mining applications includes steel framework structures and plate-work components that support the equipment and processes for the extraction, conveyance storage and processing of mining resources. Processing refers to the initial process of mining resources that occurs at the mine or within close proximity and that is completed in order to market the extracted material.

[38] FISC used in industrial power generation facilities includes the structural steel frameworks and plate components designed to support the production and processes in electrical plants, including hydro, coal, gas and nuclear facilities. Cogeneration power plants are included. Excluded from the product definition are FISC for power generation plants with a capacity of less than 100 megawatts, wind and tidal power generation facilities and structures to support solar panels.

[39] FISC used in petrochemical plants includes the structural steel frameworks and plate components designed to support the production and processes of chemicals and material derived from processing oil and natural gas. This includes petrochemical based plastics, kerosene, propane and other similar goods.

[40] FISC used in cement plants includes the structural steel frameworks and plate components designed to support the production and processing of cement. Cement is a hardening compound used in concrete and mortar. Concrete mixing and processing plants are distinct from cement plants.

[41] FISC used in fertilizer plants includes the structural steel frameworks and plate components designed to support the production and processing of chemical fertilizers. Many potash mines also process extracted resources into fertilizers and would fall under both fertilizer plants and mining operations.

[42] FISC used in industrial metal smelters includes the structural steel frameworks and plate components designed to support the production and processing of ores into refined or semi-refined metals, such as aluminum and steel. The term "industrial" refers to large commercial smelting operations, as opposed to artisan or hobby smelters.

[43] FISC may leave the production facility as components (often referred to the industry as "sticks") or in a semi-assembled modular configuration. Modules consist of FISC that have been partially assembled, erected or constructed into a module prior to being integrated into the finished steel structure.

[44] Material conveyance structures are structures, usually shop assembled (modular), to support moving conveyor belts. They are often built as box trusses. Trusses consist of a series of welded steel sections that are used in place of conventional beams to span large areas.

### **Goods not Covered by the Subject Goods Definition**

[45] Goods that are not covered by the subject goods definition include steel components for electrical transmission towers, pre-fabricated metal buildings falling under HS Code 9406.00.90.30, goods subject to specified existing Canadian International Trade Tribunal orders or findings, power plants with a rated capacity of less than 100 megawatts, and solar, wind and tidal power generation structures. Also excluded are structural steel components for use in structures for manufacturing or processing, other than the seven end uses specified in the product definition.

[46] Structural steel components for use in “commercial” structures, such as warehouses, commercial buildings, high-rises, hospitals, and cultural buildings (e.g. arenas, theatres, etc.) are not covered by the product definition.

[47] Note 4 of the Customs Tariff Chapter 94 provides that, “For the purposes of heading 94.06, the expression “prefabricated buildings” means buildings which are finished in the factory or put up as elements, presented together, to be assembled on site, such as housing or worksite accommodation, offices, schools, shops, sheds, garages or similar buildings.” Industrial structural steel frameworks, such as those identified in the product definition, are not “similar buildings” to housing, offices, schools, shops, sheds, garages or similar buildings. Prefabricated buildings are, however, commonly present on the physical sites of the industrial operations enumerated in the production definition. Structural steel components comprising these pre-fabricated buildings are therefore not included in the product definition.

[48] Fabricated reinforcing bars used in concrete structures are not included in the production definition as they are reinforcing steel, not structural steel. Also not included are fabricated structural steel components used in buildings and structures for end uses not specified in the production definition.

### **Production Process<sup>7</sup>**

[49] The primary steel products used as inputs for FISC are structural shapes, which include angles, beams and in some cases hollow structural sections, and steel plate. Other steel inputs that may be used include carbon steel sheet, bar, rod, and fasteners. These input products are purchased directly from either Canadian or foreign steel mills or from service centers.

[50] The structural shapes used in FISC are produced using several different methods. Steel scrap or billet may be melted in a large electric furnace and cast into beam shapes that are then hot-rolled to form a precise shape. Hollow structural sections may be produced from hot-rolled coil. Plate may also be cut or formed into structural steel components or welded or bolted into structural beams or columns.

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<sup>7</sup> Exhibit 2 (NC) – FISC Complaint; paras. 54-71.

[51] The overseeing engineer on a project will design the structure and develop detailed engineering specifications of the structures to ensure the structural performance. In large projects, this role would be fulfilled by the firm with the Engineering, Procurement and Construction contract (the “EPC”).

[52] Based on the engineering specifications and plans, the FISC producer will develop detailed drawings for the various components. The FISC producer will also undertake detailed engineering including designing the connections (either welds or fasteners) to resist the required design forces, the position and size of holes in the components, the reinforcements that such holes might require, and assessing the need for and placement of stiffeners on built up members.

[53] The basic fabrication operations for FISC include, but are not limited to, the cutting to length, drilling, punching, bending, connecting and welding of steel, and the finishing of such steel into structural components. Each component is custom manufactured for a specific project. Components can be as simple as a beam cut to length with a few holes punched or drilled into it. Alternatively, a component can be comprised of dozens of beams and plates of different sizes and thicknesses connected and welded into a particular three-dimensional component.

[54] Production involves steel materials progressing through several stages of fabrication to produce finished components. The first stage of fabrication usually involves cutting material to length with a shear, saw or torch. At this stage the steel may also be punched or drilled. Some producers use computerized machinery to ensure precise cuts and holes.

[55] The steel then goes to the layout crew which performs the welding, punching and bending operations. Drilling of structural steel is usually limited to making holes in material too thick for the punching machines, though it may be required to meet specifications in lighter material as well. A press brake is also used to form angular bends in wide sheets and plate.

[56] Various components to be welded together are tacked together and checked for proper placement before welding. The thickness of the welding depends on the particular specifications. In addition to welding, component parts of a member may be fitted with fasteners. Permanent shop bolting of structural connections is accomplished with hand or power wrenches.

[57] Throughout the process the assembly is checked for overall dimensions. Material is inspected again prior to final shop welding to check overall dimensions, proper positioning of all connections, and to ensure that all joints fit properly. After the welding is completed a visual inspection can be followed by the testing of welds. Such tests include magnetic particle inspection, dye penetrant inspection, ultrasonic inspection, and radiography. An independent testing laboratory may be involved in inspection prior to shipment of the FISC.

[58] Steel that needs to be painted or galvanized is thoroughly cleaned of loose mill scale rust and other foreign matter. The cleaning can be done with hand or power driven wire brushes, by flame descaling, by pickling acid treatment, or by sand shot or grit blasting. After painting the shipping mark is placed on each piece and an inspection ensures that proper identification of each structural component is clearly indicated.

[59] FISC encompasses the individual fabricated components, which are sometimes referred to as “sticks”. They can vary from short small beams with minimal processing to large pieces made up of various items welded or bolted together into a single component.

[60] Labour is the variable factor that most affects the unit price for FISC. In general, the cost of material inputs into a metric ton (MT) of FISC is fairly consistent. However, the cost of FISC per MT will vary considerably depending on how many hours it takes to fabricate a ton of FISC. For example, a large heavy beam that is cut, punched and then welded to a base plate involves relatively few hours of labour and thereby has a relatively low cost per MT. However, if a beam of similar weight and size is cut into many small pieces, welded to various gussets with complex connection, reinforced with stiffener plates, and attached to complex braces, the number of hours of labour increases significantly and the cost per MT of FISC will increase significantly.

[61] A typical fabrication project will require between 15 and 20 hours of shop time per MT of fabricated steel. Plate-work can be far more time consuming and costly on a per ton basis as there can be 40 to 80 hours of shop time per MT.

### **Product Use**

[62] In industrial settings, FISC is used to construct a variety of structures including buildings and structures that support processing facilities, equipment and systems and parts used for conveyancing and material handling, including but not limited to conveyor belt frame structures and galleries and bents, bins, chutes, hoppers, silos, storage and process tanks, and pipe racks.

[63] FISC for buildings and process structures is used to construct a skeleton that fulfills the load bearing function required for the erection of the building or process. Structures composed of FISC are diverse. They include modest structures requiring several hundred tons of steel to multistory complexes or large support structures such as pipe racks used in oil and gas facilities or giant structures to hold a hopper for processing mining resources and requiring thousands of tons of steel.

[64] Many large structures are beam and column structures that consist of fabricated H and I shapes, i.e. wide flange beams and I-beams, joined in an interlocking fashion to form a rigid steel frame. Significant tonnages of FISC have been used in industrial structures such as oil and gas and mining facilities, including in support structures for large pipes, conveyancing systems used in oil and gas and mineral processing facilities, structural supports for mines, structural supports for processing facilities, and components of processing facilities (e.g. hoppers and storage tanks).

[65] As discussed above, finished FISC is shipped either unassembled or partially assembled from the fabricating facility to construction sites. Delivery of individual components requires coordination between the fabricator and the erector. Erectors are responsible for the placement and connection of the structural components at the construction site. The erector may be either an independent company or an operation related to the fabricator.

[66] Delivery schedules to a project site vary significantly based on the scope and size of the project. Most often delivery begins 16 to 20 weeks from the date of contract, and delivery can occur over a few months or over one or two years, sometimes more.

[67] FISC, whether in stick form or modules, is produced and then delivered to the jobsite in a deliberate sequence by the fabricator in order to allow the erector to proceed efficiently. Upon arrival at a job site, the FISC is checked by the erector's crew chief who determines from blueprints the order in which the material is to be placed. The crane operator lifts sections to the proper place where ironworkers secure the piece by bolting it to existing sections. Welding may also be required to make connections.

### **Classification of Imports**

[68] Effective January 1, 2017, imports into Canada of the subject goods are normally classified under the following Harmonized System (HS) classification numbers:

7216.99.00.10	7216.99.00.20	7216.99.00.30	7216.99.00.91
7216.99.00.99	7301.20.00.10	7301.20.00.20	7308.40.00.00
7308.90.00.60	7308.90.00.96	7308.90.00.99	7326.90.90.90
8421.99.90.90	8428.31.00.00	8428.32.00.00	8428.33.00.00
8428.39.00.30	8428.39.00.41	8428.39.00.49	8428.39.00.80
8428.39.00.90			

[69] The above-noted classification numbers replace the following HS classification numbers that were used during the period of investigation:

7216.99.00.10	7216.99.00.20	7216.99.00.30	7216.99.00.91
7216.99.00.99	7301.20.00.10	7301.20.00.20	7308.40.00.10
7308.40.00.90	7308.90.00.60	7308.90.00.81	7308.90.00.89
7308.90.00.92	7308.90.00.99	7326.90.90.99	8428.31.00.00
8421.99.00.90	8428.32.00.90	8428.33.00.90	8428.39.00.20
8428.39.00.31	8428.39.00.34	8428.39.00.39	8428.39.00.80
8428.39.00.90			

[70] The HS classification numbers identified are for convenience of reference only. The HS classification numbers include non-subject goods. Also, subject goods may fall under HS classification numbers that are not listed. Refer to the product definition for authoritative details regarding the subject goods.

### **LIKE GOODS AND CLASS OF GOODS**

[71] 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 the uses and other characteristics of which closely resemble those of the other goods.

[72] The CBSA is of the opinion that the “like goods” are domestically produced FISC, as described in the product definition, for the seven end uses set out in the product definition. Further, after considering questions of use, physical characteristics and all other relevant factors, the CBSA is of the opinion that subject goods and like goods constitute only one class of goods.<sup>8</sup>

[73] In its preliminary injury inquiry, the CITT further reviewed the matter of like goods and classes of goods. On November 10, 2016, it issued its preliminary injury inquiry determination and reasons indicating that it would “conduct its analysis on the basis that domestically produced FISC, limited to the end uses listed in the product definition, are like goods in relation to the subject goods.”<sup>9</sup> The CITT also stated that its “analysis of the allegations of injury and threat of injury is premised on a single class of like goods and a single domestic industry.”<sup>10</sup>

### **THE CANADIAN INDUSTRY**

[74] As previously stated, the complainants account for a major proportion of known domestic production of like goods.

### **IMPORTS INTO CANADA**

[75] During the preliminary phase of the investigations, the CBSA refined the estimated value of imports based on information from CBSA import entry documentation and other information received from exporters and importers.

[76] The following table presents the CBSA’s analysis of imports of FISC for purposes of the preliminary determinations:

**Table 1: Imports of FISC  
(% of Value<sup>11</sup>)**

<b>Country</b>	<b>POI (January 2014 to June 2016 )</b>
China	31.9%
Korea	36.0%
Spain	3.5%
UAE	1.6%
UK	1.6%
All Other Countries	25.4%
<b>Total Imports</b>	<b>100.0%</b>

<sup>8</sup> Statement of Reasons (September 27, 2016), FISC 2016 IN (CBSA), at para.73.

<sup>9</sup> Certain Fabricated Industrial Steel Components, Preliminary Injury Inquiry No. PI-2016-003; November 10, 2016, (CITT) at para. 21.

<sup>10</sup> Dumping and Subsidizing Determination and Reasons (November 10, 2016), PI-2016-003 (CITT) at para. 23.

<sup>11</sup> The CBSA's import documentation and information received from importer and exporter responses were used to estimate the imports of subject goods during the POI. Since the weights reported in the import documentation were found to be inaccurate, it was not feasible to estimate the imports of subject goods by volume. As a result, sales value was used as the unit of measure for estimating imports of subject goods.

## **REPRESENTATIONS**

[77] On December 22, 2016, the CBSA received representations on behalf of the importer, Praxair Canada Inc., that certain goods it imported during the period of investigation were not subject goods.<sup>12</sup>

[78] On January 11, 2017, the CBSA received representations on behalf of the complainants and the Canadian Steel Producers Association expressing concerns regarding material deficiencies in exporter responses to RFIs and supplemental RFIs.<sup>13</sup>

[79] On January 17, 2017, the CBSA received representations on behalf of the complainants and the Canadian Institute for Steel Production in regards to the subjectivity of the goods imported by Praxair Canada.<sup>14</sup>

[80] The CBSA has noted these arguments and evidence submitted in the representations and will take them into consideration in the course of verifying information for the purposes of final decisions.

## **TERMINATION OF THE DUMPING INVESTIGATION WITH RESPECT TO FISC FROM THE UAE AND THE UK**

### *The United Arab Emirates*

[81] There were four exporters of subject goods from the UAE which collectively exported approximately \$11.2 million CAD of FISC to Canada representing 1.6% of FISC imported into Canada during the POI.

### *The United Kingdom of Great Britain and Northern Ireland*

[82] There were four exporters of subject goods from the UK, which collectively exported approximately \$11.4 million CAD of FISC to Canada representing 1.6% of FISC imported into Canada during the POI.

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<sup>12</sup> Exhibit 242 (NC) - Case information from Praxair Inc.

<sup>13</sup> Exhibit 252 (NC) - Comments sent on behalf of Supermetal Structures Inc., Supreme Group LP, Waiward Steel LP and the Canadian Steel Producers Association regarding the exporter RFI responses.

<sup>14</sup> Exhibit 268 (NC) - Comments sent on behalf of Supermetal Structures Inc., Supreme Group LP, Waiward Steel LP and the Canadian Institute for Steel Production regarding subjectivity of goods.



### *Negligibility*

[83] Pursuant to paragraph 35(2)(a) of SIMA, if, at any time before making a preliminary determination, the CBSA is satisfied that the volume of goods of a country is negligible, the CBSA is required to terminate the investigation with respect to those goods. Pursuant to subsection 2(1) of SIMA, the volume of goods of a country 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 goods.

[84] Accordingly, given that imports of subject goods during the POI from the UAE and the UK were negligible, the CBSA terminated the dumping investigation with respect to certain FISC originating in or exported from the UAE and the UK.

### **INVESTIGATION PROCESS**

[85] Regarding the dumping investigation, information was requested from all known and potential exporters, producers, vendors and importers, concerning shipments of FISC released into Canada during the POI.

[86] Regarding the section 20 inquiry, information was requested from all known and potential exporters and producers of FISC in China and from the GOC. The CBSA also sent Surrogate RFIs to all known producers of FISC in Germany, India, Malaysia, and the USA to collect domestic pricing and costing information concerning FISC to determine normal values under paragraph 20(1)(c) of SIMA. These countries were selected as they are all major exporters of FISC to Canada. Furthermore, importers were requested to provide information respecting re-sales in Canada of like goods imported from a third country in order to gather information to determine normal values under paragraph 20(1)(d) of SIMA.

[87] Regarding the subsidy investigation, information related to potential actionable subsidies was requested from all known and potential exporters in China. Information was also requested from the GOC, concerning financial contributions made to exporters or producers of FISC released into Canada during the subsidy POI.

[88] Several parties requested an extension to respond to their respective RFIs. The CBSA reviewed each request and granted extensions in instances where the reasons for making the request constituted unforeseen circumstances or unusual burdens. Where an extension request was denied, the CBSA informed the parties that it could not guarantee that submissions received after the RFI response deadline would be taken into consideration for purposes of the preliminary phase of the investigation.

[89] After reviewing the RFI responses, supplemental RFIs (SRFIs) were sent to responding parties to clarify information provided in the responses and request any additional information.

[90] Preliminary determinations are based on the information available to the CBSA at the time of the preliminary determinations. During the final phase of the investigations, additional information may be obtained and selected responding exporters may be verified on-site, the results of which will be incorporated into the CBSA's final decisions, which must be made by April 25, 2017.

### **DUMPING INVESTIGATION**

[91] The CBSA received substantially complete responses to the Dumping RFI and Section 20 RFI from six exporters and two processing companies located in China. The GOC did not respond to the Section 20 RFI.

[92] The CBSA received substantially complete responses to the Dumping RFI from four exporters and/or producers located in Korea.

[93] The CBSA received a substantially complete response to the Dumping RFI from one exporter located in Spain.

### **Normal Value**

[94] Normal values are generally estimated based on the domestic selling prices of like goods in the country of export, in accordance with the methodology of section 15 of SIMA, or on the aggregate of the cost of production of the goods, a reasonable amount for administrative, selling and all other costs, plus a reasonable amount for profits, in accordance with the methodology of paragraph 19(b) of SIMA.

[95] In the case of a prescribed country such as China, if, in the opinion of the CBSA, the government of that country substantially determines domestic prices and there is sufficient reason to believe that the domestic prices are not substantially the same as they would be in a competitive market, the normal values are generally estimated on the basis of section 20 of SIMA using either the selling prices or costs of like goods in a "surrogate" country.

### **Export Price**

[96] The export price of goods sold to importers in Canada is generally estimated based on the lesser of the adjusted exporter's sale price for the goods or the adjusted importer's purchase price. These prices are adjusted where necessary by deducting the costs, charges, expenses, duties and taxes resulting from the exportation of the goods as provided for in subparagraphs 24(a)(i) to 24(a)(iii) of SIMA.

## **Margin of Dumping**

[97] The estimated margin of dumping by exporter is equal to the amount by which the total estimated normal value exceeds the total estimated export price of the goods, expressed as a percentage of the total estimated export price. All subject goods imported into Canada during the POI are included in the estimation of the margins of dumping of the goods. Where the total estimated normal value of the goods does not exceed the total estimated export price of the goods, the margin of dumping is zero.

## **China**

### **Section 20 Inquiry**

[98] Section 20 is a provision of SIMA that may be applied to determine the normal value of goods in a dumping investigation where certain conditions prevail in the domestic market of the exporting country. In the case of a prescribed country under paragraph 20(1)(a) of SIMA, it is applied where, in the opinion of the CBSA, the government of that country substantially determines domestic prices and there is sufficient reason to believe that the domestic prices are not substantially the same as they would be in a competitive market.<sup>15</sup>

[99] For purposes of a dumping investigation, the CBSA proceeds on the presumption that section 20 of SIMA is not applicable to the sector under investigation absent sufficient information to the contrary. The CBSA may form an opinion where there is sufficient information that the conditions set forth in paragraph 20(1)(a) of SIMA exist in the sector under investigation.

[100] The CBSA is required to examine whether the government of that country substantially determines domestic prices. The CBSA is also required to examine the price effect resulting from substantial government determination of domestic prices and whether there is sufficient information on the record for the CBSA to have reason to believe that the resulting domestic prices are not substantially the same as they would be in a competitive market.

[101] The complainants alleged that the conditions described in section 20 prevail in the fabricated structural steel sector, which includes FISC, in China. That is, the complainants alleged that this industry sector in China does not operate under competitive market conditions and consequently, prices established in the Chinese domestic market for FISC are not reliable for determining normal values.

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<sup>15</sup> China is a prescribed country under section 17.1 of the *Special Import Measures Regulations*.

[102] The complaint provided information to support these allegations concerning the fabricated structural steel sector, which includes FISC. This included evidence of export controls and state-ownership in the steel industry and the fabricated structural steel sector. The complainants also provided information on large purchases of FISC by the GOC, via state-owned enterprises. Finally, the complainants cited specific GOC policies such as the *2015 Steel Adjustment Policy*, *State Council Decision on Accelerating the Development of Strategic Emerging Industries* and *China's 12th Five-Year Plans*.

[103] At the initiation of the investigation, the CBSA had sufficient evidence, supplied by the complainant and from its own research and past investigation findings, to support the initiation of a section 20 inquiry to examine the extent of GOC involvement in pricing in the fabricated structural steel sector, which includes FISC. The information indicated that prices in China in this sector have been influenced by various GOC industrial policies. Consequently, the CBSA sent Section 20 RFIs to producers and exporters of FISC in China, as well as to the GOC, to obtain information on the extent to which the GOC is involved with the determination of domestic prices in the fabricated structural steel sector, which includes FISC.

#### **Summary of Chinese Exporter Responses**

[104] The CBSA received responses to the Section 20 RFIs from six Chinese exporters/producers and two processing companies. In general, the parties who provided a response did attempt to address each question. Most responses did not include the information requested by the CBSA. However, a few of the responses provided documents requested by the CBSA. The CBSA received the *13th Five-Year National Plan on National Economic and Social Development; Iron and Steel Industrial Restructuring Policy (2015 Revision)*; the *List of Industries, Products and Technologies Currently Encouraged by the State for Development*; and the *State Council Decision on Accelerating the Development of Strategic Emerging Industries*. No other exporters provided significant information with respect to GOC influence on the fabricated structural steel sector.

#### **Government of China Response**

[105] An RFI was sent to the GOC requesting information for the purposes of the section 20 inquiry. No response was received from the GOC as of the date of the preliminary determination of dumping.

#### **Surrogate Country Responses**

[106] As part of the section 20 inquiry, RFIs were sent to all known producers of FISC in Germany, India, Malaysia, and the USA. These countries were selected as they are all major exporters of FISC to Canada. No producers located in surrogate countries responded to the RFI.

## Responses from Importers with Sales in Canada of FISC from Other Countries

[107] As part of the section 20 inquiry, the RFIs sent to importers requested information on re-sales in Canada of FISC imported from countries other than China. The CBSA received substantially complete responses from twelve importers; however, none of the importers provided information on re-sales in Canada of like goods.

[108] The following is the CBSA's analysis of the relevant factors that are present in the fabricated structural steel sector in China, which includes FISC.

### GOC Industrial Policies

- *13<sup>th</sup> Five-Year National Plan on National Economic and Social Development*;
- *The National Steel Policy and the Steel Revitalization/Rescue Plan*;
- *The 12<sup>th</sup> Five-Year Development Plans for the Steel Industry*;
- *Iron and Steel Industrial Restructuring Policy (2015)*;
- *List of Industries, Products and Technologies Currently Encouraged by the State for Development (2000)*; and
- *State Council Decision on Accelerating the Development of Strategic Emerging Industries*.

### *13<sup>th</sup> Five-Year National Plan on National Economic and Social Development*

[109] The GOC adopted its *13<sup>th</sup> Five-Year Plan on National Economic and Social Development* (13<sup>th</sup> Five-Year Plan)<sup>16</sup> on March 15, 2016. The 13<sup>th</sup> Five-Year Plan outlines China's goals, principles and targets for its development for the period of 2016-2020.

[110] According to the US-Business Council, the 13<sup>th</sup> Five-Year Plan, which recognizes the staggering impact of over-capacity on the industrial system, calls for reduction in supply in saturated sectors by merging, upgrading, and restructuring underperforming companies; reworking government subsidies that promote unprofitable manufacturing; and, ultimately, bankruptcy and liquidation of unprofitable companies.<sup>17</sup>

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<sup>16</sup> Exhibit 264 (PRO) - Attachment 1 - 13th Five-Year Plan on National Economic and Social Development.

<sup>17</sup> Exhibit 264 (PRO) - Attachment 2 - 13th Five Year Plan Stresses Economic Restructuring.

[111] The US-Business Council also argues that the 13<sup>th</sup> Five-Year Plan urges steel companies and others with declining domestic demand to find international markets. However, sending capacity to foreign markets will offer temporary relief for the struggling domestic industries, but will reduce the urgency to lower production capacity or reform company operations.<sup>18</sup>

[112] The 13<sup>th</sup> Five-Year Plan calls for greater involvement of SOEs in the development of the Chinese economy. Specifically, Chapter 11 of the plan states:

“We will ensure that public ownership is dominant and that economic entities under diverse forms of ownership develop side by side ... We will exercise oversight over economic entities under all forms of ownership in accordance with the law ... We will remain firmly committed to ensuring that SOEs grow stronger, better, and bigger and work to see that a number of such enterprises develop their capacity for innovation and become internationally competitive, thereby injecting greater life into the state-owned sector, helping it exercise a greater level of influence and control over the economy, increasing its resilience against risk, and enabling it to contribute more effectively to accomplishing national strategic objectives.”<sup>19</sup>

[113] Given the overcapacity in the steel industry causing excess supply, the above statement supports GOC intentions to further consolidate the steel industry through mergers and restructuring and that the GOC views SOEs as having an important role to play in the economy.

*The National Steel Policy and the Steel Revitalization/Rescue Plan*

[114] As cited in previous section 20 inquiries on steel products, *The Development Policies for the Iron and Steel Industry – Order of the National Development and Reform Commission [No. 35] (National Steel Policy)*<sup>20</sup> was promulgated on July 8, 2005 and outlines the GOC’s future plans for the Chinese domestic steel industry. The major objectives of the *National Steel Policy* are:

- The structural adjustment of the Chinese domestic steel industry;
- Industry consolidations through mergers and acquisitions;
- The regulation of technological upgrading with new standards for the steel industry;
- Measures to reduce material and energy consumption and enhance environmental protection;
- Government supervision and management in the steel industry.

<sup>18</sup> Exhibit 264 (PRO) - Attachment 2 - 13th Five Year Plan Stresses Economic Restructuring.

<sup>19</sup> Exhibit 264 (PRO) - Attachment 1 - 13th Five-Year Plan on National Economic and Social Development.

<sup>20</sup> Exhibit 264 (PRO) - Attachment 3 – National Steel Policy.

[115] On March 20, 2009, the GOC promulgated the *Blueprint for the Adjustment and Revitalization of the Steel Industry issued by the General Office of the State Council (Steel Revitalization/Rescue Plan)*.<sup>21</sup> This macro-economic policy was the GOC's response to the global financial crisis and was also the action plan for the steel industry for the 2009 through 2011 period. This plan includes the following major tasks:

- Maintain the stability of the domestic market and improve the export environment;
- Strictly control the total output of steel and accelerate the process of eliminating what is backward (obsolete);
- Enhance enterprise reorganization and improve the industrial concentration level;
- Spend more on technical transformation and promote technical progress;
- Optimize the layout of the steel industry and overall arrangements of its development;
- Adjust the steel product mix and improve the product quality;
- Maintain stable import of iron ore resources and rectify the market order;
- Develop domestic and overseas resources and guarantee the safety of the industry.

[116] There are common measures between these two GOC policies, as the *Steel Revitalization/Rescue Plan* is an acceleration of the major objectives of the *National Steel Policy*. In the *Steel Revitalization/Rescue Plan*, the GOC asserts its strict control over new or additional steel production capacity, promotes new GOC directed mergers and acquisitions to reform the Chinese steel industry into larger conglomerates, along with an increased emphasis on steel product quality. These measures and reforms affect the steel industry in China, and as a result affect FISC producers in the fabricated structural steel sector.

#### *The 12<sup>th</sup> Five-Year Development Plans for the Steel Industry*

[117] As cited in previous section 20 inquiries on steel products, the *12<sup>th</sup> Five-Year Development Plans for the Steel Industry (12<sup>th</sup> Five-Year Development Plan)* is a policy document that was released by the GOC's Ministry of Industry and Information Technology on November 7, 2011.<sup>22</sup> It served as the guiding document for the development of the Chinese steel industry for the 2011-2015 period and its directives include:

- Increased mergers and acquisitions to create larger, more efficient steel companies;
- GOC restrictions on steel capacity expansion;
- Upgrading of steel industry technology;
- Greater GOC emphasis on high-end steel products;
- GOC directed relocation of iron and steel companies to coastal areas.

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<sup>21</sup> Exhibit 264 (PRO) - Attachment 4 – Steel Revitalization/Rescue Plan.

<sup>22</sup> Exhibit 264 (PRO) - Attachment 5 – 12<sup>th</sup> Five-Year Plan: Iron and Steel.

[118] Also included in this plan are minimum requirements for steel production in order to eliminate smaller players in the market. Through this plan, the GOC is continuing its reform and restructuring of the Chinese steel industry. The GOC's target was that by 2015, China's top 10 steel producers would represent 60% of the country's total steel output. According to the *National Steel Policy*, the long-range GOC target for mergers and acquisitions is to have the top 10 Chinese steel producers account for 70% of total national steel production by 2020. This plan is the next development stage of GOC directives aimed at achieving this long-range 2020 target.

[119] The *12<sup>th</sup> Five-Year Development Plan* addresses existing issues in the steel industry with the directive to strictly control expansion of steel production capacity, accelerate the development of new material for steel and producer service and to continue to advance mergers and restructuring.

[120] According to the plan, the more highly concentrated steel industry will reduce overcapacity, decrease pollution and will improve Chinese steel producers' bargaining power when negotiating prices on iron ore imports. In addition, through the *12<sup>th</sup> Five-Year Development Plan*, the GOC is progressing with its initiative in the *Steel Revitalization/Rescue Plan* to move Chinese steel production facilities to China's coast. As stated in a China Daily article titled *Steel industry plan forged*, by the end of this GOC directed plan, in 2015, 40% of China's steel production would be relocated to the coast.<sup>23</sup>

[121] In the *12<sup>th</sup> Five-Year Development Plan*, the GOC's policies and measures include:

- Improve the industry management system;
- Create an environment for fair competition, strengthen and improve macro adjustment and control;
- Regulate the production and operation of the steel industry;
- Standardize the operation of the industry;
- Strengthen the macro guidance of the policy;
- Promote international exchange and co-operation;
- Improve industry information flow, capital flow and material flow. Support enterprise groups to establish and improve the information system in different regions;
- Improve planning by regional authorities of industries to develop the steel industry, combine the regional mergers and reconstruction and eliminate obsolete construction. Related enterprises should put forward the planning scheme corresponding to the foregoing plan. The China Iron and Steel Industry should assist and put forward advice on the policy.

[122] The GOC's direction of the steel industry includes enabling regional or provincial governments to combine enterprises across boundaries. Furthermore, as a result of the GOC's administration of steel production capacity, the Chinese steel industry is very much under the purview of the GOC.

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<sup>23</sup> Exhibit 264 (PRO) - Attachment 6 – China Daily Article, Steel industry plan forged.



[123] Together with the GOC's legislation: *Criterion for the Production and Operation of Steel Industry*<sup>24</sup> – GY [2010] No. 105 and *Several Observations of the General Office of the State Council on Further Strengthening Energy-saving and Emission Reduction Efforts as well as Accelerating of Restructuring of Steel Industry*<sup>25</sup> – GBF (2010) No. 34, these plans set out the detailed requirements for existing production and operations of steel enterprises in China. For construction and renovation projects in the steel industry, the GOC's development policies for the steel industry apply. The intent of latter legislation is to further support and carry out the *Steel Revitalization/Rescue Plan*, to achieve the energy-saving and emission targets, in addition to the restructuring of the steel industry in China as approved by the State Council. One main objective of the State Council is to “resolutely suppress the excessive growth of steel production capacity” and “strictly implement the approval and review process of steel projects.”

[124] Should steel enterprises not acquiesce to the GOC's requirements, laws and industrial policies, there are repercussions which include the withdrawal of steel production licenses and credit support. In respect of new construction or renovation of Chinese steel enterprises, the GOC's steel development policies also apply.

[125] Currently, no information is available regarding the 13<sup>th</sup> Five-Year Development Plans for the Steel Industry and the fabricated structural steel sector for the 2016-2020 period. However, given the information available on the draft *Iron and Steel Industrial Restructuring Policy (2015 Revision)* below, the CBSA does not anticipate that the GOC will decrease its level of control in the administration of the steel industry in the period 2016-2020.

#### *Iron and Steel Industrial Restructuring Policy (2015)*

[126] On March 20, 2015, the Ministry of Industry and Information Technology released a draft document entitled, *Iron and Steel Industrial Restructuring Policy (Steel Restructuring Revision)*.<sup>26</sup> The *Steel Restructuring Revision* is intended to replace the *National Steel Policy* previously issued in 2005. The major objectives of the *Steel Restructuring Revision* can be summarized into four main categories as follows:<sup>27</sup>

##### 1. Re-structuring of Steel Industry

- An acceleration in the pace of mergers and company restructuring;
- That the 10 top steel producers account for 60% of China's crude steel output by 2025;
- That three to five “ultra-large steel enterprise groups with remarkable competitiveness in the global market will be formed;”
- Further the number of mergers, acquisitions, and reorganizations and “strengthen and improve oversight of major merger and reorganization transactions among enterprises.”
- New steel projects are to satisfy requirements of government plans and planning;

<sup>24</sup> Exhibit 264 (PRO) - Attachment 7 – Criterion for the Production and Operation of Steel Industry.

<sup>25</sup> Exhibit 264 (PRO) - Attachment 8 – Several Observations of the General Office of the State Council.

<sup>26</sup> Exhibit 264 (PRO) - Attachment 9 - Iron and Steel Industrial Restructuring Policy (2015 Revision).

<sup>27</sup> Exhibit 002 (NC) - FISC Complaint – page 67, para. 201.

- Steel enterprises are to be “guided towards standard development” through market access requirements and strengthening of “ongoing and retrospective oversight of newly built (modified and expanded) steel projects;” and
- The strengthening of “the service and supervision of investment in the domestic steel industry.”

## 2. Capacity Requirements

- Setting a capacity utilization rate of 80% or higher by 2017;
- New steel projects are to strictly control production capacity and implement equal or reduced production replacements;
- Development of iron ore source, domestic and abroad, to “form a rational and stable guarantee system for global iron ore resources;” and
- Outdated production capacity is to be phased out according to GOC laws and regulations.

## 3. Profitability Targets

- Directing consumption and demand for specific steel products;
- Achieving reasonable profit margins and returns on assets by 2017;
- That revenue from “new products” should account for more than 20% of large and medium sized steel producers’ revenue.

## 4. Productivity Targets

- New steel projects are not to use specified kinds of technology;
- Upgrading product quality and mix;
- Steel scrap comprising 30% of China’s steel raw material input by 2025;
- Meeting specific productivity targets;
- Improvement of large scale production equipment;
- “Deep integration of industrialization” is to be improved alongside automation; and
- Specific targets on energy consumption, water consumption and emissions.

[127] Additionally, Article 4 in the *Steel Restructuring Revision* provides further support of the GOC strengthening of the control and oversight over the Chinese steel industry:

“There should be continuous innovation in the means of governmental administration; ongoing and retrospective oversight and services should be continuously strengthened; and the role of the government should be more effectively realized. Relevant laws and regulations should be better implemented in the industry in order to basically build a fair and competitive market environment. A sound investment project information disclosure system and corporate credit record system should be established in order to form an open, honest community oversight system.”<sup>28</sup>

<sup>28</sup> Exhibit 002 (NC) - FISC Complaint – page 66, para. 200.

[128] As a result of the *Steel Restructuring Revision*, according to the Oxford Institute for Energy Studies, by 2020 the GOC has pledged to reduce steel production capacity by 100-150 million Metric Tonnes (MT) over the next five years. In 2016, Hebei province, China's largest steel producing region, plans to shut down 10 million MT per year of iron and 8 million MT per year of steel capacity.<sup>29</sup> Furthermore, according to a report by Change Partnership, it is estimated that China would need to close down 112.5 million MT of capacity per year to 2020 in order to remove its surplus.<sup>30</sup>

[129] Based on the above objectives, tasks and measures outlined in the *Steel Restructuring Revision*, it can be seen that the GOC intends to continue the acceleration the restructuring of the steel industry; set capacity requirements and profitability and productivity targets. The CBSA views the role of the GOC in the management and supervision over the Chinese steel industry as indicative of continued control of the steel industry by the GOC.

*List of Industries, Products and Technologies Currently Encouraged by the State for Development (2000)*

[130] Issued by the State Planning Commission and State Economic and Trade Commission, the *List of Industries, Products and Technologies Currently Encouraged by the State for Development (Revised in 2000)*<sup>31</sup>, was approved by the State Council on July 27, 2000.

[131] The list which came into force as of September 1, 2000, includes the following encouraged industries: Iron and Steel; Petrochemical; Oil and Natural Gas; Nuclear Energy; and Electric Power. In promoting the development of these industries it is clear that the fabricated structural steel sector, including FISC, will be impacted due to the requirement for FISC projects in these encouraged industries.

*State Council Decision on Accelerating the Development of Strategic Emerging Industries.*

[132] The initial policy pertaining to strategic emerging industries (SEIs) is the *State Council Decision on Accelerating the Development of Strategic Emerging Industries*,<sup>32</sup> issued in October 2010. The complaint indicated that the fabricated structural steel sector, which includes FISC, falls within the seven specific SEIs the GOC wants to see as "the backbone of China's next phase of industrial modernization and technological development."<sup>33</sup> One of the SEIs identified by the GOC is "The New Material Industry" which encompasses advanced structural materials, such as high-quality special steel, new alloy material, and engineering plastics. In addition, the policy established a quantitative target for SEIs to account for eight percent of the gross domestic product by 2015 and 15 percent by 2020.<sup>34</sup>

<sup>29</sup> Exhibit 264 (PRO) - Attachment 10 - Implications for Oil Markets.

<sup>30</sup> Exhibit 264 (PRO) - Attachment 11 - The Clean Technology Revolution and Its Implications For Europe.

<sup>31</sup> Exhibit 264 (PRO) - Attachment 12 - List of Industries, Products and Technologies Currently Encouraged by the State for Development.

<sup>32</sup> Exhibit 264 (PRO) - Attachment 13 - The State Council Decision on Accelerating the Development of Strategic Emerging Industries.

<sup>33</sup> Exhibit 002 (NC) - FISC Complaint – page 79, para. 234.

<sup>34</sup> Exhibit 002 (NC) - FISC Complaint – page 80, para. 234, 236.

[133] The CBSA is of the opinion that the policies on SEIs indicate that the GOC considers the fabricated structural steel sector, which includes FISC, to be an important industry in China. Given the importance of the fabricated structural steel sector in China's economy, the GOC will have a vested interest in maintaining influence over this sector.

#### GOC Ownership of Suppliers/Producers

[134] As part of its section 20 analysis with respect to the influence of state-owned and state-controlled enterprises, the CBSA examined:

- *State ownership in the steel industry in China*
- *Decree of the State Council of the People's Republic of China No.378*
- *Circular of the State-Council on Supervision of State-Owned Enterprises to Prevent Loss of State Assets;*
- *GOC Purchase of FISC;*
- *GOC Export Controls;*
- *Subsidization in the Steel Industry; and*
- *Previous Section 20 Opinions Respecting Steel Industry Sectors in China*

#### *State ownership in the steel industry in China*

##### 1. Suppliers of Raw Material Steel Inputs

[135] As mentioned previously, according to the *Steel Restructuring Revision* the top ten steel producers in China were expected to reach 60% of total steel production in China by 2025. The CBSA is of the view that state-owned and state-controlled enterprises in the steel industry in China are under the direction of GOC industrial policies and objectives and that entails that these steel producers do not necessarily operate under competitive market conditions. As such, these steel producers can potentially supply raw material steel inputs to FISC producers at distorted prices.

[136] In addition, the complaint detailed information on the most recent data available on steel production and consumption as reported by the World Steel Association (WSA). Based on the data from the WSA, the top ten steel producers by volume in China accounted for 36.6% of all steel production in China in 2014. Of these ten producers, nine are state-owned, and the combined production of steel by these nine SOEs in China represents 32.3% of all steel production in China in 2014.<sup>35</sup>

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<sup>35</sup> Exhibit 265 (PRO) - Preliminary Determination Section 20 Report – Page 16, <http://www.worldsteel.org>, and information from the web sites of individual companies listed by the World Steel Association.

[137] The complaint indicates that China's steel production over-capacity is the result of the GOC's industrial policies and subsidies.<sup>36</sup> The CBSA notes that the data reported by the WSA supports that there is an excess supply of steel in China. In fact, the supply of steel inputs exceeds demand by 111.9 million MT<sup>37</sup>. This excess in supply resulting from GOC control of the steel industry artificially distorts the prices of raw material steel inputs available to FISC producers.

[138] As a result of GOC steel policies aimed at supply side structural reform, on September 22, 2016, Baosteel Group and Wuhan Steel Group consolidated by merger to become the third largest producer, by production volume of crude steel, among global iron and steel companies.<sup>38</sup> The result of the merger leads to a greater concentration ratio in the steel industry and a stronger and more influential state-owned entity.

[139] According to the complaint, SOEs supply the raw material inputs required for the production of FISC in China.<sup>39</sup> As a result of information received in response to the exporter Section 20 RFI, the CBSA found that a significant number of suppliers/producers of raw material steel inputs in the production of FISC are state-owned. Also, certain exporters purchased material inputs from related parties who are SOEs. The average prices of inputs purchased from SOEs were compared to benchmark prices and were found to be below these benchmark prices.<sup>40</sup> If provided in exporter responses, the CBSA used the imported prices of specific inputs as benchmarks to compare with inputs purchased from SOEs. If imported prices were not available, the CBSA used monthly average prices as reported by MEPS (international) Ltd. MEPS is a publisher of steel market prices around the world.<sup>41</sup>

[140] Given that the state-owned steel companies supply raw material steel inputs for the production of FISC, there is a strong likelihood that prices of FISC are also distorted in the fabricated structural steel sector as a result of distorted raw material steel input prices.

## 2. Producers of FISC

[141] The information provided in the complaint, as well as information collected by the CBSA during the investigation, supports the assertion that there is substantial state ownership in the fabricated structural steel sector in China, which includes FISC.

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<sup>36</sup> Exhibit 002 (NC) - FISC Complaint – page 69, para. 206.

<sup>37</sup> Exhibit 265 (PRO) - Preliminary Determination Section 20 Report – Page 16, <http://www.worldsteel.org>, and information from the web sites of individual companies listed by the World Steel Association.

<sup>38</sup> Exhibit 264 (PRO) - Attachment 14 - *Baosteel Co., Ltd. Consolidated by Merger with WISCO*.

<sup>39</sup> Exhibit 002 (NC) - FISC Complaint – page 70, para. 209.

<sup>40</sup> Exhibit 265 (PRO) - Preliminary Determination Section 20 Report – Page 17.

<sup>41</sup> <http://www.meps.co.uk/>.

[142] The complaint identified ten enterprises producing FISC in China which are known to be state-owned or state-controlled.<sup>42</sup>

- Guangdong Qiguang Group Co., Ltd.
- Shanghai Zhenhua Heavy Industries Company Limited (“ZPMC”)
- Shanghai Baosteel Engineering & Technology Company Ltd.
- China Railway Baoji Bridge Group Co., Ltd.
- China Construction Steel Structure Corp. Ltd.
- China State Construction Engineering Corporation (“CSCEC”)
- Shandong Huaxing Steel Structure Co., Ltd. (listed on TSX, however, was previously an SOE and it is believed that GOC maintains controlling interest).
- Nanjing China Construction Chemical Equipment Manufacturing Co., Ltd.
- Shanghai COSCO Kawasaki Heavy Industries Steel Structure Co., Ltd.
- Shanghai Metal Corporation

[143] Based on information collected during the investigations, the CBSA has determined that five of the responding exporters were either state-owned or state-controlled.<sup>43</sup> Given the relatively large number of state-owned and/or state-controlled exporters cooperating in the investigations, this suggests a significant presence of state-owned and state-controlled enterprises in the production of FISC in fabricated structural steel sector.

[144] Without a response to the government Section 20 RFI, the CBSA was not able to determine the extent of the state-ownership and control in the fabricated structural steel sector since this information is not publically available. Notwithstanding this lack of information, the presence of state-owned and state-controlled enterprises that produce FISC in the fabricated structural steel sector would necessitate that private companies supplying FISC would have to compete with these state-owned and state-controlled enterprises. In conclusion, the GOC exerts control in the fabricated structural steel sector through the influence of state-owned and state-controlled enterprises.

[145] As cited in section 20 inquiries in previous investigations of steel products from China, the following documents were released by the State Council regarding SOEs:

*Decree of the State Council of the People’s Republic of China No.378*

[146] The *Decree of the State Council of the People’s Republic of China No.378 (the Decree)*, promulgated on May 27, 2003, provides the authority for the State Council, the chief administrative authority of China, to control, supervise and manage SOEs.<sup>44</sup>

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<sup>42</sup> Exhibit 002 (NC) - FISC Complaint – page 71, paragraph 213-214.

<sup>43</sup> Exhibit 264 (PRO) - Attachment 15 – Which companies are state-owned/controlled?

<sup>44</sup> Exhibit 264 (PRO) - Attachment 16 - Decree of the State Council of the People’s Republic of China No.378.

[147] According to article 12 of the *Decree*, “The State-owned assets supervision and administration authority of the State Council is a specially established authority directly subordinated to the State Council which, on behalf of the State Council, performs the responsibilities of investor, supervises and manages State-owned assets of enterprises.” This indicates that the GOC has significant authority over the actions of SOEs in China.

*Circular of the State-Council on Supervision of State-Owned Enterprises to Prevent Loss of State Assets*

[148] On November 10, 2015, the State Council issued the *Circular of the State-Council on Supervision of State-Owned Enterprises to Prevent Loss of State Assets* (the *Circular*).<sup>45</sup>

[149] According to a summary of the circular released by the GOC, “inside and outside supervision will be strengthened on SOEs.” A range of increased supervision efforts were listed in the summary by the GOC, including:

- improving supervision of SOEs’ key departments and subsidiaries in areas of finance, procurement, marketing, and investment;
- enhancing supervision of board of directors at SOEs;
- establishing audit committee made up of outside directors; and reinforcing board of supervisors;
- better oversight by State assets supervisory agencies of SOEs covering investment plans;
- restructuring and reorganization;
- property rights management;
- financial evaluation;
- performance appraisal;
- employment and promotion, and salary distribution;
- regular inspections on all business operations and random inspections on key projects;
- improvement of board of external supervisors dispatched by the government to monitor finance, major decisions, operation, managers, and board of directors of SOEs; and
- improvement of auditing on SOEs, especially during replacement of SOEs’ top executives.

[150] Based on the summary listed above, the GOC increased its supervision of all SOEs in 2015, which includes SOEs in the fabricated structural steel sector. Given the increased supervision of SOEs, it can be ascertained that state-owned and state-controlled FISC producers are driven by GOC mandates and do not necessarily operate under competitive market forces. As such, FISC producers can potentially supply FISC to clients at distorted prices.

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<sup>45</sup> Exhibit 264 (PRO) - Attachment 17 - GOC summary of Circular of the State-Council on Supervision of State-Owned Enterprises to Prevent Loss of State Assets.

### *GOC Purchase of FISC*

[151] The complaint provided information which indicates the GOC, through state-owned and state-controlled enterprises, is a significant purchaser of FISC. FISC is used in industrial construction and infrastructure projects, including oil and gas, mining, forestry and energy. The complaint listed four major state-owned construction enterprises:<sup>46</sup>

1. China State Construction & Engineering Corporation;
2. China Railway Engineering Corporation;
3. China Railway Construction Corporation; and
4. China State Construction International Holdings Limited (based in Hong Kong, majority owned by China State Construction & Engineering Corporation, and active in China's mainland construction).

[152] According to the report, "An Analysis of State-owned Enterprises and State Capitalism in China," referenced in the complaint, it is estimated that Chinese SOE construction firms account for a 50% share of China's construction industry.<sup>47</sup>

[153] In addition to state-owned construction enterprises, the complaint identified SOEs involved in oil and gas industry that purchase FISC for industrial purposes. The top five largest Chinese oil and gas firms are all SOEs:

1. China Petroleum & Chemical Corp.;
2. China National Petroleum Corporation;
3. China National Offshore Oil Corporation;
4. Sinochem Group; and
5. Yangchang Petroleum.

[154] According to the complaint, the Chinese mining industry is also largely state-owned and a major purchaser of FISC.<sup>48</sup> As the ultimate owners of the above state-owned and controlled enterprises the GOC may influence the domestic prices of FISC through substantial purchases of FISC.

### *GOC Export Controls*

[155] There is evidence that the GOC maintains export controls on raw materials used in the production of steel. These GOC measures limit or prevent the export of the raw materials resulting in an increasing supply in the Chinese domestic market causing downward pressure on domestic prices.

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<sup>46</sup> Exhibit 002 (NC) - FISC Complaint – page 77-78, para. 230-231.

<sup>47</sup> Exhibit 002 (NC) - FISC Complaint – page 77, para. 229.

<sup>48</sup> Exhibit 002 (NC) - FISC Complaint – page 79, para 232.



[156] During the POI, the GOC imposed an export tax of 25% on pig iron, iron and steel granules and powders, steel blooms, steel billets, and steel slab.<sup>49</sup> This discourages the export of such iron and steel products which increases their supply in the Chinese domestic market causing downward pressure on domestic prices of such products and products made from them, such as hot-rolled steel, which is the main raw material in the production of hollow structural sections, which in turn, is an input in the production of FISC. Similarly, steel slab is a major input for plate, which in turn is a major input for FISC.<sup>50</sup>

[157] The export controls of the GOC detailed above on steel products, including raw materials used in the production of FISC, create an increased supply and therefore lower prices of raw materials for FISC producers than would exist in a competitive market without such controls.

#### *Subsidization of the Steel Industry*

[158] The complaint provides information on subsidization of the Chinese steel industry and argues that this subsidization influences the price of steel products, including FISC.<sup>51</sup> As submitted in the complaint, Reuters reported, in 2014, 88% of Chinese firms have received subsidies with a value worth USD 5.24 billion.<sup>52</sup>

[159] As submitted in the subsidy allegations of the complaint, FISC producers have benefitted from subsidy programs provided by the GOC. Based on publically available financial statements, the complaint identified two FISC producers who have reported having received potentially actionable and countervailable subsidies.<sup>53</sup>

[160] In addition, as previously mentioned, the GOC has provided subsidies to producers in SEIs and clearly outlines tax and financial support in Part VII of the *State Council Decision on Accelerating the Development of Strategic Emerging Industries*.

[161] Based on information collected as part of the subsidy investigation, the CBSA has determined that cooperative Chinese exporters have received benefits from the GOC and the amounts of subsidy for some of the exporters were found not to be insignificant.

[162] Generally, subsidies allow Chinese steel enterprises, including FISC producers, to market steel and FISC products at prices determined by factors other than the market, including at prices lower than they would be without government subsidization. The direct support of the GOC of the steel industry and fabricated structural sector, including FISC, is evidence that the GOC intends to assert control and influence the selling price of FISC in the domestic market.

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<sup>49</sup> Exhibit 264 (PRO) - Attachment 18 - China keeps export duty on semis, long steel products unchanged for 2015 and Attachment 19 - China to Cut Some Steel Export Taxes in 2016 Amid Worsening Glut.

<sup>50</sup> Exhibit 002 (NC) - FISC Complaint – page 82, para. 242-243.

<sup>51</sup> Exhibit 002 (NC) - FISC Complaint – page 75-76, para. 223.

<sup>52</sup> Exhibit 002 (NC) - FISC Complaint – page 76, para. 224.

<sup>53</sup> Exhibit 002 (NC) - FISC Complaint – page 76, para. 225.

*Previous Section 20 Opinions Respecting Steel Industry Sectors in China*

[163] The CBSA has issued several opinions in respect of the following steel industry sectors that domestic prices are substantially influenced by the GOC and that they are not substantially the same as they would be if they were determined in a competitive market:

- carbon and alloy steel line pipe (2015)<sup>54</sup> [steel pipe sector];
- certain concrete reinforcing bar (2014)<sup>55</sup> [long products steel sector];
- certain hot-rolled carbon steel plate and high strength low-alloy steel plate (2010)<sup>56</sup> [flat-rolled steel industry sector];
- certain flat hot-rolled carbon and alloy steel sheet and strip (2010)<sup>57</sup> [flat-rolled steel industry sector]; and
- certain carbon steel welded pipe (2008 & 2011)<sup>58</sup> [welded pipe sector].

[164] The domestic selling prices of the above cited steel product industry sectors have been found by the CBSA to not be the same as they would be if they were determined under competitive market conditions. In the section 20 inquiries on the steel pipe sector, and the long products steel sector the CBSA determined that various GOC policies resulted in an increased supply of steel billet in the Chinese domestic market causing downward pressure on prices. Plate, one of the key inputs for FISC, is produced from semi-finished casting products, such as a billet<sup>59</sup> or slab<sup>60</sup>. What is important to note is that the CBSA previously formed the opinion that domestic prices in the flat-rolled steel industry sector in China, which includes plate, was under the conditions of section 20. These low-priced plate inputs are likely to lead to distorted prices for FISC in the fabricated structural steel sector.

[165] As explained in the complaint, FISC are customized products and are often produced by large, integrated producers that manufacture other steel products, such as long products, flat products, and pipe and tubular products.<sup>61</sup> Based on information on the record, one of the cooperative FISC producers in China is vertically integrated and manufactures other steel products that are affected by section 20 conditions, and that this would lead to distorted prices for FISC in the domestic market.

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<sup>54</sup> Final determination *Statement of Reasons* for Carbon and Alloy Steel Line Pipe – February 24, 2016.

<sup>55</sup> Final determination *Statement of Reasons* for Concrete Reinforcing Bar – December 10, 2014.

<sup>56</sup> Notice of Conclusion of Re-investigation, Steel Plate, July 16, 2010.

<sup>57</sup> Notice of Conclusion of Re-investigation, Flat Hot-Rolled Carbon and Alloy Steel Sheet and Strip, November 16, 2010.

<sup>58</sup> Final Determination *Statement of Reasons* for Carbon Steel Welded Pipe – August 5, 2008; and Notice of Conclusion of Re-investigation, Carbon Steel Welded Pipe, February 14, 2011.

<sup>59</sup> A semi-finished steel product obtained by rolling ingots on a rolling mill or processed through a continuous caster and cut into various lengths. The billet has a square cross section and is normally used as a starting material for long products like wire rod, merchant bars and other sections.

<sup>60</sup> A semi-finished steel product obtained by rolling ingots on a rolling mill or processed through a continuous caster and cut into various lengths. The slab has a rectangular cross section and is used as a starting material in the production process of flat products, i.e. hot rolled coils or plates.

<sup>61</sup> Exhibit 002 (NC) - FISC Complaint – page 59, para. 187.

## Summary of Government Influence on Domestic Prices

[166] The GOC's measures, notices and observations detailed above illustrate the fact that the GOC is closely administering the steel industry in China. Based on the information on the record to date, the scope of the GOC's macro-economic policies and measures provide a compelling factual basis that the GOC is influencing the Chinese steel industry, which encompasses the fabricated structural steel sector, including FISC. The use of such policies and measures can dramatically change the demand and supply balance in the domestic market and could materially alter the domestic prices of steel products such as steel slab, plate, as well as FISC.

[167] The major macro-economic policies and measures of the GOC include the *13<sup>th</sup> Five-Year National Plan on National Economic and Social Development*; the National Steel Policy; the *Steel Revitalization/Rescue Plan*; the *12<sup>th</sup> Five-Year Development Plans for the Steel Industry*; the *Iron and Steel Industrial Restructuring Policy (2015)*; the *List of Industries, Products and Technologies Currently Encouraged by the State for Development (2000)*, the *State Council Decision on Accelerating the Development of Strategic Emerging Industries*; the *Decree of the State Council of the People's Republic of China No.378*; and the *Circular of the State-Council on Supervision of State-Owned Enterprises to Prevent Loss of State Assets*. These have resulted in an environment where steel enterprises have conflicting objectives. The GOC objectives are likely to conflict with the commercial objectives of steel enterprises, including FISC producers, affecting the type of products to be produced, production volumes and ultimately prices.

[168] In addition to the industrial policies and plans, the GOC closely administers the steel industry, including the fabricated structural steel sector, through state-ownership and state-control of upstream enterprises involved in the supply of steel inputs as well as FISC producers downstream. The GOC's actions which also demonstrate its control over the steel industry, including the fabricated structural steel sector, include its purchase of FISC through state-owned and state-controlled enterprises involved in construction, industrial and infrastructure projects. Furthermore, export controls and subsidization of the steel industry in the fabricated structural steel sector further demonstrates the GOC's intent to exert control.

[169] The CBSA has previously issued opinions in respect of ten steel product sectors that domestic prices are substantially determined by the GOC; including the flat-rolled steel industry sector, which includes plate, one of the key inputs of FISC. In addition, given that the inputs in the production of FISC are mainly steel products joined together by various types of connectors and that some of the cooperative FISC producers purchase from related suppliers of steel products who are SOEs further support the GOC's control in the steel industry, including the fabricated structural steel sector and FISC.

[170] The cumulative impact of these GOC actions, measures and control clearly indicate that prices of FISC in China are being indirectly determined by the GOC.

### Chinese Domestic Price Analysis

[171] In order to determine normal values pursuant to section 20 of SIMA, in addition to the requirement in paragraph 20(1)(a) of SIMA that the CBSA be of the opinion that the government of a prescribed country substantially determines domestic prices, the CBSA must be of the opinion that there is sufficient reason to believe that the domestic prices are not substantially the same as they would be in a competitive market.

[172] At initiation the CBSA requested specific data regarding the domestic price of FISC in China from producers and exporters in that country. The CBSA received several responses to the Dumping and Section 20 RFIs from producers and exporters of FISC. These responses included information regarding the domestic price of these goods in China.

[173] The nature of FISC is such that it is a custom product for use in large industrial developments or projects that may be built over many years and in various phases. It is purchased directly from the FISC producers, generally as part of a package that typically includes drafting, engineering, and fabrication. The product is not individual pieces of steel; rather it is a complete set of precisely fabricated steel components that are assembled into a custom designed structure. FISC may be sole-sourced or based on a quoting or bidding process.<sup>62</sup>

[174] Since each project is unique it is difficult to compare the selling prices of one project to another. For purposes of the preliminary determination, the CBSA considered the information available on the record and compared the domestic selling prices of FISC projects in China with the domestic selling prices of FISC projects in Korea, on an average Price-Per-Metric-Tonne (PPMT) basis.

[175] Based on this comparison, the reported domestic selling prices of FISC in China were 5.9%<sup>63</sup> lower than the reported domestic selling prices of FISC in Korea during the POI. In the FISC industry where projects range in the millions of dollars, a 5.9% difference can be significant in terms of total project value. This is evidence that prices in China are lower than they would be in a competitive market.

[176] In addition to this analysis, the complaint contains price data for the raw material steel inputs that enter into the production of FISC. The primary material inputs for FISC include plate and sections. According to the complaint, these inputs account for 20% to 40% of the cost of production of FISC.<sup>64</sup>

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<sup>62</sup> Exhibit 002 (NC) - FISC Complaint – page 2, para. 4.

<sup>63</sup> Exhibit 264 (PRO) - Attachment 20 – Domestic Price Comparison of FISC.

<sup>64</sup> Exhibit 002 (NC) - FISC Complaint – page 73, para. 216.

[177] The CBSA obtained additional information in the investigation, as explained below, respecting the prices of the raw material steel inputs in other markets. The following summarizes the comparison of the domestic prices in China for the steel inputs that are incorporated into FISC products to the available prices for these inputs in other markets.

#### A. Hot-Rolled Coils/Band

[178] The complaint provided information from SteelBenchmarker which includes prices for hot-rolled band from October 2014 to January 2016, which falls within the POI.<sup>65</sup> The price information is available for the United States, Western Europe, and China. Based on this information, prices of hot-rolled band in China were between 35% and 47% below the prices in the United States and 20% to 35% below the prices in Western Europe.

[179] The CBSA was able to obtain limited information from MEPS (International) Ltd. (“MEPS”) on prices of domestic hot-rolled coil sold around the world, for the period of May 2015 to June 2016, the last fourteen months of the POI. MEPS is a publisher of steel market prices around the world.<sup>66</sup> Using this information the CBSA conducted a price analysis on the prices of hot-rolled coil and found that the Chinese domestic prices were between 15% to 36% lower compared to the average World Prices.

#### B. Plate

[180] The complaint provided information from SteelBenchmarker which includes prices for plate from October 2014 to January 2016, which falls within the POI.<sup>67</sup> The price information is available for the United States and China. Based on this information, prices of plate in China were between 35% and 47% below the prices in the United States.

[181] The CBSA was able to obtain limited information from MEPS on prices of domestic plate for the period of May 2015 to June 2016, the last fourteen months of the POI. Using this information the CBSA conducted a price analysis on the prices of plate and found that the Chinese domestic prices were between 26% to 48% lower compared to the average World Prices.

[182] Based on information collected during the investigations, the prices of plate purchased by cooperative producers/exporters from SOEs were compared to plate prices reported on MEPS. The analyses indicate that prices of plate purchased by FISC producers/exporters from SOEs were on average 21% to 25% below average World Prices.

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<sup>65</sup> Exhibit 002 (NC) - FISC Complaint – page 73, para. 217.

<sup>66</sup> <http://www.meps.co.uk/index.htm>.

<sup>67</sup> Exhibit 002 (NC) - FISC Complaint – page 73, para. 217.

### C. Beams and Sections

[183] The complaint provided information from Steel First which includes prices for beams and sections for the month of November and December 2015, which falls within the POI.<sup>68</sup> The price information is available for the United States, Western Europe, and China. Based on this information, prices of beams and sections in China were between 35% and 47% below the prices in the United States and 20% to 35% below the prices in Western Europe. The CBSA notes that the US structural sections import price includes the cost and freight, however, this is a price sold in the world market and in the CBSA's opinion the inclusion of freight in the price does not account for the significant price differential.

[184] The CBSA was able to obtain limited information from MEPS on prices of domestic structural sections and beams sold around the world for the period of May 2015 to June 2016, the last fourteen months of the POI. Using this information, the CBSA conducted a price analysis on domestic prices of sections and beams and found that the Chinese domestic prices were between 37% to 53% lower compared to the average World Prices.

[185] Based on information collected during the investigations, the prices of beams purchased by cooperative FISC producers/exporters from SOEs were compared to beam prices reported on MEPS. The analyses indicate that prices of beams purchased by FISC producers/exporters from SOEs were on average 34% below average World Prices.

### D. Channels

[186] Based on information collected during the investigations, the prices of channels purchased by cooperative producers/exporters from SOEs were compared to import prices of channels. The analyses indicate that prices of channels purchased by FISC producers/exporters from SOEs were on average 71% below import prices of channels.

[187] In summary, the analysis shows that prices of hot-rolled coils, plate, sections and beams are significantly lower in China in comparison to average World Prices. In addition, based on information on the record, the CBSA determined that prices of channels are significantly lower in China in comparison to import prices of channels.

[188] Given that the prices of hot-rolled coils, plate, beams, sections and channels, which are incorporated into FISC products, are significantly lower in China, it is reasonable to conclude that the prices of FISC in the Chinese domestic market are impacted by the distorted prices of these raw material steel inputs.

[189] The information discussed above supports the conclusion that the domestic prices of FISC in China are not substantially the same as they would be if they were determined in a competitive market.

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<sup>68</sup> Exhibit 002 (NC) - FISC Complaint – page 74, para. 219.

[190] Exporters/producers of FISC argue that prices of FISC in China and the world are determined under competitive conditions. They further argue that there are a large number of competitors in China and around the world bidding for the same projects in China and around the world and that the GOC is not involved in these price negotiations.

[191] During the final phase of the investigation, the CBSA will review any new information available with respect to prices of FISC in China as compared to prices in other competitive markets.

### **Summary of the Preliminary Results of the Section 20 Inquiry**

[192] The CBSA considered the arguments made by the exporters/producers in their submissions. Although the GOC does not have direct price control of FISC in China, the CBSA finds that there is evidence to support the fact that GOC is heavily invested in the fabricated structural steel sector, which includes FISC. Furthermore, the involvement of the GOC in the fabricated structural steel sector provides cost advantages to the exporter/producers of FISC in both the Chinese and international markets.

[193] The wide range and material nature of the GOC measures have resulted in significant influence on the fabricated structural steel sector in China, which includes FISC. Based on the preceding, the CBSA is of the opinion that:

- domestic prices 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 in a competitive market.

[194] During the final stage of the dumping investigation, the CBSA will continue the section 20 inquiry and further verify and analyze relevant information. The CBSA may reaffirm its opinion that the conditions of section 20 of SIMA exist in the fabricated structural steel sector, which includes FISC, as part of the final phase of the investigation, or conclude that the determination of normal values may be made using domestic selling prices and costs in China.

### **Normal Values – Section 20**

[195] For purposes of the preliminary determination, normal values could not be estimated on the basis of domestic selling prices in China or on the full cost of goods plus profit, because the CBSA formed the opinion that the conditions of paragraph 20(1)(a) of SIMA exist in the fabricated structural steel sector, which includes FISC, in China.

[196] Where section 20 conditions exist, the CBSA may estimate normal values using the selling prices, or the total costs and profit, of like goods sold by producers in a surrogate country designated by the President in accordance with the provisions of paragraph 20(1)(c) of SIMA.

[197] The CBSA received responses from one cooperative producer/exporter located in Spain and four cooperative exporters and/or producers located in Korea. However, producers and exporters located in these countries did not have domestic pricing and costing information relating to the like goods. FISC are custom designed for specific industrial uses, and can only be used for the projects for which they are designed. Therefore, for the purpose of estimating normal values, the CBSA determined that the FISC sold in Korea and Spain are not like goods to the subject goods exported from China and sold to the importer in Canada.

[198] Where normal values cannot be determined under paragraph 20(1)(c), SIMA provides an alternative methodology to calculate normal values under paragraph 20(1)(d), using re-sales in Canada of like goods imported from a third country. This provision could also not be used given that the importers did not provide sufficient re-sale information of like goods.

[199] Accordingly, after having considered all information on the record, including information provided by the complainants, information provided by exporters/producers and publically available information, normal values were estimated using a cost-based methodology using Korea as surrogate country. This methodology was used to estimate normal values for the exporters that provided substantially complete information to the CBSA. The estimated normal value for each project imported during the POI is the sum of the cost of material, labour, and overhead; other production costs; an amount for administrative, selling and all other costs and an amount for profit as explained below.

#### *Cost of Material*

[200] Based on the analysis of the information collected as part of the section 20 inquiry, the CBSA estimated that prices of raw material steel inputs in China are on average 38.4% below the prices of steel inputs in Korea. The Korean prices are in line with world prices for the steel inputs. Accordingly, the total cost of material was adjusted upwards to reflect the world prices.

#### *Cost of Labour*

[201] Based on information provided in the complaint, the CBSA estimated that the cost of labour in China is 20.9% below the cost of labour in Korea. Accordingly, the total cost of labour was adjusted upwards to reflect the labour costs in Korea.

#### *Cost of Overhead*

[202] The CBSA estimated an adjustment for the cost of overhead in China based on the average adjustment of prime costs (cost of material and cost of labour) above. Prime costs in China were on average 29.7% below those in Korea. Accordingly, the total cost of overhead was adjusted upwards to reflect overhead costs in Korea.



*Amount for Administrative, Selling and All Other Costs*

[203] Based on the information provided by the four Korean producers that responded to the Dumping RFI, the CBSA estimated an amount for administrative, selling and all other costs (5.9%) as a percentage of the cost of goods.

*Amount for Profit*

[204] Based on the information provided by the four Korean producers that responded to the Dumping RFI, the CBSA estimated an amount for profit (6.9%) as a percentage of the cost of goods.

[205] The CBSA finds this methodology to be reasonable for the purposes of the preliminary determination. During the final phase of the investigation the CBSA will endeavour to refine the adjustments used in the methodology to calculate normal values based on accurate and verified information collected during on-site verification of producers in Korea.

[206] The preliminary results for each exporter who provided a response to the Dumping RFI, and where applicable the Section 20 RFI, are summarized below.

Baosteel Construction Co., Ltd. (Baosteel)

[207] Baosteel is a producer and exporter of the subject goods used in industrial projects located in Fort McMurray, Alberta. In addition, Baosteel utilized the services of two processors in the production of subject goods.

[208] Baosteel provided a substantially complete response to the Dumping RFI<sup>69&70</sup> and supplemental RFIs (SRFIs)<sup>71&72</sup>. Included in the response was a database of domestic sales of goods sold during the POI. Baosteel also provided a response to the Section 20 RFI. The CBSA will continue to collect and verify information from Baosteel during the final phase of the investigation.

[209] SIMA specifies that the export price is the lesser of the exporter's selling price pursuant to paragraph 24(a) of SIMA and the importer's purchase price, determined pursuant to paragraph 24(b) of SIMA.

[210] For the subject goods exported by Baosteel to Canada during the POI, export prices were estimated by using the methodology of section 24 of SIMA, based on the exporter's selling price less all costs, charges and expenses resulting from the exportation of the goods.

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<sup>69</sup> Exhibits 070 (PRO) & 071 (NC) – Response to Exporter RFI from Baosteel Construction Co., Ltd.

<sup>70</sup> Exhibits 129 (PRO) & 130 (NC) – Revised submissions pertaining to the CBSA Dumping Investigation – RFI.

<sup>71</sup> Exhibits 177 (PRO) & 178 (NC) – Response to Supplementary RFI #1 from Baosteel Construction Co., Ltd.

<sup>72</sup> Exhibits 292 (PRO) & 293 (NC) – Response to Supplementary RFI #2 from Baosteel Construction Co., Ltd.

[211] Given that payments are received over extended periods of time, there is a requirement to determine the present value of each payment for sales to Canada. Accordingly, the export price of the goods was adjusted according to paragraph 27(1)(a) of SIMA.

[212] For the preliminary determination, the total estimated normal value compared with the total estimated export price results in an estimated margin of dumping of 31.7%, expressed as a percentage of export price.

Modern Heavy Industries (Taicang) Co., Ltd. (Taicang)

[213] Taicang is a producer and exporter of subject goods used in an industrial project in Canada.

[214] Taicang provided a substantially complete response to the Dumping RFI<sup>73</sup> and SRFIs<sup>74</sup>. Included in the response was a database of domestic sales of goods sold during the POI. Taicang also provided a response to the Section 20 RFI. The CBSA will continue to collect and verify information from Taicang during the final phase of the investigation.

[215] SIMA specifies that the export price is the lesser of the exporter's selling price pursuant to paragraph 24(a) of SIMA and the importer's purchase price, determined pursuant to paragraph 24(b) of SIMA.

[216] The CBSA was unable to estimate the importer's purchase price because the information submitted by the vendor and importer is incomplete.

[217] For the purposes of the preliminary determination, the export price for the FISC exported by Taicang was estimated by using the methodology of paragraph section 24(a) of SIMA, based on the exporter's selling price less all costs, charges and expenses resulting from the exportation of the goods.

[218] Given that payments are received over extended periods of time, there is a requirement to determine the present value of each payment for sales to Canada. Accordingly, the export price of the goods was adjusted according to paragraph 27(1)(a) of SIMA.

[219] In the final phase of the investigation, the CBSA will continue to solicit information from the vendor and the importer, to determine the importer's purchase price. If the information required for the determination of the importer's purchase price remains insufficient, the export price will be determined under a Ministerial Specification for the purposes of the final decision.

[220] For the preliminary determination, the total estimated normal value compared with the total estimated export price results in an estimated margin of dumping of 25.7% for goods exported by Taicang, expressed as a percentage of export price.

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<sup>73</sup> Exhibits 076 (PRO) & 077 (NC) – Response to Exporter RFI from Modern Heavy Industries (Taicang) Co., Ltd.

<sup>74</sup> Exhibits 168 (PRO) & 169 (NC) – Response to Supplementary RFI #1 from Modern Heavy Industries (Taicang) Co., Ltd.

Shanghai Shuangyan Chemical Equipment Manufacturing Co. (Shuangyan Chemical)

[221] Shuangyan Chemical is a producer and exporter of subject goods used in an industrial project in Canada.

[222] Shuangyan Chemical provided substantially complete responses to the Dumping RFI<sup>75</sup> and SRFIs<sup>76</sup>; however, the CBSA did not receive a response to the Dumping RFI from the related sales arm of Shuangyan Chemical, Yanda HK. The subject goods exported by Shuangyan Chemical were imported by Yanda Canada Inc., a related company. Yanda Canada provided a complete response to the importer RFI<sup>77&78</sup>. As Yanda HK did not provide a response, the response of the Yanda Group of companies to the RFIs for the goods produced by Shuangyan Chemical is incomplete. The CBSA will continue to collect and verify information from Shuangyan Chemical, Yanda HK and Yanda Canada during the final phase of the investigation.

[223] SIMA specifies that the export price is the lesser of the exporter's selling price pursuant to paragraph 24(a) of SIMA and the importer's purchase price, determined pursuant to paragraph 24(b) of SIMA.

[224] For the preliminary phase of the investigation, the CBSA was unable to estimate an export price under paragraph 24(b) of SIMA because the vendor to Canada did not provide a response to the RFIs. In addition, the CBSA was unable to test the reliability of export prices for the preliminary phase of the investigation under paragraph 25(1)(b) of SIMA as sufficient information was not available. In order to calculate export price under section 24 or 25 for purposes of a final determination, the CBSA will require information necessary to determine an export price under paragraph 24(b) of SIMA and to test export prices under paragraph 25(1)(b) of SIMA.

[225] For the purposes of the preliminary determination, the export price for the FISC exported by Shuangyan Chemical was estimated by using the methodology of paragraph section 24(a) of SIMA, based on the exporter's selling price less all costs, charges and expenses resulting from the exportation of the goods.

[226] Given that payments are received over extended periods of time, there is a requirement to determine the present value of each payment for sales to Canada. Accordingly, the export price of the goods was adjusted according to paragraph 27(1)(a) of SIMA.

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<sup>75</sup> Exhibits 092 (PRO) & 093 (NC) – Response to Exporter RFI Shanghai Shuangyan Chemical Equipment Manufacturing Co., Ltd.

<sup>76</sup> Exhibits 216 (PRO) & 217 (NC) – Response to Supplementary RFI #1 from Shanghai Shuangyan Chemical Equipment Manufacturing Co., Ltd.

<sup>77</sup> Exhibits 051 (PRO) & 052 (NC) – Response to Importer RFI from Yanda Canada Ltd.

<sup>78</sup> Exhibits 227 (NC) & 228 (PRO) – Response to Supplementary RFI #1 from Yanda Canada Ltd.

[227] In the final phase of the investigation, the CBSA will continue to solicit information from the vendor and the importer, to determine the importer's purchase price. If the information required for the determination of the importer's purchase price remains insufficient, the export price will be determined under a Ministerial Specification for the purposes of the final decision.

[228] As the response of the Yanda Group to the RFIs for the goods produced by Shuangyan Chemical is incomplete, normal values were estimated based on the methodology explained in the section below entitled "All Other Exporters".

[229] For the preliminary determination, the total estimated normal value compared with the total estimated export price results in an estimated margin of dumping of 42.8%, expressed as a percentage of export price.

#### Shanghai Yanda Engineering Co., Ltd. (Yanda Engineering)

[230] Yanda Engineering is a producer and exporter of subject goods used in an industrial project in Canada.

[231] Yanda Engineering provided a response to the Dumping RFI and SRFIs<sup>79,80&81</sup>; however, the CBSA did not receive a response to the Dumping RFI from the related sales arm of Yanda Engineering, Yanda HK. As Yanda HK did not provide a response, the response of the Yanda Group of companies to the RFIs for the goods produced by Yanda Engineering is incomplete. The CBSA will continue to collect and verify information from Yanda Engineering and other companies during the final phase of the investigation.

[232] SIMA specifies that the export price is the lesser of the exporter's selling price pursuant to paragraph 24(a) of SIMA and the importer's purchase price, determined pursuant to paragraph 24(b) of SIMA.

[233] The CBSA is unable to estimate the importer's purchase price because the information submitted by the vendor and importer is incomplete.

[234] For the preliminary phase of the investigation, the CBSA was unable to estimate an export price under paragraph 24(b) of SIMA because neither the vendor to Canada nor the importer provided a response to the RFIs. In order to calculate export price under section 24 for purposes of a final determination, the CBSA will require information necessary to determine an export price under paragraph 24(b) of SIMA.

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<sup>79</sup> Exhibits 094 (PRO) & 095 (NC) – Response to Exporter RFI Shanghai Yanda Engineering Co., Ltd.

<sup>80</sup> Exhibits 218 (PRO) & 219 (NC) – Response to Supplementary RFI #1 from Shanghai Yanda Engineering Co., Ltd.

<sup>81</sup> Exhibits 259 (NC) & 260 (PRO) – Response to Supplementary RFI #2 from Shanghai Yanda Engineering Co., Ltd.

[235] For the purposes of the preliminary determination, the export price for the FISC exported by Yanda Engineering was estimated by using the methodology of paragraph section 24(a) of SIMA, based on the exporter's selling price less all costs, charges and expenses resulting from the exportation of the goods.

[236] Given that payments are received over extended periods of time, there is a requirement to determine the present value of each payment for sales to Canada. Accordingly, the export price of the goods was adjusted according to paragraph 27(1)(a) of SIMA.

[237] In the final phase of the investigation, the CBSA will continue to solicit information from the vendor and the importer, to determine the importer's purchase price. If the information required for the determination of the importer's purchase price remains insufficient, the export price will be determined under a Ministerial Specification for the purposes of the final decision.

[238] As the response of the Yanda Group to the RFIs for the goods produced by Yanda Engineering is incomplete, normal values were estimated based on the methodology explained in the section below entitled "All Other Exporters".

[239] For the preliminary determination, the total estimated normal value compared with the total estimated export price results in an estimated margin of dumping of 42.8%, expressed as a percentage of export price.

#### United Steel Structures Ltd (USSL)

[240] USSL is a producer and exporter of subject goods used in industrial projects in Canada.

[241] USSL provided a substantially complete response to the Dumping RFI and SRFIs<sup>82,83,84,85&86</sup>. USSL also provided a response to the Section 20 RFI. The CBSA will continue to collect and verify information from USSL during the final phase of the investigation.

[242] SIMA specifies that the export price is the lesser of the exporter's selling price pursuant to paragraph 24(a) of SIMA and the importer's purchase price, determined pursuant to paragraph 24(b) of SIMA.

[243] The CBSA is unable to estimate the importer's purchase price because the information submitted by the vendor and importer is incomplete.

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<sup>82</sup> Exhibits 137 (PRO), 138 (NC), 147 (PRO) & 148 (NC) – Response to Exporter RFI – Dumping from United Steel Structures Ltd.

<sup>83</sup> Exhibits 229 (PRO) & 230 (NC) – Response to Supplementary RFI #1 from United Steel Structures Ltd.

<sup>84</sup> Exhibits 210 (PRO) & 211 (NC) – Response to Supplementary RFI #2 from United Steel Structures Ltd.

<sup>85</sup> Exhibits 231 (PRO) & 232 (NC) – Response to Supplementary RFI #3 from United Steel Structures Ltd.

<sup>86</sup> Exhibits 294 (PRO) & 295 (NC) – Response to Supplementary RFI #4 from United Steel Structures Ltd.

[244] For the purposes of the preliminary determination, the export price for the FISC exported by USSL was estimated by using the methodology of paragraph section 24(a) of SIMA, based on the exporter's selling price less all costs, charges and expenses resulting from the exportation of the goods.

[245] Given that payments are received over extended periods of time, there is a requirement to determine the present value of each payment for sales to Canada. Accordingly, the export price of the goods was adjusted according to paragraph 27(1)(a) of SIMA.

[246] In the final phase of the investigation, the CBSA will continue to solicit information from the vendor and the importer, to determine the importer's purchase price. If the information required for the determination of the importer's purchase price remains insufficient, the export price will be determined under a Ministerial Specification for the purposes of the final decision.

[247] For the preliminary determination, the total estimated normal value compared with the total estimated export price results in an estimated margin of dumping of 20.0% expressed as a percentage of export price.

Yanda (Haimen) Heavy Equipment Manufacturing Co., Ltd. (Yanda Haimen)

[248] Yanda Haimen is a producer and exporter of subject goods used in an industrial project in Canada.

[249] Yanda Haimen provided a substantially complete response to the dumping RFI and SRFIs<sup>87,88&89</sup>. The CBSA also received a response to the Dumping RFI from the vendor to Canada of the goods, a company that is not associated with Yanda Haimen. The CBSA will continue to collect and verify information from Yanda Haimen and other companies during the final phase of the investigation.

[250] SIMA specifies that the export price is the lesser of the exporter's selling price pursuant to paragraph 24(a) of SIMA and the importer's purchase price, determined pursuant to paragraph 24(b) of SIMA.

[251] Export prices were estimated in accordance with paragraph 24(b) of SIMA, based on the importer's purchase price less all costs, charges and expenses resulting from the exportation of the goods. The importer's purchase price was estimated to be lower than the exporter's selling price as calculated under paragraph 24(a) of SIMA.

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<sup>87</sup> Exhibits 072 (PRO) & 073 (NC) – Response to Exporter RFI Yanda (Haimen) Heavy Equipment Manufacturing Co., Ltd.

<sup>88</sup> Exhibits 220 (PRO) & 221 (NC) – Response to Supplementary RFI #1 from Yanda (Haimen) Heavy Equipment Manufacturing Co., Ltd.

<sup>89</sup> Exhibits 257 (PRO) & 258 (NC) – Response to Supplementary RFI #2 from Yanda (Haimen) Heavy Equipment Manufacturing Co., Ltd.

[252] Given that payments are received over extended periods of time, there is a requirement to determine the present value of each payment for sales to Canada. Accordingly, the export price of the goods was adjusted according to paragraph 27(1)(a) of SIMA.

[253] For purposes of the preliminary determination, the total estimated normal value compared with the total estimated export price results in an estimated margin of dumping of 0%.

## Korea

[254] The CBSA received substantially complete responses from the following producers and/or exporters of subject goods from Korea; Hanmaek Heavy Industries Co., Ltd.<sup>90,91&92</sup> Nara KIC Inc.,<sup>93,94&95</sup> Samjin Industries Co., Ltd. and Samjin Steel Structure Co., Ltd (collectively “Samjin”)<sup>96&97</sup>, and Sungchang Engineering & Construction Co., Ltd<sup>98,99&100</sup>. The CBSA also received a response from SK Engineering and Construction Co., Ltd (SKEC)<sup>101,102,103&104</sup>, which was incomplete. Further, the CBSA received a response from a Spanish vendor of goods originating in Korea, Técnicas Reunidas SA.<sup>105</sup>, which was submitted late and is incomplete.

### SK Engineering and Construction Co. Ltd.

[255] SKEC, an Engineering, Procurement and Construction (EPC) contractor, is considered to be the exporter of subject goods used in an industrial project located in Fort McMurray, Alberta.

[256] While SKEC provided a timely response to the exporter Dumping RFI, its response was substantially incomplete. In particular, it was lacking information on domestic sales and on costing, in addition to information necessary to reconcile shipment data between the FISC exported by SKEC and the FISC fabricated and further processed by a number of Korean producers.

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<sup>90</sup> Exhibits 086 (PRO) & 087 (NC) – Response to Exporter RFI from Hanmaek Heavy Ind.

<sup>91</sup> Exhibits 183 (PRO) & 184 (NC) –Response to Supplementary RFI #1 from Hanmaek Heavy Ind.

<sup>92</sup> Exhibits 271 (PRO) & 272 (NC) –Response to Supplementary RFI #2 from Hanmaek Heavy Ind.

<sup>93</sup> Exhibits 088 (PRO) & 089 (NC) – Response to Exporter RFI from Nara KIC.

<sup>94</sup> Exhibits 181 (PRO) & 182 (NC) –Response to Supplementary RFI #1 from Nara KIC.

<sup>95</sup> Exhibits 269 (PRO) & 270 (NC) –Response to Supplementary RFI #2 from Nara KIC.

<sup>96</sup> Exhibits 084 (PRO) & 085 (NC) – Response to Exporter RFI from Samjin Industrial & Steel Structure.

<sup>97</sup> Exhibits 175 (NC) & 176 (PRO) –Response to Supplementary RFI #1 from Samjin Industrial & Steel Structure.

<sup>98</sup> Exhibits 082 (PRO) & 083 (NC) – Response to Exporter RFI from Sungchang E & C.

<sup>99</sup> Exhibits 170 (PRO), 171 (NC), 185 (PRO) & 186 (NC) –Response to Supplementary RFI #1 from Sungchang E & C.

<sup>100</sup> Exhibits 255 (NC) & 256 (PRO) –Response to Supplementary RFI #2 from Sungchang E & C.

<sup>101</sup> Exhibits 080 (PRO) & 081 (NC) – Response to Exporter RFI from SK Engineering & Construction.

<sup>102</sup> Exhibits 189 (PRO) & 190 (NC) –Response to Supplementary RFI #1 from SK Engineering & Construction.

<sup>103</sup> Exhibits 223 (PRO) & 224 (NC) –Response to Supplementary RFI #2 from SK Engineering & Construction.

<sup>104</sup> Exhibits 253 (NC) & 254 (PRO) –Response to Supplementary RFI #3 from SK Engineering & Construction.

<sup>105</sup> Exhibits 206 (PRO) & 207 (NC) – Response to Exporter RFI from Técnicas Reunidas SA.

[257] SKEC only completed its response on December 15, 2016, further to responses to two SRFIs sent by the CBSA requesting information necessary to complete its submission, and for clarification purposes. Given the nature and extent of the information, the CBSA was unable to consider this information for the purposes of the preliminary determination. As such, the CBSA is unable to estimate SKEC's margin of dumping on the basis of their submission for the purposes of the preliminary determination.

[258] In light of the incomplete information provided by SKEC in the course of the preliminary phase of the investigation, the normal values and export prices were estimated based on the methodologies explained in the section below entitled "All Other Exporters".

[259] For the preliminary determination, the total estimated normal value compared with the total estimated export price results in an estimated margin of dumping of 42.8%, expressed as a percentage of export price.

#### Hanmaek Heavy Industries Co., Ltd.

[260] Hanmaek Heavy Industries Co., Ltd. (Hanmaek) is a producer and exporter of subject goods used in an industrial project in Canada.

[261] Hanmaek provided a substantially complete response to the Dumping RFI and SRFIs. The CBSA will continue to collect and verify information from Hanmaek for purposes of the final decision.

[262] While Hanmaek has domestic sales of FISC, the goods are not considered like goods as FISC are custom designed for specific industrial uses, and can only be used for the projects for which they are designed. Accordingly, the normal values were estimated using the methodology of paragraph 19(b) of SIMA, as the sum of the cost of production, a reasonable amount for administrative, selling and all other costs, and a reasonable amount for profits.

[263] The amount for administrative, selling and all other costs is estimated in accordance with subparagraph 11(1)(c)(ii) of the SIMR based on all administrative, selling and all other costs, including the costs of any warranty against defect or guarantee of performance and any design or engineering costs, that are not included in the cost of production but are reasonably attributable to the production and sale of the goods.

[264] The amount for profits is estimated in accordance with subparagraph 11(1)(b)(ii) of the SIMR by using all of Hanmaek's profitable domestic sales of goods that were of the same general category (i.e. FISC) as the subject goods exported to Canada during the POI.

[265] SIMA specifies that the export price is the lesser of the exporter's selling price pursuant to paragraph 24(a) of SIMA and the importer's purchase price, determined pursuant to paragraph 24(b) of SIMA.



[266] For the purposes of the preliminary determination, the export price for the FISC exported by Hanmaek was estimated by using the methodology of paragraph section 24(a) of SIMA, based on the exporter's selling price less all costs, charges and expenses resulting from the exportation of the goods.

[267] The CBSA is unable to estimate the importer's purchase price because the information submitted by the vendor is incomplete and no information was submitted by the importer.

[268] In the final phase of the investigation, the CBSA will continue to solicit information from the vendor and the importer, to determine the importer's purchase price. If the information required for the determination of the importer's purchase price remains insufficient, the export price will be determined under a Ministerial Specification for the purposes of the final decision.

[269] For the preliminary determination, the total estimated normal value compared with the total estimated export price results in an estimated margin of dumping of 2.7% for Hanmaek, expressed as a percentage of export price.

## Spain

### Cintasa S.A. (Cintasa)

[270] Cintasa is a producer and exporter of subject goods used in an industrial project in Canada.

[271] Cintasa provided a substantially complete response to the Dumping RFI<sup>106,107,108,109,110&111</sup>. Five supplemental RFIs were sent to Cintasa to gather additional information and seek clarification regarding its original RFI response. The CBSA will continue to collect and verify information from Cintasa until the close of the record.

[272] Cintasa does not have domestic sales of like goods. Accordingly, normal values were estimated using the methodology of paragraph 19(b) of SIMA, as the sum of the cost of production, a reasonable amount for administrative, selling and all other costs, and a reasonable amount for profits.

[273] The amount for administrative, selling and all other costs is estimated in accordance with subparagraph 11(1)(c)(ii) of the SIMR based on all administrative, selling and all other costs, including the costs of any warranty against defect or guarantee of performance and any design or engineering costs, that are not included in the cost of production but are reasonably attributable to the production and sale of the goods.

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<sup>106</sup> Exhibits 064 (PRO) & 065 (NC) – Response to Exporter RFI from Cintasa S.A.

<sup>107</sup> Exhibits 173 (PRO) & 174 (NC) – Response to Supplementary RFI #1 from Cintasa S.A.

<sup>108</sup> Exhibits 208 (PRO) & 209 (NC) – Response to Supplementary RFI #2 from Cintasa S.A.

<sup>109</sup> Exhibits 212 (PRO) & 213 (NC) – Response to Supplementary RFI #3 from Cintasa S.A.

<sup>110</sup> Exhibits 225 (NC) & 226 (PRO) – Response to Supplementary RFI #4 from Cintasa S.A.

<sup>111</sup> Exhibits 273 (PRO) & 274 (NC) – Response to Supplementary RFI #5 from Cintasa S.A.

[274] The amount for profits is estimated in accordance with subparagraph 11(1)(b)(ii) of the SIMR by using all of Cintasa's profitable domestic sales of goods that were of the same general category (i.e. FISC) as the subject goods exported to Canada during the POI.

[275] SIMA specifies that the export price is the lesser of the exporter's selling price pursuant to paragraph 24(a) of SIMA and the importer's purchase price, determined pursuant to paragraph 24(b) of SIMA.

[276] For the purposes of the preliminary determination, the export price for the FISC exported by Cintasa was estimated by using the methodology of paragraph section 24(a) of SIMA, based on the exporter's selling price less all costs, charges and expenses resulting from the exportation of the goods. The purchase price was confirmed in the importer's RFI submission.

[277] For the preliminary determination, the total estimated normal value compared with the total estimated export price results in an estimated margin of dumping of 0%.

### **All Other Exporters**

[278] At the initiation of the investigation, all known and potential exporters were sent a Dumping RFI in order to solicit information required for purposes of determining normal values and export prices of subject goods in accordance with the provisions of SIMA. As such, all exporters were given the opportunity to participate in the investigation. In the RFI, the exporters were notified that failure to submit all required information and documentation, including non-confidential versions, or failure to permit verification of any information, may result in the normal values of the subject goods exported by their company being based on the facts available. It was further stated that such a decision would be less favourable to their company than if complete and verifiable information were made available.

[279] For exporters who did not provide sufficient information in response to the dumping RFI, normal values and export prices were estimated on the basis of facts available. In establishing the methodologies for determining these estimates, the CBSA examined all information on the record, including information from the complaint, information provided by exporters, publically available information and customs documentation.

[280] The CBSA considered that the normal values and export prices estimated for the responding exporters, rather than the information provided in the complaint, was the best information on which to base the methodology for estimating normal values. The CBSA examined the difference between the estimated normal value and estimated export price of each individual transaction for the responding exporters in order to obtain an appropriate amount for the normal value methodology. The transactions were also examined to ensure that anomalies were not considered, however, there were no anomalies.

[281] The CBSA considered that the highest amount by which the estimated normal value exceeded the estimated export price found on an individual transaction (expressed as a percentage of the export price) was an appropriate basis for estimating normal values. This method of estimating normal values was based on information on the record and limits the advantage that an

exporter may gain from not providing necessary information requested in a dumping investigation as compared to an exporter that did provide the necessary information.

[282] Therefore, the normal values were estimated based on the estimated export price, plus an amount equal to 42.8% of that estimated export price.

[283] CBSA considered that the information submitted on the CBSA customs entry documentation was the best information on which to estimate the export price of the goods as it reflects actual import data. This information is more comprehensive than what was available in the complaint.

[284] Based on the above methodologies, the estimated margin of dumping for the subject goods exported to Canada by all other exporters is 42.8%, expressed as a percentage of the export price.

### Summary of Preliminary Results - Dumping

[285] A summary of the preliminary results of the dumping investigation respecting all subject goods released into Canada during the POI follows:

**Summary of Results - Dumping**  
**Period of Investigation (January 1, 2014 to June 30, 2016)**

Country	Estimated Margin of Dumping*	Estimated Volume of Subject Goods as Percentage of Total Imports
China	32.5%	31.9%
Korea	40.6%	36.0%
Spain	37.7%	3.5%
UAE	n/a	1.6%
UK	n/a	1.6%

\* Expressed as a percentage of the export price.

[286] Under section 35 of SIMA, if, at any time before making a preliminary determination the CBSA is satisfied that the actual and potential volume of goods of a country is negligible, the CBSA is required to terminate the investigation with respect to goods of that country.

[287] Pursuant to subsection 2(1) of SIMA, the volume of goods of a country 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 goods.

[288] As noted in the table above, the total volume of goods from the UAE and the UK each account 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 goods. Thus, the CBSA is satisfied that the actual and potential volumes of goods from the UAE and from the UK are negligible. Therefore as the goods from the UAE and UK are considered negligible, on January 25, 2017, prior to the preliminary determination, pursuant to paragraph 35(2)(a) of SIMA, the CBSA terminated the dumping investigation with respect to certain FISC originating in or exported from the UAE and the UK.

[289] The volumes of subject goods from China, Korea, and Spain are above 3% of the total volume of goods released into Canada from all countries. Based on the definition above, the volumes of subject goods from China, Korea, and Spain are therefore not negligible.

[290] If, in making a preliminary determination, the CBSA determines that the margin of dumping of the goods of a country is insignificant pursuant to section 38 of SIMA, the investigation will continue in respect of those goods but provisional duties will not be imposed on goods of the same description imported during the provisional period.

[291] Pursuant to subsection 2(1) of SIMA, a margin of dumping of less than 2% of the export price of the goods is defined as insignificant. In this case, the margins of dumping, estimated for China, Korea, and Spain, are greater than the threshold of 2% and are therefore not considered insignificant.

[292] A summary of the estimated margins of dumping and provisional duties by exporter are presented in a summary table in **Appendix 1**.

## **SUBSIDY INVESTIGATION**

[293] In accordance with section 2 of 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.

[294] Pursuant to subsection 2(1.6) of SIMA, there is a financial contribution by a government of a country other than Canada where:

- (a) practices of the government involve the direct transfer of funds or liabilities or the contingent transfer of funds or liabilities;
- (b) amounts that would otherwise be owing and due to the government are exempted or deducted or amounts that are owing and due to the government are forgiven or not collected;

- (c) the government provides goods or services, other than general governmental infrastructure, or purchases goods; or
- (d) the government permits or directs a non-governmental body to do anything referred to in any of paragraphs (a) to (c) 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.

[295] Where subsidies exist they may be subject to countervailing measures if they are specific in nature. According to subsection 2(7.2) of SIMA a subsidy is considered to be specific when it is limited, in a legislative, regulatory or administrative instrument, or other public document, to a particular enterprise within the jurisdiction of the authority that is granting the subsidy; or is a prohibited subsidy.

[296] A “prohibited subsidy” is either an export subsidy or a subsidy or portion of a subsidy that is contingent, in whole or in part, on the use of goods that are produced or that originate in the country of export. An export subsidy is a subsidy or portion of a subsidy contingent, in whole or in part, on export performance. An “enterprise” is defined as including a group of enterprises, an industry and a group of industries. These terms are all defined in section 2 of SIMA.

[297] Notwithstanding that a subsidy is not specific in law, under subsection 2(7.3) of SIMA a subsidy may also be considered specific 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.

[298] 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 subject to countervailing measures if the persons engaged in the production, manufacture, growth, processing, purchase, distribution, transportation, sale, export or import of goods under investigation have benefited from the subsidy.

[299] Financial contributions provided by SOEs may also be considered to be provided by the government for purposes of this investigation. A SOE may be considered to constitute “government” for the purposes of subsection 2(1.6) of SIMA if it possesses, exercises, or is vested with governmental authority. Without limiting the generality of the foregoing, the CBSA may consider the following factors as indicative of whether the SOE meets this standard: 1) the SOE is granted or vested with authority by statute; 2) the SOE is performing a government function; 3) the SOE is meaningfully controlled by the government; or some combination thereof.

## **Preliminary Results of the Subsidy Investigation**

[300] The following presents the preliminary results of the investigation into the subsidizing of FISC originating in or exported from China.

[301] At the initiation of the investigation, the CBSA sent Subsidy RFIs to the GOC, as well as to all known exporters/producers of FISC in China. Information was requested in order to establish whether there had been financial contributions made by any level of government, including SOEs possessing, exercising or vested with government authority, and, if so, to establish if a benefit has been conferred on persons engaged in the production, manufacture, growth, processing, purchase, distribution, transportation, sale, export or import of FISC; and whether any resulting subsidy was specific in nature. The GOC was also requested to forward the RFIs to all subordinate levels of government that had jurisdiction over the exporters. The exporters/producers were requested to forward a portion of the RFI to their input suppliers, who were asked to respond to questions pertaining to their legal characterization as SOEs.

[302] In conducting its investigation, the CBSA requested information respecting 158 identified programs, as listed in **Appendix 2**. During the preliminary phase of the investigation, the CBSA identified 11 additional programs.

[303] The GOC and the exporters/producers were also notified that failure to submit all required information and documentation, including non-confidential versions, failure to comply with all instructions contained in the RFI, failure to permit verification of any information or failure to provide documentation requested during the verification visits may result in the amount of subsidy and the assessment of countervailing duties on subject goods being based on facts available to the CBSA. Further, they were notified that a determination on the basis of facts available could be less favourable to their firm than if complete, verifiable information was made available.

[304] The GOC did not provide a response to the CBSA's government Subsidy RFI.

[305] The CBSA received responses to the Subsidy RFI from six exporters/producers. The programs used by the responding exporters are listed in **Appendix 2**.

[306] The CBSA will continue to analyze the companies' information during the final phase of the investigation. The CBSA may also consider any other potential subsidy programs that have not yet been identified.

[307] Estimated amounts of subsidy relating to each of the exporters that provided a response to the RFI are presented in a summary table in **Appendix 1** while the estimated amount of subsidy for China can be found in a summary table at the end of this section.

## **Preliminary Results of the Subsidy Investigation by Exporter**

### **Baosteel Construction Co., Ltd. (Baosteel)**

[308] Baosteel is a producer and exporter of subject goods. Baosteel filed a substantially complete response to the CBSA's Subsidy RFI and SRFIs.<sup>112,113&114</sup>

[309] For purposes of the preliminary determination, Baosteel was found to have benefitted from four subsidy programs.

[310] The estimated amount of subsidy for Baosteel is 4.3%, expressed as a percentage of the export price.

### **Modern Heavy Industries (Taicang) Co., Ltd. (Taicang)**

[311] Taicang is a producer and exporter of subject goods. Taicang filed a substantially complete response to the CBSA's Subsidy RFI and SRFIs.<sup>115&116</sup>

[312] For purposes of the preliminary determination, Taicang was found to have benefitted from four subsidy programs.

[313] The estimated amount of subsidy for Taicang is 0.9%, expressed as a percentage of the export price.

### **Shanghai Shuangyan Chemical Equipment Manufacturing Co. (Shuangyan Chemical)**

[314] Shuangyan Chemical is a producer and exporter of subject goods. Shuangyan Chemical filed a substantially complete response to the CBSA's Subsidy RFI and SRFIs.<sup>117&118</sup>

[315] For purposes of the preliminary determination, Shuangyan Chemical was found to have benefitted from four subsidy programs.

[316] The estimated amount of subsidy for Shuangyan Chemical is 0.7%, expressed as a percentage of the export price.

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<sup>112</sup> Exhibits 117 (PRO) & 118 (NC) – Response to Exporter RFI – Subsidy – Baosteel Construction Co. Ltd.

<sup>113</sup> Exhibits 177 (PRO) & 178 (NC) – Response to Supplementary RFI #1 from Baosteel Construction Co., Ltd.

<sup>114</sup> Exhibits 292 (PRO) & 293 (NC) – Response to Supplementary RFI #2 from Baosteel Construction Co., Ltd.

<sup>115</sup> Exhibits 107 (PRO) & 108 (NC) – Response to Exporter RFI – Subsidy – Modern Heavy Industries (Taicang) Co., Ltd. (Taicang).

<sup>116</sup> Exhibits 168 (PRO) & 169 (NC) – Response to Supplementary RFI #1 from Modern Heavy Industries (Taicang) Co., Ltd.

<sup>117</sup> Exhibits 125 (PRO) & 126 (NC) – Response to Exporter RFI – Subsidy – Shanghai Shuangyan Chemical Equipment Manufacturing Co. (Shuangyan Chemical).

<sup>118</sup> Exhibits 216 (PRO) & 217 (NC) – Response to Supplementary RFI #1 from Shanghai Shuangyan Chemical Equipment Manufacturing Co., Ltd.

Shanghai Yanda Engineering Co., Ltd. (Yanda Engineering)

[317] Yanda Engineering is a producer and exporter of subject goods. Yanda Engineering filed a substantially complete response to the CBSA's Subsidy RFI and SRFIs.<sup>119,120&121</sup>

[318] For purposes of the preliminary determination, Yanda Engineering was found to have benefitted from three subsidy programs.

[319] The estimated amount of subsidy for Yanda Engineering is 0.1%, expressed as a percentage of the export price.

United Steel Structures Ltd. (USSL)

[320] USSL is a producer and exporter of subject goods. USSL provided a substantially complete response to the CBSA's Subsidy RFI and SRFI.<sup>122,123,124,125&126</sup> USSL also purchased raw material goods from related and unrelated suppliers.

[321] For purposes of the preliminary determination, USSL was found to have benefitted from six subsidy programs.

[322] The estimated amount of subsidy for USSL is 5.4% expressed as a percentage of the export price.

Yanda (Haimen) Heavy Equipment Manufacturing Co., Ltd. (Yanda Haimen)

[323] Yanda Haimen is a producer and exporter of subject goods. Yanda Haimen filed a substantially complete response to the CBSA's Subsidy RFI and SRFIs.<sup>127,128&129</sup>

[324] For purposes of the preliminary determination, Yanda Haimen was found to have benefitted from ten subsidy programs.

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<sup>119</sup> Exhibits 123 (PRO) & 124 (NC) – Response to Exporter RFI – Subsidy – Shanghai Yanda Engineering Company.

<sup>120</sup> Exhibits 218 (PRO) & 219 (NC) – Response to Supplementary RFI #1 from Shanghai Yanda Engineering Co., Ltd.

<sup>121</sup> Exhibits 259 (NC) & 260 (PRO) – Response to Supplementary RFI #2 from Shanghai Yanda Engineering Co., Ltd.

<sup>122</sup> Exhibits 139 (PRO) & 140 (NC) – Response to Exporter RFI – Subsidy – United Steel Structures Ltd.

<sup>123</sup> Exhibits 229 (PRO) & 230 (NC) – Response to Supplementary RFI #1 from United Steel Structures Ltd.

<sup>124</sup> Exhibits 210 (PRO) & 211 (NC) – Response to Supplementary RFI #2 from United Steel Structures Ltd.

<sup>125</sup> Exhibits 231 (PRO) & 232 (NC) – Response to Supplementary RFI #3 from United Steel Structures Ltd.

<sup>126</sup> Exhibits 294 (PRO) & 295 (NC) – Response to Supplementary RFI #4 from United Steel Structures Ltd.

<sup>127</sup> Exhibits 121 (PRO) & 122 (NC) – Response to Exporter RFI – Subsidy – Yanda (Haimen) Heavy Equipment Manufacturing Co., Ltd.

<sup>128</sup> Exhibits 220 (PRO) & 221 (NC) – Response to Supplementary RFI #1 from Yanda (Haimen) Heavy Equipment Manufacturing Co., Ltd.

<sup>129</sup> Exhibits 257 (PRO) & 258 (NC) – Response to Supplementary RFI #2 from Yanda (Haimen) Heavy Equipment Manufacturing Co., Ltd.



[325] The estimated amount of subsidy for Yanda Haimen is 0.16%, expressed as a percentage of the export price.

### **All Other Exporters**

[326] For all other exporters in China that did not provide sufficient information or did not provide information in a timely fashion, the CBSA estimated an amount of subsidy on the basis of facts available.

[327] In establishing the methodology for estimating amounts of subsidy for all other exporters, the CBSA examined all information on the record, including information from the complaint, information provided by exporters and publically available information. The CBSA considered that the information provided by exporters who provided sufficient information in response to the CBSA's Subsidy RFI, as well as the information on the potentially actionable subsidy programs that were identified in the investigation was the best information on which to base the methodology for estimating amounts of subsidy. These amounts of subsidy were estimated on the basis of the following methodology:

- 1) the highest amount of subsidy for each of the 25 subsidy programs, as found at the preliminary determination, for the named exporters, plus;
- 2) the average of the amounts of subsidy for the 25 programs referenced in (1), applied to each of the remaining 144 potentially actionable subsidy programs for which sufficient information is not available or has not been provided at the preliminary determination.

[328] The CBSA considers that this is an appropriate basis for estimating the amounts of subsidy for all other exporters since the information available supports that the potentially actionable subsidy programs outlined in **Appendix 2** may be available to exporters and producers of the subject goods in China. Without a complete response to the Subsidy RFI from the GOC and all known exporters, the CBSA does not have sufficient information to determine that any of these programs should be removed from the investigation for purposes of the preliminary determination. Furthermore, the amount of subsidy applied to each of these potentially actionable subsidy programs is based on the benefits received by the responding exporters. This method of estimating the amounts of subsidy is based on information on the record and limits the advantage that an exporter may gain from not providing necessary information requested in a subsidy investigation as compared to an exporter that did provide the necessary information.

[329] Using the above methodology, the estimated amount of subsidy for all other exporters is 11.7%, expressed as a percentage of the total estimated export price. The estimated overall weighted average amount of subsidy for China is equal to 7.3% of the total estimated export price of the subject goods.

## Summary of Preliminary Results – Subsidy

[330] A summary of the preliminary results of the subsidy investigation respecting all subject goods released into Canada during the subsidy POI follows:

### Summary of Results - Subsidy Period of Investigation (January 1, 2014 to June 30, 2016)

Country	Estimated Subsidized Goods as Percentage of Country Imports	Estimated Amount of Subsidy*	Estimated Volume of Country Imports as Percentage of Total Imports
China	100%	7.3%	31.9%

\* Expressed as a percentage of the export price.

[331] Under section 35 of SIMA, if, at any time before the making a preliminary determination, the CBSA is satisfied that the actual and potential volume of goods of a country is negligible, the CBSA is required to terminate the investigation with respect to goods of that country.

[332] Pursuant to subsection 2(1) of SIMA, the volume of goods of a country 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 goods.

[333] The volume of subject goods from China is above 3% of the total volume of goods released into Canada from all countries. Based on the definition above, the volume of subject goods from China is therefore not negligible.

[334] If, in making a preliminary determination, the CBSA determines that the amount of subsidy on the goods of a country is insignificant pursuant to section 38 of SIMA, the investigation will continue in respect of those goods but provisional duties will not be imposed on goods of the same description imported during the provisional period.

[335] Pursuant to subsection 2(1) of SIMA, an amount of subsidy of less than 1% of the export price of the goods is defined as insignificant. In this case, the estimated amount of subsidy for China is above 1% and is therefore not insignificant.

## **DECISIONS**

[336] On January 25, 2017, pursuant to paragraph 35(2)(a) of SIMA, the CBSA terminated the dumping investigation respecting certain FISC originating in or exported from the UAE and the UK.

[337] On the same day, pursuant to subsection 38(1) of SIMA, the CBSA made preliminary determinations of dumping respecting certain FISC originating in or exported from China, Korea, and Spain; and, subsidizing respecting certain FISC originating in or exported from China.

### **PROVISIONAL DUTY**

[338] Pursuant to subsection 8(1) of SIMA, provisional duty payable by the importer in Canada will be applied to dumped and subsidized imports of FISC that are released during the period commencing on the day the preliminary determinations are made and ending on the earlier of the day on which the CBSA causes the investigations to be terminated, in accordance with subsection 41(1), or the day on which the CITT makes an order or finding. The CBSA considers that the imposition of provisional duty is needed to prevent injury. As noted in the CITT's preliminary determination, there is evidence that discloses a reasonable indication that the dumping and subsidizing of FISC have caused injury or are threatening to cause injury to the domestic industry.

[339] Provisional duty is based on the estimated margin of dumping and the estimated amount of subsidy, expressed as a percentage of the export price of the goods. **Appendix 1** contains the estimated margins of dumping, estimated amounts of subsidy and the rates of provisional duty payable on subject goods released from the CBSA on and after January 25, 2017.

[340] Importers are required to pay provisional duty in cash or by certified cheque. Alternatively, they may post security equal to the amount payable. Importers should contact their CBSA regional office if they require further information on the payment of provisional duty or the posting of security. If the importers of such goods do not indicate the required SIMA code or do not correctly describe the goods in the import documents, an administrative monetary penalty could be imposed. The imported goods are also subject to the *Customs Act*. As a result, failure to pay duties within the specified time will result in the application of the provisions of the *Customs Act* regarding interest.

### **FUTURE ACTION**

#### **The Canada Border Services Agency**

[341] The CBSA will continue its investigations of the dumping and subsidizing and will make final decisions by April 25, 2017.

[342] If the CBSA is satisfied that the goods were dumped and/or subsidized, and that the margin of dumping or amount of subsidy is not insignificant, final determinations will be made. Otherwise, the CBSA will terminate the investigations (partially or in whole) and any provisional duty paid or security posted will be refunded to importers.

## **The Canadian International Trade Tribunal**

[343] The CITT has begun its inquiry into the question of injury to the Canadian industry. The CITT is expected to issue its finding by May 25, 2017.

[344] If the CITT finds that the dumping has not caused injury, retardation or is not threatening to cause injury, the proceedings will be terminated and all provisional anti-dumping duty collected or security posted will be refunded.

[345] If the CITT makes a finding that the dumping has caused injury, retardation or is threatening to cause injury, anti-dumping duty in an amount equal to the margin of dumping will be levied, collected and paid on imports of FISC.

[346] If the CITT finds that the subsidizing has not caused injury, retardation or is not threatening to cause injury, the proceedings will be terminated and all provisional countervailing duty collected or security posted will be refunded.

[347] If the CITT makes a finding that the subsidizing has caused injury, retardation or is threatening to cause injury, countervailing duties in the amount equal to the amount of subsidy on the imported goods will be levied, collected and paid on imports of FISC.

[348] For purposes of the preliminary determination of dumping or subsidizing, the CBSA has responsibility for determining whether the actual and potential volume of goods is negligible. After a preliminary determination of dumping or subsidizing, the CITT assumes this responsibility. In accordance with subsection 42(4.1) of SIMA, the CITT is required to terminate its inquiry in respect of any goods if the CITT determines that the volume of dumped or subsidized goods from a country is negligible.

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

[349] Under certain circumstances, anti-dumping and/or countervailing duty can be imposed retroactively on subject goods imported into Canada. When the CITT conducts its inquiry on 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 the investigation constitute massive importations over a relatively short period of time and have caused injury to the Canadian industry. Should the CITT issue a finding that there were recent massive importations of dumped and/or subsidized goods that caused injury, imports of subject goods released by the CBSA in the 90 days preceding the day of the preliminary determination could be subject to anti-dumping and/or countervailing duty.

[350] In respect of importations of subsidized goods that have caused injury, 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. In such a case, the amount of countervailing duty applied on a retroactive basis will equal the amount of subsidy on the goods that is a prohibited subsidy. An export subsidy is a prohibited subsidy according to subsection 2(1) of SIMA.

## **UNDERTAKINGS**

[351] After a preliminary determination of dumping by the CBSA, other than a preliminary determination in which a determination was made that the margin of dumping of, or the amount of subsidy on, the goods is insignificant, an exporter may submit a written undertaking to revise selling prices to Canada so that the margin of dumping or the injury caused by the dumping is eliminated. An acceptable undertaking must account for all or substantially all of the exports to Canada of the dumped goods.

[352] 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.

[353] In view of the time needed for consideration of undertakings, written undertaking proposals should be made as early as possible and no later than 60 days after the preliminary determinations of dumping and subsidizing. Further details regarding undertakings can be found in the CBSA's Memorandum D14-1-9, available online at: [www.cbsa-asfc.gc.ca/publications/dm-md/d14/d14-1-9-eng.html](http://www.cbsa-asfc.gc.ca/publications/dm-md/d14/d14-1-9-eng.html).

[354] 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 to one of the officers identified in the "Information" section of this document.

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

## **PUBLICATION**

[356] A notice of these preliminary determinations of dumping and subsidizing will be published in the *Canada Gazette* pursuant to paragraph 38(3)(a) of SIMA.

[357] A notice of the termination of the dumping investigation with respect to the UAE and the UK will be published in the *Canada Gazette* pursuant to subparagraph 35(2)(b)(ii) of SIMA.

## **INFORMATION**

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

**Mail:** SIMA Registry and Disclosure Unit  
Trade and Anti-dumping Programs Directorate  
Canada Border Services Agency  
100 Metcalfe Street, 11<sup>th</sup> floor  
Ottawa, Ontario K1A 0L8  
Canada

**Telephone:** Denis Chenier 613-952-7547  
Nalong Manivong 613-960-6096

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

**Web site:** [www.cbsa-asfc.gc.ca/sima-lmsi](http://www.cbsa-asfc.gc.ca/sima-lmsi)



Brent McRoberts  
Director General  
Trade and Anti-dumping Programs Directorate

## **ATTACHMENTS**

1. **Appendix 1: Summary of estimated margins of dumping, estimated amounts of subsidy and provisional duties payable**
2. **Appendix 2: Description of Identified Programs and Incentives**

**APPENDIX 1 – SUMMARY OF ESTIMATED MARGINS OF DUMPING, ESTIMATED AMOUNTS OF SUBSIDY AND PROVISIONAL DUTIES PAYABLE**

The following table lists the estimated margins of dumping, the estimated amounts of subsidy, and the provisional duty by exporter as a result of the decisions mentioned above. Imports of subject goods released from the Canada Border Services Agency on or after January 25, 2017, will be subject to provisional duties at the rates specified below.

<b>Exporters</b>	<b>Estimated Margin of Dumping*</b>	<b>Estimated Amount of Subsidy*</b>	<b>Provisional Duty Payable*</b>
Baosteel Construction Co., Ltd.	31.7%	4.3%	36.0%
Modern Heavy Industries (Taicang) Co., Ltd.	25.7%	0.9%	26.6%
Shanghai Shuangyan Chemical Equipment Manufacturing Co.	42.8%	0.7%	43.5%
United Steel Structures Ltd.	20.0%	5.4%	25.4%
Shanghai Yanda Engineering Co., Ltd.	42.8%	0.1%	42.9%
Yanda (Haimen) Heavy Equipment Manufacturing Co., Ltd.	0%	0.16%	0.16%
All other exporters in China	42.8%	11.7%	54.5%
<b>Total - China</b>	<b>32.5%</b>	<b>7.3%</b>	<b>N/A</b>
SK Engineering & Construction Co., Ltd.	42.8%	N/A	42.8%
Hanmaek Heavy Industries Co., Ltd.	2.7%	N/A	2.7%
All other exporters in Korea	42.8%	N/A	42.8%
<b>Total - Korea</b>	<b>40.6%</b>	<b>N/A</b>	<b>N/A</b>
Cintasa S.A.	0.0%	N/A	0.0%
All other exporters in Spain	42.8%	N/A	42.8%
<b>Total - Spain</b>	<b>37.7%</b>	<b>N/A</b>	<b>N/A</b>

\* As a percentage of export price

## **APPENDIX 2 – SUMMARY OF PRELIMINARY FINDINGS FOR NAMED SUBSIDY PROGRAMS**

As noted in the body of this document, the government of China (GOC) did not submit a response to the subsidy Request for Information (RFI), which has limited the Canada Border Services Agency's (CBSA) ability to conduct a proper analysis of the programs for the preliminary determination. However, in recognition of the amount of cooperation and the volume of information provided by the responding companies, the CBSA has estimated the amounts of subsidy where possible, based on the information provided in the responses to the Subsidy RFI.

This appendix consists of descriptions of the potentially actionable subsidy programs which the responding companies benefited from during the course of the Period of Investigation (POI) in the current investigation, followed by a listing of the other potentially actionable subsidy programs identified by the CBSA.

### **Potentially Actionable Subsidy Programs Used by the Responding Exporters**

The CBSA has used the best information available to describe the potentially actionable subsidy programs used by the responding exporters and related suppliers in the current investigation. This includes using information obtained from CBSA research on potential subsidy programs in China, information provided by the responding exporters and related suppliers and descriptions of programs that the CBSA has previously publicly published in recent *Statement of Reasons* relating to subsidy investigations involving China.

#### **I. Special Economic Zone (SEZ) Incentives and Other Designated Areas Incentives**

On the basis of the available information, the following programs under SEZ Incentives and Other Designated Areas Incentives constitute a financial contribution pursuant to paragraph 2(1.6)(b) of SIMA, i.e., amounts that would otherwise be owing and due to the government are reduced or exempted, and confers a benefit to the recipient equal to the amount of the reduction/exemption.

Due to the lack of a response by the GOC and the lack of details provided by the exporters, there is not sufficient information on the record to determine whether programs under SEZ Incentives and Other Designated Areas Incentives are specific pursuant to subsection 2(7.2) or subsection 2(7.3) of SIMA; nor is there sufficient information to indicate that the subsidy is not specific pursuant to the criteria set out in subsection 2(7.1). On the basis of the available information these programs do not appear to be generally available to all enterprises in China and thus appear to be specific.



**Program 11: Custom Duty Exemption and VAT Exemption for machinery, equipment, molds/dies and the corresponding repairing parts imported into the Export Processing Zone and used for the production by Enterprises in the Export Processing Zone**

During the POI, one of the named exporters received a benefit under this program in the form of a VAT exemption from a government authority.

**Program 13: VAT Refunds or Exemptions for domestically purchased machinery, equipment and construction materials used for the production of exported goods and the construction of production facilities in the Export Processing Zone**

During the POI, one of the named exporters received a benefit under this program in the form of a VAT exemption from a government authority.

**Program 19: Exemption of Service Fees, Administrative Fees and/or Real Estate Tax**

During the POI, one of the named exporters received a benefit under this program from a government authority in the form of a real estate tax exemption.

## **II. Preferential Loans and Loan Guarantees**

**Program 30: Preferential Loans From State-Owned Banks**

During the POI, four of the named exporters received a benefit under this program from a government authority.

This program relates to government loans at a preferential rate of interest. The benefit provided in this case is a lower rate of interest than would otherwise be available if the enterprise had to obtain a non-guaranteed commercial loan (i.e. the benchmark non-guaranteed commercial loan). Financial institutions may be considered to constitute “government” if they possess, exercise or are vested with governmental authority, which may be indicated by the following factors:

- where a statute or other legal instrument expressly vests government authority in the entity concerned;
- evidence that an entity is, in fact, exercising governmental functions; and
- evidence that a government exercises meaningful control over an entity.

Given the lack of response by the GOC, the CBSA lacked information on the financial sector in China to conclusively determine whether the financial institutions may be considered to constitute “government”. In the absence of complete information, for the purposes of the preliminary determination, the CBSA considered all state-owned banks as “government”. During the final stage of the investigation, the CBSA will attempt to obtain further information respecting the financial sector in China.

In order to assess whether or not there was a financial contribution, for the purposes of the preliminary determination, the CBSA used the London Interbank Offered Rate benchmark interest rate for the POI.

The CBSA considered the difference between the exporter's loan interest rates that are below the benchmark rate to constitute a financial contribution pursuant to paragraph 2(1.6)(b) of the *Special Import Measures Act* (SIMA); i.e. amounts that would otherwise be owing and due to the government are exempted or deducted or amounts that are owing and due to the government are forgiven or not collected. The above conferred a benefit to the exporter by way of reducing their financial costs upon obtaining loans from a financial institution.

Due to the lack of a response by the GOC, there is not sufficient information on the record to determine whether the subsidy is specific pursuant to subsection 2(7.2) or subsection 2(7.3) of SIMA. On the basis of the available information, this program does not appear to be generally available to all enterprises in China and thus appears to be specific.

### **III. Grants and Grant Equivalents**

On the basis of the available information, the following programs under grants and grant-equivalents constitute a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA; i.e., a practice of government that involves a direct transfer of funds. These grants confer a direct benefit equal to the amount of the grant provided.

Due to the lack of a response by the GOC, there is not sufficient information on the record to determine whether these programs are specific pursuant to subsection 2(7.2) or subsection 2(7.3) of SIMA. On the basis of the available information, these programs do not appear to be generally available to all enterprises in China and thus appear to be specific.

#### **Program 40: Grant – Patent Assistance/Award**

During the POI, one of the named exporters received a benefit under this program from the local government.

#### **Program 50: Grant - Special Fund for Fostering Stable Growth of Foreign Trade**

During the POI, one of the named exporters received a benefit under this program from the provincial government.

#### **Program 79: Interest Payment Subsidy for Special Projects**

During the POI, one of the named exporters received a benefit under this program from the district's local government.

**Program 83: Refund of taxes and fees previously collected by the governments**

During the POI, one of the named exporters received a benefit under this program from the local government. This program appears to encourage contribution to tax by providing a tax rebate.

**Program 85: Financial subsidy for training employees**

During the POI, one of the named exporters received a benefit under this program. The granting authority was not specified.

**Program 90-1: High Quality FIE Additional Investment Award**

During the POI, one of the named exporters received a benefit under this program from the local government. This grant appears to have been awarded to increase investment and develop more business.

**Program 90-2: Gangxin District Coastal Area Development Special Contribution Award**

During the POI, one of the named exporters received a benefit under this program from the local government. This grant was awarded to encourage investment and develop business.

**Program 90-3: Gangxin District Four Star Enterprise Contribution Award**

During the POI, one of the named exporters received a benefit under this program from the local government. This grant was awarded to encourage investment and develop business.

**Program 90-4: Gangxin District Five Star Enterprise Contribution Award**

During the POI, one of the named exporters received a benefit under this program from the local government. This grant was awarded to encourage investment and develop business

**Program 90-5: Haimen Gangxin District High Quality FIE Additional Investment Award**

During the POI, one of the named exporters received a benefit under this program from the local government. This grant was awarded to encourage investment and develop business.

**Program 90-6: High Quality Enterprise Award 2016**

During the POI, one of the named exporters received a benefit under this program from the local government. This grant was awarded to encourage investment and develop business

**Program 102: Interest Subsidy for the Importation of Encouraged Products and Technology**

During the POI, one of the named exporters received a benefit under this program from the local government.

**Program 159: Financial Subsidy for Town-Level**

During the POI, one of the named exporters received a benefit under this program from the town-level government

**Program 160: Financial Subsidy from Municipal Commission of Commerce**

During the POI, one of the named exporters received a benefit under this program from the municipal government.

**Program 161: Award for Tax Payments from Local Municipality**

During the POI, one of the named exporters received a benefit under this program from the municipal government.

**Program 162: Award for Foreign Trade Steady Growth from Local Municipality**

During the POI, one of the named exporters received a benefit under this program from the municipal government.

**Program 163: Safety Production Standardization Construction**

During the POI, one of the named exporters received a benefit under this program from the provincial government's Safety Production Supervision and Administration Bureau of Fengxian Branch. It appears this award is given to encourage safety practices.

**IV. Preferential Tax Programs**

On the basis of available information, the following programs under preferential tax programs constitute a financial contribution pursuant to paragraph 2(1.6)(b) of SIMA, i.e., amounts that would otherwise be owing and due to the government are reduced or exempted, and confers a benefit to the recipient equal to the amount of the reduction/exemption.

Due to the lack of a response by the GOC, there is not sufficient information on the record to determine whether this subsidy is specific pursuant to subsection 2(7.2) or subsection 2(7.3) of SIMA. On the basis of the available information, this program does not appear to be generally available to all enterprises in China and thus appears to be specific.

**Program 142: Corporate Income Tax Reduction for New High-Technology Enterprises**

During the POI, one of the named exporters received a benefit under this program in the form of reduced corporate income tax. Under this program it appears that new high-technology enterprise recognized by the provincial government are eligible to pay a reduced corporate income tax rate.

**Program 147: Preferential Tax Policy to Support and Encourage Employment**

During the POI, two named exporters received a benefit under this program. The granting authority was not specified.

**V. Reduction in Land Use Fees**

**Program 155: Reduction, Exemption or Refund of Land Use Fees, Land Rental Rates and Land Purchase/Transfer Prices**

During the POI, one of the named exporters received a benefit under this program from the local government. The benefit was received in the form of an exemption on paying land usage taxes for a certain number of years.

On the basis of available information, this program constitutes a financial contribution pursuant to paragraph 2(1.6)(b) of SIMA and consequently confers a benefit to the recipient.

Under paragraph 2(1.6)(b) of SIMA, the GOC provided a financial contribution to the recipient by exempting, deducting, forgiving or not collecting amounts that would otherwise be owing and due to the government, such as tax and administration fee. Consequently, the program conferred a benefit to the recipient equal to the amount of the reduction/exemption or the amount forgiven or not collected.

Further, on the basis of currently available information, CBSA considers that this program is specific pursuant to subsection 2(7.3) of SIMA in that the manner in which discretion was exercised by the granting authority indicates that the subsidy is not generally available.

**VI. Goods/Services Provided by the Government at Less than Fair Market Value**

**Program 156: Input Materials Provided by Government at Less than Fair Market Value**

This program relates to the provision, by the government, of goods or services at prices lower than the fair market value of the goods or services in the territory of the government providing the subsidy. Specifically, the CBSA investigated the acquisition of inputs from SOEs or state-controlled enterprises used in the production of subject goods. State-owned or state-controlled suppliers may be considered to constitute “government” if they possess, exercise or are vested with government authority, which may be indicated by the following factors:

- where a statute or other legal instrument expressly vests government authority in the entity concerned;
- evidence that an entity is, in fact, exercising governmental functions; and
- evidence that a government exercises meaningful control over an entity.

In order to determine whether the exporter acquired its raw material from “government”, the CBSA requested detailed information from the exporters regarding their acquisition of input materials. The Subsidy RFI also contained a small questionnaire intended for the domestic suppliers with instructions for the exporters to forward such questionnaire to their domestic suppliers. This questionnaire requested information regarding the ownership status of the supplier and other relevant information with respect to assessing whether the supplier is considered “government”.

Information was requested from exporters with respect to the ownership status of their raw material suppliers. Responding exporters indicated that a significant amount of their purchases of inputs were from SOEs. Further, information was also requested from the GOC with respect to the ownership status of the steel producers and with respect to governmental measures affecting the steel industry as a whole. As indicated previously, the GOC has not responded to the Subsidy RFI.

This lack of cooperation has limited the CBSA’s ability to properly assess whether the suppliers are “government” or to corroborate the information provided by the exporters. Based on the information provided by the exporters, in addition to other publically available information, the CBSA finds that the prevalence of SOEs has significant influence in the fabricated industrial steel components industry in China, and that exporters of subject goods to Canada acquired steel plates and other steel input materials from SOEs in China.

Due to the lack of cooperation by the GOC and the limited information available regarding state-owned raw material suppliers, the CBSA has not been able to perform the in-depth level of analysis necessary to determine whether all suppliers that provided steel plates or other steel input materials to the exporters of subject goods are SOEs, and whether the SOEs are considered to be possessing, exercising, or vested with governmental authority. Notwithstanding, the CBSA will attempt to obtain further evidence in this regard during the final stage of the investigation.

Nevertheless, based on the information on the record concerning the section 20 inquiry, the CBSA has determined that there is evidence that the GOC exercises influence over the steel industry, which includes producers of raw materials. Accordingly, for the purposes of the preliminary determination, the CBSA is of the opinion that the government exercises meaningful control over the steel industry, and therefore all SOE suppliers are considered “government” for the purpose of the preliminary determination.

The CBSA compared the price at which the goods were provided by the government with the fair market value of the goods. Given the presence of SOEs in the domestic industry supplying raw material steel inputs; the domestic prices of the raw materials sold in China are distorted. As such, the CBSA considered commercial benchmarks outside of China. The CBSA used the price of imported materials for the same goods and world benchmark prices as appropriate benchmarks. The CBSA used monthly average prices as reported by MEPS (international) Ltd. MEPS is a publisher of steel market prices around the world.<sup>130</sup>

When the purchase price from government suppliers was less than the benchmark purchase, the exporter was found to have benefited from this program. The total benefit for the POI for each exporter was then calculated and a weighted average benefit per metric tonne was established. This benchmark will be further examined during the final stage of the investigation.

It was found that this program conferred a benefit to three of the named exporters, equal to the amount obtained using the above methodology.

On the basis of available information, this program constitutes a financial contribution pursuant to paragraph 2(1.6)(c) of SIMA, i.e., the government provides goods or services, other than general infrastructure, or purchases goods.

Due to the lack of a response by the GOC, there is not sufficient information on the record to determine whether this subsidy is specific pursuant to subsection 2(7.2) or subsection 2(7.3) of SIMA. On the basis of the available information, this program does not appear to be generally available to all enterprises in China and thus appears to be specific.

## **OTHER POTENTIALLY ACTIONABLE SUBSIDY PROGRAMS**

The following programs are also included in the current investigation. Questions concerning these programs were included in the Subsidy RFIs sent to the GOC and to all known exporters of the subject goods in China. Without a response to the Subsidy RFI from the GOC, the CBSA does not have detailed descriptions of these programs; nor does it have sufficient information to determine that any of these programs do not constitute actionable subsidy programs. In other words, the CBSA has, to date, not determined if any of these programs should be removed from the investigation. The CBSA will continue to investigate these programs in the final phase of the investigation.

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

Program 1: Exemption/Reduction of Special Land Tax and Land Use Fees in SEZs and Other Designated Areas

Program 2: Accelerated Depreciation on Fixed Assets

Program 3: Accelerated Depreciation on Intangible Assets

Program 4: Income Tax Refunds where Profits are reinvested in SEZs and other Designated Areas

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<sup>130</sup> <http://www.meps.co.uk/>

- Program 5: Local Income Tax Exemption and/or Reduction
- Program 6: Award for Tax Payments
- Program 7: Tariff and Value-Added Tax (VAT) Exemptions on Imported Materials and Equipment in SEZs and other Designated Areas
- Program 8: Preferential Tax Policies for the Western Region, Central Region and Northeast Old Industrial Base
- Program 9: Services or Goods provided by Government or public bodies at preferential prices to enterprises located in SEZs and other designated areas
- Program 10: Custom Duty Exemption and VAT Exemption for machinery, equipment, and construction materials imported into the Export Processing Zone for the construction of production facilities (such as factory and warehouse) in the Export Processing Zone
- Program 12: Export Duty Refund or Exemption for the Exported Goods Produced in the Export Processing Zone and exported from the Export Processing Zone
- Program 14: Extra Deduction for Intangible Assets
- Program 15: Award for being certified to be high-new tech enterprise at provincial level or above
- Program 16: Award for being certified to be national key new product or provincial high- new tech product
- Program 17: Award for implementing provincial key science and technology plan project
- Program 18: Financial subsidy/award for investment on equipment/fixed assets
- Program 20: Corporate income tax reductions and/or exemptions
- Program 21: Award for the project being implemented in the zone
- Program 22: Subsidy for building/land rental expenses

## **II. Preferential Loans and Loan Guarantees**

- Program 23: Loans and Interest Subsidies Provided Under the Northeast Revitalization Program
- Program 24: Export Seller's Credit for High-Technology and New-Technology Products by China EMIX Bank
- Program 25: Fixed Asset Import Credit by China EMIX Bank
- Program 26: Offshore project contracting credit by China EMIX Bank
- Program 27: Preferential Loan for the National/Provincial key Science & Technology Industrialization Projects, High Technology Industrialization Projects, Science & Technology Achievements Commercialization Projects, Modern Equipment Manufacturing Industry and key Information Technology Industrialization Projects by Liaoning Governments
- Program 28: Loan provided under financing guarantee special fund for small and medium size foreign trade enterprises
- Program 29: Loan provided under financing guarantee special fund for small and medium size science and technology type enterprises



### **III. Grants and Grant-equivalents**

- Program 31: Grants for International Certification
- Program 32: Innovation Fund for Medium and Small Business
- Program 33: Special fund for developing trade through science and technology by Guangdong
- Program 34: Special Funds for Foreign Economic and Technical Cooperation
- Program 35: Export Brand Development Fund
- Program 36: Provincial Scientific Development Plan Fund
- Program 37: Grants for Encouraging the Establishment of Headquarters and/or Regional Headquarters
- Program 38: Grant - Provisional Industry Promotion Special Fund
- Program 39: Emission Reduction and Energy-Saving Award
- Program 41: Grant - Service Industry Development Fund
- Program 42: Fund for Supporting Strategic Emerging Industries
- Program 43: Quality Grant
- Program 44: Grants for Export Activities
- Program 45: Grant - Provincial Foreign Economy and Trade Development Special Fund
- Program 46: Enterprise Technology Centers
- Program 47: Grant - Special Supporting Fund for Commercialization of Technological Innovation and Research Findings
- Program 48: International Market Fund for Small and Medium Sized Export Companies
- Program 49: Reimbursement of Anti-dumping and/or Countervailing Legal Expenses by the Local Governments
- Program 51: Financial Special Fund for Supporting High and New Technology Industry Development Project
- Program 52: Grants and Other Incentives for Development of Famous Brands, China Top World Brands or other well-known Brands
- Program 53: Guangdong Supporting Fund
- Program 54: "Five Points, One Line" Program of Liaoning Province
- Program 55: Fund for Government-Bank-Enterprise Cooperation Projects by Guangdong Governments
- Program 56: Special Fund for Significant Science and Technology by Guangdong Governments
- Program 57: Provincial Fund for Fiscal and Technological Innovation by Guangdong Governments
- Program 58: Provincial Loan Interest Assistance Special Fund for SMEs (small and medium size enterprises) by Guangdong Governments
- Program 59: Supporting Fund for the Projects Used to Resolve the Important Technological Issues for Enterprises' Production and R&D by Liaoning Governments
- Program 60: Technology Innovation Fund for Science & Technology Type SMEs by Liaoning Governments
- Program 61: Special Supporting Fund and Special Loan Assistance by the Chinese Ministry of Science & Technology for revitalizing the Northeast old industrial base
- Program 62: Special Supporting Fund for Key Projects of "500 Strong Enterprises in Contemporary Industries" by Guangdong Governments
- Program 63: Medium Size and Small Size Enterprises Development Special Fund

- Program 64: Medium Size and Small Size Trading Enterprises Development Special Fund
- Program 65: Special Fund for Export Credit Insurance by Guangdong Governments
- Program 66: Interest Assistance for Technology Renovation Projects by Liaoning Governments
- Program 67: Interest Assistance for the Application of Information Technology by Liaoning Governments
- Program 68: Loan Guarantee Fund for Science & Technology Enterprises by Liaoning Governments
- Program 69: Fund for Optimizing Import and Export Structure of Mechanical Electronics and High and New Technology Products
- Program 70: Special Fund for Pollution Control of Three Rivers, Three Lakes, and the Songhua River
- Program 71: Government Export Subsidy and Product Innovation Subsidy in Shandong Province
- Program 72: Export Assistance Grant
- Program 73: Special fund for the development of the advanced manufacturing industry
- Program 74: Special fund for the development of the cultural innovation industry
- Program 75: Special fund for environment protection
- Program 76: Special fund for energy-saving and emission reduction
- Program 77: Special fund for Science and technology innovation
- Program 78: Special fund for Key industry revitalization and technology renovation
- Program 80: Subsidy for the demolition and relocation of the manufacturing facilities
- Program 81: Subsidy for the infrastructure construction
- Program 82: Subsidy for developing/manufacturing hi-tech products
- Program 84: Financial support to encourage the transformation/application of high-new tech achievements
- Program 86: Financial subsidy for waste gas treatment
- Program 87: Financial subsidy for patent pilot enterprises
- Program 88: Special fund to encourage the development of Science and technology
- Program 89: Brand name development Special Fund
- Program 90: Business development Special Fund
- Program 91: Supporting fund for the R&D center of the provincial level high-new tech enterprise
- Program 92: Financial reward for eliminating lagging production capacities
- Program 93: Financial subsidy for the demonstration project in industrial enterprises regarding the establishment of the energy administration center
- Program 94: Financial subsidy for the industry structure adjustment
- Program 95: Financial subsidy to encourage the research and development activities
- Program 96: Financial reward for energy-saving technology renovation
- Program 97: Financial support to encourage the development of business and trade industry
- Program 98: Financial support for the development of the high-new tech industry
- Program 99: Financial support for the purchase of internationally advanced equipment
- Program 100: Financial support/reward for the standardization work in industrial enterprises
- Program 101: Foreign investment and cooperation special fund
- Program 103: Special fund to support the development of the private economy
- Program 104: Land financial subsidy

- Program 105: Financial subsidy for the construction of special/specific project
- Program 106: Financial subsidy received for the sale of land/land use right to the government
- Program 107: Financial subsidy for the restructuring and development
- Program 108: National technology development special fund
- Program 109: Technology development special fund for efficient and economic construction steel
- Program 110: Financial subsidy for provincial construction industry modernization demonstration base
- Program 111: Special fund for national science and technology support plan
- Program 112: Financial subsidy for the research and development expense of major equipment
- Program 113: Financial subsidy for the first application/usage of major science and technology equipment
- Program 114: Financial subsidy for new added investments for high-new tech industrialization
- Program 115: Provincial science and technology Special fund
- Program 116: Provincial financial support for key technical renovation
- Program 117: Provincial special fund for the development of small and medium size science and technology type enterprises
- Program 118: Special fund to encourage the balanced development of foreign economy and trade among different regions
- Program 119: Provincial special fund for the development of informatization
- Program 120: Provincial special fund for self-innovation activities
- Program 121: Provincial special fund for technical renovation
- Program 122: Liaoning High-tech Products & Equipment Exports Interest Assistance
- Program 123: Compensation of interest expenses on export credit insurance financing
- Program 124: Compensation of interest expenses on export financing
- Program 125: Award for science and technology
- Program 126: Funds for key innovation team
- Program 127: Reduction/exemption of water conservancy fund
- Program 128: Special fund for implementation of “going out” strategy
- Program 129: Cleaning-production reward
- Program 130: Advanced Science/Technology enterprise grant
- Program 131: Financial support for water conservation project/work
- Program 132: Awards to Enterprises Whose Products Qualify for “Well-Known Trademarks of China” or “Famous Brands of China”
- Program 133: Talent Awards
- Program 134: Exemption of Flood-proofing fund payment
- Program 135: Technical Renovation Loan subsidy Fund
- Program 136: National Innovation Fund for Technology Based Firms
- Program 137: Fund for the research and development of exported products

#### **IV. Preferential Tax Programs**

- Program 138: Preferential Tax Policies for the Research and Development of FIEs
- Program 139: 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 Equipment
- Program 140: Preferential Tax Policies for Domestic Enterprises Purchasing Domestically Produced Equipment for Technology Upgrading Purpose
- Program 141: VAT and Income Tax Exemption/Reduction for Enterprises Adopting
- Program 143: Exemption from City Maintenance and Construction Taxes and Education Fee Surcharges for FIEs
- Program 144: Extra deduction for R&D Expenses for income tax
- Program 145: Preferential tax policy for the employee education fee incurred by high-new tech enterprises
- Program 146: Income tax reduction/exemption for the income from the transfer/sale of technology
- Program 148: Tax offsets for the investment in the acquisition of special facilities for environment protection, energy and water conservation and work safety
- Program 149: Tax Preference Available to Companies that Operate at a Small Profit.
- Program 150: VAT exemption/refund for domestically purchased equipment
- Program 151: Preferential tax policy for encouraged projects or industries
- Program 152: Dividend exemption between qualified resident enterprises

#### **V. Relief from Duties and Taxes on Inputs, Materials and Machinery**

- Program 153: Exemption of Tariff and Import VAT for the Imported Technologies and Equipment
- Program 154: Relief from Duties and Taxes on Imported Material and Other Manufacturing Inputs

#### **VI. Goods/Services provided by the Government at Less Than Fair Market Value**

- Program 157: Utilities Provided by the Government at Less than Fair Market Value

#### **VII. Equity Programs**

- Program 158: Debt to Equity Swaps