



Canada Border  
Services Agency

Agence des services  
frontaliers du Canada

GM 2020 IN

OTTAWA, May 14, 2021

## STATEMENT OF REASONS

Concerning the preliminary determinations with respect to the dumping and subsidizing of

**CERTAIN GRINDING MEDIA  
ORIGINATING IN OR EXPORTED FROM INDIA**

### DECISIONS

Pursuant to subsection 38(1) of the *Special Import Measures Act*, the Canada Border Services Agency made preliminary determinations on April 30, 2021 respecting the dumping and subsidizing of certain grinding media originating in or exported from India.

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

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Canada

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## **SUMMARY OF EVENTS**

[1] On October 27, 2020, the Canada Border Services Agency (CBSA) received a written complaint from Magotteaux Limitée (Magotteaux) (hereinafter, “the complainant”), alleging that imports of certain grinding media (GM) originating in or exported from India are being dumped and subsidized. The complainant alleged that the dumping and subsidizing have caused injury and are threatening to cause injury to the Canadian industry producing like goods.<sup>1</sup>

[2] On November 17, 2020, pursuant to paragraph 32(1)(a) of the *Special Import Measures Act* (SIMA), the CBSA informed the complainant that the complaint was properly documented. The CBSA also notified the Government of India (GOI) that a properly documented complaint had been received. The GOI was also 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*.

[3] On December 16, 2020 consultations were held between the Government of Canada and the GOI via videoconference. During the consultations, the GOI made representations with respect to its views on the evidence presented in the non-confidential version of the subsidy complaint. A written copy of the GOI’s remarks regarding the complaint was submitted on the same day. The CBSA considered the written representations made by the GOI in its analysis.

[4] The complainant provided evidence to support the allegations that GM from India has been dumped and subsidized. The evidence also discloses a reasonable indication that the dumping and subsidizing have caused injury and are threatening to cause injury to the Canadian industry producing like goods.

[5] On December 17, 2020, pursuant to subsection 31(1) of SIMA, the CBSA initiated investigations respecting the dumping and subsidizing of GM from India.

[6] 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 the above-mentioned goods have caused injury or are threatening to cause injury to the Canadian industry producing the like goods.

[7] On February 15, 2021, 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 GM from India have caused or are threatening to cause injury to the domestic industry.<sup>2</sup>

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<sup>1</sup> Exhibit 2 (NC) – Grinding Media Complaint.

<sup>2</sup> Canadian International Trade Tribunal; Grinding Media Dumping and Subsidy Determination and Reasons (March 2, 2021), PI-2020-006.

[8] On March 10, 2021, the CBSA notified interested parties that the preliminary stage of the investigations will be extended pursuant to subsection 39(1) of SIMA.

[9] On April 30, 2021, as a result of the CBSA's preliminary investigations and pursuant to subsection 38(1) of SIMA, the CBSA made preliminary determinations of dumping and subsidizing of GM originating in or exported from India.

[10] On April 30, 2021, 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 in respect of any goods 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 the dumping and subsidy investigations is October 1, 2019 to September 30, 2020.

### **PROFITABILITY ANALYSIS PERIOD**

[12] The Profitability Analysis Period (PAP) for the dumping investigation is July 1, 2019 to September 30, 2020.

### **INTERESTED PARTIES**

#### **Complainant**

[13] The name and address of the complainant is as follows:

Magotteaux Limitée  
601 rue Champlain  
Magog, QC J1X 2N1

[14] Magotteaux is a subsidiary of Magotteaux International S.A. (the Magotteaux Group), with its headquarters located in Belgium. The Magotteaux Group have production facilities around the world, including the Magog facility in Canada, and can produce a wide range of GM, including cast and forged, low and high chromium, as well as ceramic grinding beads.<sup>3</sup>

[15] Magotteaux was incorporated in Quebec and has been in operation since 1979. The Magog facility is the only GM production facility in Canada under the Magotteaux Group and produces iron cast grinding media exclusively.<sup>4</sup>

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<sup>3</sup> Exhibit 2 (NC) – Grinding Media Complaint, paras. 6-11.

<sup>4</sup> Exhibit 2 (NC) – Grinding Media Complaint, Exhibit 1 – Affidavit of Plant Manager, paras. 3&6.

[16] Magotteaux is the only known producer of GM in Canada.<sup>5</sup>

### **Trade Unions**

[17] According to the complainant, persons employed in the production of GM in Canada are not represented by a trade union.<sup>6</sup>

### **Importers**

[18] At the initiation of the investigations, the CBSA identified three potential importers of the subject goods based on both information provided by the complainant and CBSA import entry documentation. All of the potential importers were asked to respond to the CBSA's Importer Request for Information (RFI).<sup>7</sup> The CBSA received one response to the Importer RFI.

### **Exporters**

[19] At the initiation of the investigations, the CBSA identified 11 potential exporters, producers, and vendors of the subject goods from CBSA import documentation and from information submitted in the complaint. All of the potential exporters, producers, and vendors were asked to respond to the CBSA's Dumping RFI<sup>8</sup> and the CBSA's Subsidy RFI<sup>9</sup>.

[20] One exporter, its subsidiary vendor, and one of its subsidiary producers collectively responded to the Dumping RFI. The exporter and the subsidiary producer also collectively responded to the Subsidy RFI.

### **Government**

[21] For the purposes of these investigations, "Government of India or GOI" 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.

[22] At the initiation of the investigations, the CBSA sent a Government Subsidy RFI<sup>10</sup> to the GOI. The GOI provided a response to the Government Subsidy RFI.

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<sup>5</sup> Exhibit 2 (NC) – Grinding Media Complaint, para. 12.

<sup>6</sup> Exhibit 2 (NC) – Grinding Media Complaint, para. 69.

<sup>7</sup> Exhibit 23 (NC) - Importer RFI.

<sup>8</sup> Exhibit 22 (NC) – Exporter RFI – Dumping.

<sup>9</sup> Exhibit 21 (NC) – Exporter RFI – Subsidy.

<sup>10</sup> Exhibit 26 (NC) – Government Subsidy RFI.

## **PRODUCT INFORMATION**

### **Product Definition<sup>11</sup>**

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

*Chrome cast iron grinding media in spherical (“ball”) or ovoid shape, with a diameter of 12.7 millimetres (½ inch) to and including 76.2 millimetres (3 inches) within tolerances of 5 percent (5%), with an alloy composition of 10 percent or more (≥ 10% of total mass) chromium (“Cr”) content and produced through the casting method, originating in or exported from India.*

### **Additional Product Information<sup>12</sup>**

[24] For greater clarity, the product definition does not cover:

- Grinding media produced through the forging or stamping method; and
- Chromium cast iron grinding media with an alloy composition of less than 10 percent chromium (< 10% of total mass).

[25] Within the mineral processing industry, a range of grinding conditions or environments exists and each of these mill environments presents particular conditions for grinding media that require the application of specific physical and chemical properties for optimum grinding media performance. Size and chemical composition of grinding media are two important factors influencing a grinding’s wear resistance and performance in a ball mill.

[26] Size of the grinding media depends on the mill feed size (particle size of material supplied to the mill) and achieved degree of fineness (size and percentage of required class size material at the exit of a ball mill). Grinding media are typically spherical in shape.

[27] GM are normally produced using a metal alloy composed mostly of steel scrap and alloys such as chromium. The chromium content of grinding media is another key component to the grinding media’s performance and affects the grinding media’s wear resistance against abrasion and corrosion, as well as the level of hardness of the grinding media.

[28] GM normally encompasses an alloy composition of 10 percent or more chromium content, with typical thresholds that do not exceed 35% chromium. The chromium content of GM is measured by testing the total chemical composition of the alloy with a spectrometer, determining the percentage of chromium to the total mass of the alloy.

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<sup>11</sup> Exhibit 2 (NC) – Grinding Media Complaint, para 16.

<sup>12</sup> Exhibit 2 (NC) – Grinding Media Complaint, paras. 17-22, and Exhibit 1 – Affidavit of Plant Manager, paras. 4-10.

[29] Production of GM in Canada focuses on the market segment of greatest demand which is 1” to 1 ½” grinding balls of 15% to 18% chromium content. There are no international technical standards applicable to grinding media.

### **Production Process<sup>13</sup>**

[30] The production of GM normally has seven main steps, which entails: (1) segregation of scrap metal, melting and preparation of the alloy; (2) preparation of the sand casts; (3) pouring of alloy and sand casting; (4) breaking of the casts; (5) heat treatment; (6) quenching; and (7) quality control.

#### **1. Segregation of scrap metal, melting and preparation of the alloy**

[31] GM is produced using steel scrap metal as the main raw material input, consisting of iron and a variety of alloys. A high Cr content is preferable when pricing of this raw material is competitive, otherwise, mixed scrap is used, and the Cr content adjusted by adding ferrochrome (FeCr).

[32] The scrap metal is prepared and loaded into the electric induction melting furnace to be melted down to a “liquid state” available for pouring. Once molten, the alloy composition is tested and adjusted through the addition of other metals, principally FeCr, in order to achieve the correct chemical composition. For each batch, the chemical composition of the alloy is tested with a spectrometer and corrective additions are made until the alloy’s chemical composition falls within the desired tolerance range.

[33] The molten metal is then transferred to hand ladles where the degassing process is done. After degassing, slag is skimmed off from the molten metal. The batch is then transferred into the pouring tank, a heated tank located above a casting line from which the alloy is poured into the sand casts.

#### **2. Preparation of the sand casts**

[34] First, the sand mould, in which the liquid alloy will be poured, is shaped through an automated process. The moulds are created by pouring a green sand mix into a moulding chamber using compressed air. The sand is then squeezed between a ram and a swing, which are provided with a set of matching pattern plates that can be changed depending on the grinding media size to be produced.

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<sup>13</sup> Exhibit 2 (NC) – Grinding Media Complaint, paras 23-46.

### **3. Pouring of alloy and sand casting**

[35] Next, the liquid alloy, having been transferred to the pouring tank, is poured through the pouring sprue, a hole on the top of the sand mould left by the pattern impressions. The alloy then fills the inner cavities shaped in the right ball sizes by the pattern plates. Once poured, there is a “cool down” period, allowing the alloy to cool down and solidify within the cavities, leaving a set of solid metal balls connected by metal sprues.

### **4. Breaking of the casts**

[36] Once the metal alloy has solidified back to a solid shape, the sand mould with the solid metal balls inside, is transferred into the first of two rotary breaking drums. In the first “shake-out” drum, the sand mould is broken, and the sand taken out of the process, leaving only the metal grinding balls and pouring sprue. The balls and the sprues are then transferred to a second “breaker” drum to separate the balls from one another and break the sprues connecting each ball. The balls are then transferred into containers for another cooling period between 24-48 hours.

### **5. Heat Treatment**

[37] After cooling, the balls are moved to the heat treatment process. The balls move by conveyor to a furnace, which evenly and uniformly heats the balls to a specified temperature dependent upon required hardness.

### **6. Quenching**

[38] Once the heat treatment is completed, the grinding balls are quenched by placing the batch in a bath filled with a polymer-based quenching fluid. This involves the controlled cooling of a metal from a high temperature to a cooler temperature to facilitate the formation of the desired microstructure and physical properties. This thermal shock creates a stress inside the balls, making them achieve a hardness level measured on the Rockwell C scale using a durometer.

### **7. Quality control**

[39] Finally, quality tests such as metallurgical microscopic observations, experimental ball mills test, impact testing, and hardness tests are carried out to determine if the hardness of the balls is within the acceptable range. The balls are then packaged, ready to be shipped to customers.



## **Product Use<sup>14</sup>**

[40] GM are used to crush or grind material in a grinding mill. The type of mills in which this takes place are generally called ball mills, which are a facility in which a grinder is operated to crush mineral ore or raw materials. In the mining industry, the grinding process is the first step in the extraction of the ore from the mineral substrate in which it is found. Grinding mills are used for the comminution of iron ore, gold, copper, or other types of ores. In the cement industry, the grinding mill is essential to the comminution of limestone and other raw materials used in the production of cement and clinker.

[41] A ball mill is a cylindrical device used in grinding (or mixing) materials like ore, chemicals, water, or cement production raw materials. Ball mills rotate around a horizontal axis, partially filled with the material to be ground plus the grinding medium, with or without the addition of water (i.e., wet or dry mill conditions). The internal cascading effect caused by the rotation of the material to be ground with the grinding media causes the material to be reduced to a powder or slurry. Ball mills are designed to operate continuously, fed at one end with the material to be ground and the grinding media, and discharging the ground material at the other end.

[42] In the mining industry, dry grinding mills are primarily used when the downstream preparation process requires dry material, or in order to save water resources in dry environments. However, wet grinding is generally the norm in the Canadian mining and cement industries.

[43] Ball mills can grind various ores and other materials either wet or dry. There are two kinds of ball mills, grate type and overflow type, due to different ways of discharging material. Different ball mills will require different types of grinding, each material having its own specific properties and advantages.

## **Classification of Imports**

[44] The allegedly dumped and subsidized goods are normally classified under the following tariff classification numbers: 7325.91.00.10 and 7325.91.00.90.

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

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<sup>14</sup> Exhibit 2 (NC) – Grinding Media Complaint, paras. 47-52.

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

[46] 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 any identical goods, goods the uses and other characteristics of which closely resemble those of the other goods.

[47] In considering the issue of like goods, the CITT typically looks at a number of factors, including the physical characteristics of the goods, their market characteristics and whether the domestic goods fulfill the same customer needs as the subject goods.

[48] After considering questions of use, physical characteristics and all other relevant factors, the CBSA initiated its investigations under the premise that domestically produced GM are like goods to the subject goods. Further, the CBSA was of the opinion that subject goods and like goods constitute only one class of goods.

[49] In its preliminary injury inquiry for these investigations, the CITT further reviewed the matter of like goods and classes of goods. On March 2, 2021, the CITT issued its preliminary inquiry *Statement of Reasons*<sup>15</sup> for the investigations, indicating that it considered the subject goods to be comprised of a single class of goods.

## **THE CANADIAN INDUSTRY**

[50] The complainant accounts for all known domestic production of like goods.

## **IMPORTS INTO CANADA**

[51] During the preliminary phase of the investigations, the CBSA refined the estimated volume and value of imports based on information from CBSA import entry documentation and information received from the exporter and importer.

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

**Imports of GM**  
(% of Volume)

<b>Country of Origin</b>	<b>POI (October 1, 2019 to September 30, 2020)</b>
India	100%
All Other Countries	0%
<b>Total Imports</b>	<b>100%</b>

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<sup>15</sup> Canadian International Trade Tribunal; Grinding Media Dumping and Subsidy Determination and Reasons (March 2, 2021), PI-2020-006.

## **REPRESENTATIONS**

[53] During the preliminary phase of the investigations, counsel for the complainant made representations with respect to certain information contained within RFI responses and SRFI responses, particularly respecting whether market segmentation is a product characteristic and whether end-uses effect physical characteristics.<sup>16</sup>

[54] The CBSA has noted the arguments and evidence submitted in the representations and will take them into consideration in the course of verifying and analyzing information for the purposes of a final decision.

## **INVESTIGATION PROCESS**

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

[56] Regarding the subsidy investigation, information related to potential actionable subsidies was requested from all known and potential exporters, producers, and vendors in India. Information was also requested from the GOI concerning financial contributions made to exporters, producers, and vendors of GM released into Canada during the POI. The GOI was also requested to forward the RFIs to all subordinate levels of government that had jurisdiction over the exporters.

[57] The GOI and the exporters, producers, and vendors 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 or the desk audits may result in the margin of dumping, the amount of subsidy and the assessment of dumping and/or 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 favorable to them than if complete, verifiable information was made available.

[58] All parties requested an extension to respond to their respective RFIs. The CBSA reviewed all requests and all importers, exporters, producers, vendors, and governments that requested an extension were granted an extension of time that still provided the CBSA adequate time to review their responses for purposes of the preliminary determinations of the investigations.

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<sup>16</sup> Exhibit 82 (PRO) and Exhibit 83 (NC) – Comments submitted by Counsel for Magotteaux regarding AIA and Welcast response to SRFI #1.

[59] After reviewing the RFI responses, supplemental RFIs (SRFIs) were sent to respondents who submitted complete submissions in order to clarify information provided in the responses and request additional information, where necessary. For respondents who did not provide complete information, deficiency letters were sent to them in order to notify the parties that information was missing and that without the missing information being furnished, preliminary determinations would be made on the basis of facts available.

[60] The 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 parties may be verified, the results of which will be incorporated into the CBSA's final decisions, which must be made by July 29, 2021.

## **DUMPING INVESTIGATION**

### **Normal value**

[61] 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, which relies on domestic prices, or one of the methodologies of section 19. Where the methodology of subsection 19(b) is used, it is based 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.

### **Export Price**

[62] The export price of goods sold to importers in Canada is generally estimated in accordance with the methodology of section 24 of SIMA 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.

[63] Where there are sales between associated persons and/or a compensatory arrangement exists, the export price is estimated based on the importer's resale price of the imported goods in Canada to unrelated purchasers, less deductions for all costs incurred in preparing, shipping and exporting the goods to Canada that are additional to those incurred on the sales of like goods for use in the country of export, all costs included in the resale price that are incurred in reselling the goods (including duties and taxes) or associated with the assembly of the goods in Canada and an amount representative of the average industry profit in Canada as provided for in paragraphs 25(1)(c) and 25(1)(d) of SIMA.

## **Margin of Dumping**

[64] 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.

## **PRELIMINARY RESULTS OF THE DUMPING INVESTIGATION**

### **AIA Engineering Ltd.**

[65] AIA Engineering Ltd. (AIA), established in 1979, is a publicly traded limited corporation in India and a manufacturer and exporter of grinding media. AIA has a total of three production facilities capable of producing subject goods, i.e. Moraiya and Kerala facilities located in Gujarat and Trichy facility located in Tamilnadu.

[66] Welcast Steels Ltd. (Welcast), established in 1972, is a publicly listed company in India and a subsidiary of AIA. Welcast is a manufacturer of grinding media with its only production facility located in Karnataka.

[67] Vega Industries Middle East F.Z.C. (Vega ME), located in Ajman, UAE was established in 2002 and is a wholly owned subsidiary of AIA. Vega ME is a global distributor of products produced by AIA and its affiliated companies, including the subject goods exported to Canada.

[68] During the POI, all of the subject goods exported by AIA were sold to Vega Industries Limited USA (Vega USA). Vega USA, located in Brentwood, Tennessee, is a wholly owned subsidiary of Vega ME. Vega USA is a non-resident importer who re-sold the subject goods to unrelated purchasers in Canada.

[69] AIA, Welcast, and Vega ME collectively provided substantially complete responses to the Exporter dumping RFI and one supplemental dumping RFI, including a database of domestic sales of GM during the PAP. Vega USA provided a substantially complete response to the Importer RFI and two supplemental RFIs.

[70] Where there were sufficient domestic sales, normal values were estimated using the methodology of section 15 of SIMA, based on domestic selling prices of like goods. Where there were insufficient sales of like goods that met the conditions of sections 15 and 16 of SIMA, normal values were estimated using the methodology of paragraph 19(b) of SIMA, based on the aggregate of the cost of production of the goods, a reasonable amount for administrative, selling and all other costs, and a reasonable amount for profits.

[71] The amount for profits was estimated in accordance with subparagraph 11(1)(b)(ii) of the SIMR, based on the profits earned by AIA on its domestic sales of goods of the same general category during the PAP.

[72] During the POI, all of the subject goods exported by AIA were sold to Vega USA, a related importer. Due to the relationship between the parties, a reliability test was performed to determine whether the section 24 export prices were reliable as envisaged by SIMA. This test was conducted by comparing the section 24 export prices with the section 25 export prices.

[73] The reliability test revealed that the export prices in accordance with section 24 of SIMA were unreliable and, therefore, export prices were estimated in accordance with section 25 of SIMA.

[74] The total estimated normal value compared to the total estimated export price results in an estimated margin of dumping of 25.4% for AIA, expressed as a percentage of the export price.

### **All Other Exporters**

[75] For exporters of subject goods that did not provide a response to the Dumping RFI or did not furnish sufficient information, the normal values and export prices were estimated on the basis of facts available.

[76] In establishing the methodology for estimating the normal values, export price and margin of dumping, the CBSA reviewed all the information on the administrative record, including the complaint filed by the domestic industry, the CBSA's estimates at the initiation of the investigation, information submitted by exporters of GM from India, and customs import documentation.

[77] The CBSA considered whether the information from AIA, the exporter who provided substantially complete information for purposes of the preliminary determination, was appropriate to use as the basis for estimating normal values for all other exporters, and concluded that the normal values estimated for AIA, rather than the information provided in the complaint or estimated at initiation, would be used to establish the methodology for estimating normal values since this data better reflects the trading practices of GM exporters during the POI.

[78] The CBSA then examined the difference between the estimated normal value and the estimated export price for each individual transaction from the exporter and decided that the highest amount by which the estimated normal value exceeded the estimated export price (expressed as a percentage of export price), was an appropriate basis for estimating normal values. The transactions were examined to ensure that no anomalies were considered, such as a very low volume or value, effects of seasonality or other business factors. No such anomalies were identified. This methodology limits the advantage that an exporter may gain from not providing the necessary information requested in a dumping investigation as compared to an exporter that did provide the necessary information.

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

[80] Based on the above methodologies, for exporters that did not provide a response to the Dumping RFI, the margin of dumping of subject goods originating in or exported from India was estimated to be 54.3%, expressed as a percentage of export price.

### Summary of Preliminary Results - Dumping

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

#### Summary of Preliminary Results - Dumping Period of Investigation (October 1, 2019 to September 30, 2020)

Exporters	Estimated Volume of Subject Goods as a Percentage of Total Imports	Estimated Margins of Dumping*
<b>India</b>		
AIA Engineering Ltd.	99.1%	25.4%
All Other Exporters	0.9%	54.3%
<b>Total</b>	<b>100%</b>	

\* Expressed as a percentage of the export price.

[82] 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.

[83] 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] The volume of subject goods from India 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 India is therefore not negligible.

[85] If, in making a preliminary determination, the CBSA determines that the margin of dumping of the goods of a particular exporter is insignificant pursuant to subsection 38(1.1) 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.

[86] 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. The estimated margins of dumping for AIA and all other exporters in India are greater than the threshold of 2% and are therefore not considered insignificant.

[87] A summary of the estimated margins of dumping and provisional duties by exporter is presented in **Appendix 1**.

## **SUBSIDY INVESTIGATION**

[88] 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.

[89] 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.

[90] 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.

[91] 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.



[92] 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.

[93] 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.

[94] Financial contributions provided by state-owned enterprises (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**

[95] The following presents the preliminary results of the investigation into the subsidizing of GM originating in or exported from India.

[96] At the initiation of the investigation, the CBSA sent Subsidy RFIs to the GOI, as well as to all known exporters, producers, and vendors of GM in India.

[97] The GOI requested an extension to submit their response to the Government Subsidy RFI. The CBSA granted the extension and the GOI provided an incomplete response on the extended deadline of February 9, 2021. The CBSA sent a deficiency letter, and advised the GOI to provide the missing information as soon as possible to ensure that the CBSA has sufficient time to review, analyze and verify the information provided. The GOI responded to the deficiency letter by providing supplemental information. However, as this submission was not received until April 13, 2021, the CBSA did not have sufficient time to consider it for purposes of the preliminary determination. The CBSA will continue to analyze the submitted information during the final phase of the investigation.

[98] For the purposes of the preliminary determination, the CBSA has received sufficient information from one exporter to estimate amounts of subsidy. The programs used by the responding exporter are listed in **Appendix 2**.

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

[100] Estimated amounts of subsidy are presented in a summary table in **Appendix 1**.

### **AIA Engineering Ltd.**

[101] AIA is a producer and exporter of subject goods to Canada that provided a substantially complete response to the Subsidy RFI and to one supplemental Subsidy RFI.

[102] For purposes of the preliminary determination, it is estimated that AIA benefitted from six subsidy programs during the subsidy POI:

- Program 2: Duty Drawback Scheme (DDS)
- Program 4: Export Promotion Capital Goods Scheme (EPCG)
- Program 5: Merchandise Exports from India Scheme (MEIS) / Scheme for Remission of Duties and Taxes on Exported Products (RoDTEP)
- Program 6: Interest Equalization Scheme on Pre and Post Shipment Rupee Export Credit
- Program 9: Electricity Duty Exemption
- Program 10: Electricity Duty Reduction on Furnace

[103] For the purposes of the preliminary determination, the six programs described above constitute financial contributions pursuant to paragraph 2(1.6)(b) of SIMA. That is, amounts that would be otherwise owing and due to the government are reduced and/or exempted, conferring a benefit to the recipient equal to the amount of the reduction/exemption.

[104] Due to the lack of a response by the GOI, there is not sufficient information on the record to determine whether the six programs are specific pursuant to subsection 2(7.2) or subsection 2(7.3) of SIMA; nor is there sufficient information to indicate that the subsidies are not specific pursuant to the criteria set out in subsection 2(7.1). On the basis of the available information, the six programs do not appear to be generally available to all enterprises in India and thus appear to be specific. This will be further analyzed in the final phase of the investigation.

[105] The estimated amount of subsidy for AIA is 6.8%, expressed as a percentage of the export price.

[106] The CBSA will continue to collect and verify information from AIA during the final phase of the investigation. The CBSA may also consider any other potential subsidy programs that have not yet been identified.

## All Other Exporters

[107] For all other exporters of subject goods originating in or exported from India, the CBSA estimated an amount of subsidy on the basis of the following methodology:

- 1) the amount of subsidy for each of the six programs, as found at the preliminary determination, for the producer/exporter located in India for whom the CBSA has sufficient information to estimate an amount of subsidy, plus;
- 2) the highest amount of subsidy for the six programs listed in (1), applied to each of the remaining ten potentially actionable subsidy programs for which sufficient information is not available or has not been provided at the preliminary determination.

[108] This approach limits the advantage that may be gained from not providing the necessary information requested in a subsidy investigation as compared to respondents that did provide the necessary information

[109] Using the above methodology, for the preliminary determination, the estimated amount of subsidy for all other exporters in India is 35.2%, expressed as a percentage of the export price.

### Summary of Preliminary Results – Subsidy

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

#### Summary of Preliminary Results - Subsidy Period of Investigation (October 1, 2019 to September 30, 2020)

Exporters	Estimated Volume of Subject Goods as a Percentage of Total Imports	Estimated Amounts of Subsidy*
<b>India</b>		
AIA Engineering Ltd.	99.1%	6.8%
All Other Exporters	0.9%	35.2%
<b>Total</b>	<b>100%</b>	

\* Expressed as a percentage of the export price.

[111] 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.

[112] 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.

[113] If, in making a preliminary determination, the CBSA determines that the amount of subsidy on the goods of a particular exporter is insignificant pursuant to subsection 38(1.1) 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.

[114] 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.

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

[116] Neither the ASCM nor SIMA defines or provides any guidance regarding the determination of a "developing country" for purposes of Article 27.10 of the ASCM. As an administrative alternative, the CBSA refers to the *Development Assistance Committee List of Official Development Assistance Recipients*<sup>17</sup> and regards a country as developing if it is listed as a least developed country, low income country, lower middle income country or territory. As India is included in these lists for 2021, the CBSA extends developing country status to India for purposes of this investigation.

[117] The volume of subject goods from India is above 4% of the total volume of goods released into Canada from all countries, and based on the definition above, is therefore not negligible. The estimated amounts of subsidy for AIA and all other exporters in India exceed 2% of the export price and are therefore not insignificant. In respect of these exporters, provisional countervailing duty will be imposed on subject goods imported into Canada during the provisional period.

## **DECISIONS**

[118] On April 30, 2021, pursuant to subsection 38(1) of SIMA, the CBSA made preliminary determinations of dumping and subsidizing respecting GM originating in or exported from India.

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<sup>17</sup> <https://www.oecd.org/dac/financing-sustainable-development/development-finance-standards/DAC-List-ODA-Recipients-for-reporting-2021-flows.pdf>

## **PROVISIONAL DUTY**

[119] Subsection 8(1) of SIMA provides that where a preliminary determination has been made and where the CBSA considers that the imposition of provisional duty is necessary to prevent injury, retardation or threat of injury, the importer in Canada of dumped and/or subsidized goods shall pay, or post security for, provisional duty. If, in making the preliminary determination, a determination is made that the estimated margin of dumping and/or the estimated amount of subsidy on the goods of an exporter is insignificant, subsection 8(1.3) provides that provisional anti-dumping and/or countervailing duties will not be imposed on importations of the goods from that particular exporter.

[120] Pursuant to subsection 8(1) of SIMA, provisional duty payable by the importer in Canada will be applied to dumped and subsidized imports of GM that are released from the CBSA 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 in respect of any goods 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 GM have caused injury or are threatening to cause injury to the domestic industry.

[121] Imports of GM originating in or exported from India and released by the CBSA on or after April 30, 2021, will be subject to provisional duties equal to the estimated margin of dumping and estimated amount of subsidy, expressed as a percentage of the export price of the goods per exporter. **Appendix 1** contains the estimated margins of dumping, estimated amounts of subsidy and the rates of provisional duty.

[122] 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**

[123] The CBSA will continue its investigations of the dumping and subsidizing and will make final decisions by July 29, 2021.

[124] If the margins of dumping or amounts of subsidy of any exporter are found to be insignificant, the CBSA will terminate the investigations in respect of goods of that exporter and any provisional duty paid or security posted will be refunded to importers, as appropriate. If the CBSA is satisfied that the goods were dumped and/or subsidized, final determinations will be made.

### **The Canadian International Trade Tribunal**

[125] The CITT has begun its inquiry into the question of injury to the Canadian industry. The CITT is expected to issue its finding by August 28, 2021.

[126] 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.

[127] 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 GM that are of the same description as goods described in the CITT's finding.

[128] 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.

[129] 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 GM that are of the same description as goods described in the CITT's finding.

[130] 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**

[131] 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 investigations 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 determinations could be subject to anti-dumping and/or countervailing duty.

[132] 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**

[133] 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 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.

[134] Similarly, after a preliminary determination of subsidizing by the CBSA, other than a preliminary determination in which a determination was made that the amount of subsidy on the goods is insignificant, 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.

[135] 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)

[136] 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.

[137] 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**

[138] 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.

### **INFORMATION**

[139] This *Statement of Reasons* is 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:** Benjamin Crossan 343-553-1634  
Jason Huang 343-553-1891

**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)



Doug Band  
Director General  
Trade and Anti-dumping Programs Directorate



**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 April 30, 2021, will be subject to provisional duties at the rates specified below.

Exporters	Estimated Margins of Dumping*	Estimated Amounts of Subsidy*	Total Provisional Duty Payable*
<b>India</b>			
AIA Engineering Ltd.	25.4%	6.8%	32.2%
All Other Exporters	54.3%	35.2%	89.5%

\* As a percentage of export price.

**APPENDIX 2**  
**SUMMARY OF PRELIMINARY FINDINGS FOR SUBSIDY PROGRAMS**

This Appendix consists of descriptions of the subsidy programs from which the responding exporter benefited from during the course of the POI, as well as of other potentially actionable subsidy programs identified in this investigation.

The CBSA has used the best information available to describe the potentially actionable subsidy programs. This includes using information provided by the exporter, information included in the complaint, as well as information obtained from CBSA research on potential subsidy programs in India.

**Subsidy Programs Used by the Responding Exporter**

**Program 2: Excessive Duty Drawback (DDB)**

During the POI, the cooperative exporter received a benefit under this program in the form of excessive duty drawback. Pursuant to section 75 of the *Customs Act 1962* and the *Customs and Central Exercise Duties Drawback Rules 2017*, Duty Drawback Scheme (DDS) replaced Duty Entitlement Passbook Scheme and is administered by the Department of Revenue.<sup>18</sup> Under the DDS, products made out of duty paid inputs are exported and thereafter a refund of duty is claimed on the basis of two methods: i) actual duty/tax incidence (brand rate) or ii) averages (all industry rates). Duty drawback rates are normally published on a yearly basis. According to the information provided in the complaint, the duty drawback rates for 2019 and 2020 for the goods subject to the complaint (i.e. under HS heading 7325) are 1.8% and 1.6% of the FOB value of the goods, respectively.<sup>19</sup>

**Program 4: Export Promotion Capital Goods Scheme (EPCG)**

During the POI, the cooperative exporter received a benefit under this program in the form of an exemption from basic customs duty rates on importation of certain capital goods. Pursuant to Chapter 5 of the FTP and Chapter 5 of the *Handbook of Procedures (HBP)*,<sup>20</sup> the objective of Export Promotion Capital Goods Scheme (EPCG) is to facilitate import of capital goods for producing quality goods and services to enhance India's export competitiveness.

The EPCG allows import of capital goods for pre-production, production and post-production at zero, 3% and 5% basic customs duty<sup>21</sup>, subject to an export obligation equivalent to six times of the duty saved on the imported capital goods within a period of six years.

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<sup>18</sup> Exhibit 2 (NC) – Grinding Media Complaint, Exhibit 95 – Section 75 of the Customs Act, 1962 and Exhibit 96 - Customs and Central Exercise Duties Drawback Rules, 2017

<sup>19</sup> Exhibit 2 (NC) – Grinding Media Complaint, Exhibits 97 to 100.

<sup>20</sup> Exhibit 2 (NC) – Grinding Media Complaint, Exhibit 101 – Chapter 5 of the FTP, and Exhibit 102 – Chapter 5 of the HBP.

<sup>21</sup> Exhibit 43 (NC) page 28 – Response to Exporter Subsidy RFI – AIA Engineering Limited.

**Program 5: Merchandise Export from India Scheme (MEIS) / Scheme for Remission of Duties and Taxes on Exported Products (RoDTEP)**

During the POI, the cooperative exporter received a benefit under this program in the form of reduced future customs duty. The objective of MEIS is to offset infrastructural inefficiencies and associated costs involved in the export of goods/products that are produced/manufactured in India, and especially of those goods/products that enhance India's export competitiveness because they have a high export intensity and employment potential. Different reward rates under MEIS are prescribed (i.e. 2%, 3%, 5%) depending on the specific merchandise and country. Rewards are calculated on the basis of realized FOB value of exports in free foreign exchange or on the basis of FOB value of exports as given in the shipping bills in free foreign exchange, whichever is less. Rewards are given in the form of freely transferable financial instrument known as Scrips which can be used only for payment of custom duties.<sup>22</sup>

**Program 6: Interest Equalization Scheme on Pre and Post Shipment Rupee Export Credit**

Program *Interest Equalization Scheme on Pre and Post Shipment Rupee Export Credit* was introduced by the Reserve Bank of India (RBI) on December 4, 2015.<sup>23</sup> The program was in effect from April 1, 2015 for five years, and “from the month of December 2015 onwards, banks shall reduce the interest rate charged to the eligible exporters as per our extant guidelines on interest rates on advances by the rate of interest equalization provided by Government of India.” The rate of interest equalization specified in the program is 3% per annum, i.e., eligible exporters can receive reduction in interest rate of 3% from banks.

The scheme is available to exports of a wide range of products under 416 tariff codes including HS code 7325, and to exports made by Micro, Small & Medium Enterprises (MSMEs) across all tariff codes.<sup>24</sup> In November 2018, the RBI increased the reduction in interest rate from 3% to 5% for exports made by MSMEs<sup>25</sup>, and in January 2019, the RBI expanded and included exports made by merchant exporters in the program.<sup>26</sup> On May 13, 2020, the RBI approved the extension of the program for one more year, up to March 31, 2021.<sup>27</sup>

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<sup>22</sup> Exhibit 43 (NC) page 34 – Response to Exporter Subsidy RFI – AIA Engineering Limited.

<sup>23</sup> Exhibit 2 (NC) – Grinding Media Complaint, Exhibit 109 – Reserve Bank of India, Notification DBR.Dir.BC.No.62/04.02.001/2015-16, December 4, 2015.

<sup>24</sup> Reserve Bank of India, Notification DCBR.CO.SCB.Cir. No. 1/13.05.000/2015-16, February 11, 2016 (<https://rbidocs.rbi.org.in/rdocs/notification/PDFs/NT322468DA7E3559F4FDCA05F627EE6310FB3.PDF>)

<sup>25</sup> <https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=11421&Mode=0>

<sup>26</sup> <https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=11453&Mode=0>

<sup>27</sup> <https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=11887&Mode=0>

## **Program 9: Electricity Duty Exemption**

The GEDES is provided under the Gujarat Electricity Duty Act, 1958 (Electricity Act) under Section 3(2)(vii) and (viii). As per the said clauses, electricity duty shall not be levied on electricity units for motive power and lighting used by:

- a. a new industrial undertaking with respect to premises used by such undertaking for a period of five years from the date on which the industrial undertaking begins to manufacture or produce goods for the first time;
- b. an additional unit of the industrial undertaking on a different, independent and identifiable premises for a period of five year from:
  - i. date on which the additional unit begins to manufacture or produce goods for the first time;
  - ii. date on which the additional unit begins to manufacture or produce goods for the first time after the commencement of the Gujarat Electricity Duty (Amendment) Act, 2013.

However, to be entitled for the exemption the “new industrial undertaking” and the “additional unit of the industrial undertaking” will have to obtain a certificate regarding eligibility. The certificate is granted after an application in the prescribed format has been made.

Further, “new industrial undertaking” has been defined to mean any industrial undertaking which:

- a. is not formed by splitting or reconstruction of a business of undertaking already in existence;
- b. is not formed by transfer to a new business or undertaking of a building, machinery or plant previously used in India for any industrial purpose of such value in relation to the total value of investments, as may be notified by the State Government;
- c. is not an expansion of the existing business or undertaking in the State.

Similarly, the term “additional unit of the industrial undertaking” has been defined as an industrial undertaking which:

- a. is not formed by splitting or reconstruction of a business of undertaking already in existence;
- b. is not formed by transfer to a new business or undertaking of a building, machinery or plant previously used in India for any industrial purpose of such value in relation to the total value of investments, as may be notified by the State Government.

## **Program 10: Electricity Duty Reduction on Furnace**

Under the authority of the *Gujarat Electricity Duty Act 1958* and relevant notifications issued by the SGOG, the rate of duty on electricity consumed in electrochemical, electrolyte and electrometallurgy processes carried out by industrial establishments is reduced from 15% to 10%, subject to certain conditions.<sup>28</sup>

### **Other Potentially Actionable Subsidy Programs that Require Further Examination**

The following programs are also included in the current investigation. Questions concerning these programs were included in the subsidy RFIs sent to the GOI and to all known producers/exporters of grinding media in India. Since the GOI did not provide a complete response to the RFI in a timely manner, for purposes of the preliminary determination, the CBSA does not have sufficient descriptions of these programs. The CBSA will continue to investigate these programs in the final phase of the investigation.

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

Program 1 : Advanced Authorizations Scheme (AAS)  
Program 3 : Duty Free Import Authorization Scheme (DFIA)

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

Program 7: Pre-shipment and Post Shipment Export Financing

#### **III. Subsidy Programs provided by the State Government of Gujarat (SGOG)**

Program 8: Reimbursement of Net Value-added Tax (VAT) / Net State General Sales Tax (SGST) to MSMEs, Large, Mega & Ultra Mega Industrial Undertakings  
Program 9. Provision of Land and Water for Less than Fair Market Value

#### **IV. Subsidy Programs Provided by the State Government of Maharashtra (SGOM)**

Program 12: Incentives for Large-scale Industries and Mega Projects under Package Scheme of Incentives (PSI)  
Program 13: Incentives for Micro, Small & Medium Manufacturing Enterprises under PSI  
Program 14: Provision of Land for Less than Fair Market Value

#### **V. Subsidy Programs Provided by the State Government of Tamil Nadul (SGOTN)**

Program 15: Capital Subsidy / Electricity Duty Exemption under Tamil Nadu Industrial Policy (TNIP)  
Program 16: Incentives for Mega, Super-Mega & Ultra-Mage Projects under TNIP

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<sup>28</sup> Exhibit 2 (NC) – Grinding Media Complaint, Exhibit 123 – Gujarat Electricity Duty Act, 1958 and Exhibit 73 – SDCOM finding concerning electricity duty exemption on furnace (i.e. SGOG Notification GHU-87-51-ELD-1187-6023-K, September 4, 1987).