FISC 2016 IN

OTTAWA, May 10, 2017

STATEMENT OF REASONS

Concerning the final 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

DECISION

Pursuant to paragraph 41(1)(a) of the *Special Import Measures Act*, on April 25, 2017, the Canada Border Services Agency made final determinations of dumping with respect to 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 subsidizing of certain fabricated industrial steel components originating in or exported from the People's Republic of China.

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

TABLE OF CONTENTS

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 Levis, Quebec, 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 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.

[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 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 (POI) 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 and began imposing provisional duties on imports of the subject goods pursuant to subsection 8(1) of SIMA.

[10] On January 26, 2017, the CITT initiated a full inquiry pursuant to section 42 of SIMA to determine whether the dumping and subsidizing of the above-mentioned goods have caused injury or retardation or are threatening to cause injury to the Canadian industry.

[11] The CBSA continued its investigations and, on the basis of the results, was satisfied that FISC originating in or exported from China, Korea and Spain have been dumped and that the margins of dumping were not insignificant. Consequently, on April 25, 2017, the CBSA made a final determination of dumping pursuant to paragraph 41(1)(a) of SIMA.

[12] Similarly, the CBSA was satisfied that FISC originating in or exported from China have been subsidized and that the amount of subsidy was not insignificant. As a result, on April 25, 2017, the CBSA also made a final determination of subsidizing pursuant to paragraph 41(1)(a) of SIMA.

[13] The CITT's inquiry into the question of injury to the Canadian industry is continuing. Provisional duties will continue to be imposed on the subject goods until the CITT renders its decision. The CITT has announced that it will issue its finding by May 25, 2017.

PERIOD OF INVESTIGATION

[14] The POI with respect to the investigations covered all subject goods released into Canada from January 1, 2014 to June 30, 2016.

PROFITABILITY ANALYSIS PERIOD

[15] The Profitability Analysis Period covered domestic sales and costing information for goods sold from January 1, 2014 to June 30, 2016.

INTERESTED PARTIES

Complainants

[16] 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
Levis, 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.

[17] Supermetal is a producer and installer (erector) of FISC, in addition to fabricated structural steel components for bridges and commercial building.[1] The company's main production facility is in Levis, Quebec. In Canada, Supermetal also has production facilities in Sherbrooke, Quebec and in Leduc, Alberta. The company operates a plant in South Carolina, in the United States of America. FISC produced in Quebec 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

[18] Supreme is the parent company of several FISC manufacturing companies in Canada, with its head office in Edmonton, Alberta.[2] 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 are not the subject of the complaint. Among its 12 companies, five core companies

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[1] Exhibit 2 (NC) – FISC Complaint; Public Attachment 5.
[2] Exhibit 2 (NC) – FISC Complaint; Public Attachment 2.

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

[19] Waiward, located in Edmonton, Alberta is a large producer and installer (erector) of FISC.[3] 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.

Other Producers in Canada

[20] 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.[4]

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

Importers

[22] 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.

[23] The CBSA sent an importer Request for Information (RFI) to all potential importers of the goods. The CBSA received 12 responses. The response provided by Air Liquide Canada was determined to be incomplete.

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[3] Exhibit 2 (NC) – FISC Complaint; Public Attachment 1.
[4] Exhibit 2 (NC) – FISC Complaint; Public Attachment 116 – Letters of Support.
[5] Exhibit 2 (NC) – FISC Complaint; Revised Public Attachment 7.

Exporters and/or Foreign Producers

[24] 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. Twelve exporters and/or producers provided a substantially complete response, including six in China, five in Korea and one in Spain. See "Dumping Investigation", and where applicable "Subsidy Investigation", for detailed information on each of these companies.

[25] 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 to the goods processed for eventual export to Canada by another producer/exporter in China.

[26] Incomplete responses were received from four exporters and/or producers located in China, specifically: Shanghai Baoye; Sinohydro Jiajiang Hydraulic Machinery Co., Ltd Qingdao Yinglong Machinery Co Ltd., and Tianjin Heavy Steel Mechanical Equipment Co., Ltd.

[27] Deficiencies were communicated to these companies, however, complete information was not subsequently provided for purposes of the final determinations. Accordingly, the CBSA was unable to use the information provided by Shanghai Baoye, Sinohydro Jiajiang Hydraulic Machinery Co., Ltd., Qingdao Yinglong Machinery Co. Ltd., and Tianjin Heavy Steel Mechanical Equipment Co., Ltd. for the purposes of the final determinations.

Surrogate Producers

[28] 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 exporters of FISC to Canada.

[29] The CBSA received no information from producers in these countries.

Vendors

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

Government of China

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

[32] The CBSA sent a government Subsidy RFI and government Section 20 RFI to the GOC. The CBSA did not receive a response to either RFI from the GOC.

PRODUCT INFORMATION

Definition

[33] 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 and the Kingdom of Spain.

Additional Product Information[6]

[34] 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.

[35] 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.

[36] 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.

[37] 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.

[6] Exhibit 2 (NC) – FISC Complaint; paras. 32-53.

[38] 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.

[39] 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.

[40] 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.

[41] 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.

[42] 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.

[43] 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.

[44] 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.

[45] 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.

[46] 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.

[47] 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

[48] 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.

[49] 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.

[50] 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.

[51] 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[7]

[52] 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.

[53] 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.

[54] The overseeing engineer on a project will design the structure and develop detailed engineering specifications of the structure 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").

[55] 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.

[56] 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.

[57] 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.

[58] 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.

[7] Exhibit 2 (NC) – FISC Complaint; paras. 54-71.

[59] 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.

[60] 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.

[61] 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.

[62] 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.

[63] Labour is the variable factor that most affects the unit price for FISC. In general, the cost of material inputs into a metric tonne (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.

[64] 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

[65] 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.

[66] 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.

[67] 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).

[68] 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.

[69] 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. 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

[70] 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			

[71] The above-noted classification numbers replace the following HS classification numbers that were used during the POI:

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			

[72] 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

[73] 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.

[74] 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.[8]

[75] 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."[9] 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."[10]

THE CANADIAN INDUSTRY

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

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[8] *Statement of Reasons* (September 27, 2016), FISC 2016 IN (CBSA), at para.73.

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

[10] Certain Fabricated Industrial Steel Components, Preliminary Injury Inquiry No. PI-2016-003; November 10, 2016, (CITT) at para. 23.

IMPORTS INTO CANADA

[77] During the final phase of the investigations, the CBSA refined the volume of imports based on information from CBSA import entry documentation and other information received from exporters and importers.[11]

[78] For the purposes of the final determinations, the CBSA relied on import documentation and information received from importer and exporter responses in order to determine the volume of subject goods during the POI. Where the actual weight of imports could not be determined from importer and exporter responses, the CBSA determined the volume on the basis of the weighted average weight (per MT) of all subject goods from that country, as per the information submitted by importers and exporters, applied to import data from the CBSA's Customs information system. For China, Korea and Spain, an adjustment was necessary for only a small portion of the subject goods given that information was submitted by either importers or exporters for the majority of the subject goods. For imports from other countries, the CBSA determined the volume on the basis of the weighted average weight of all subject goods per the information submitted by importers and exporters applied to import data from the CBSA's Customs information system.

[79] The following table presents the CBSA's analysis of imports of FISC for purposes of the final determinations:

Table 1: Import Volumes of FISC
(% of Volume)

Country	January 1, 2014 to June 30, 2016 (2.5 years)
China	38.1%
Korea	25.9%
Spain	3.6%
All Other Countries	32.4%
Total Imports	**100.0%**

[11] At the preliminary determinations, the volume of imports was estimated on the basis of values. For purposes of the final determinations, the volume of imports is based on the weight reported in metric tonnes.

INVESTIGATION PROCESS

[80] 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 dumping POI.

[81] 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 gather information to determine normal values under paragraph 20(1)(c) of SIMA. These countries were selected as they are all 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.

[82] 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.

[83] 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. All responses received by the CBSA were taken into consideration during the final phase of the investigations.

[84] After reviewing the responses to the RFIs, supplemental RFIs were sent to responding parties to clarify information provided in the submissions and request any additional information needed. In addition, on-site verifications were conducted at the premises of selected exporters and producers in China, Korea and Spain during the final phase of the investigations.

[85] Details pertaining to the information submitted by the exporters and producers in response to the Dumping RFI as well as the results of the CBSA's dumping investigation, including the section 20 inquiry, are provided in the "Dumping Investigation" section of this document. Details pertaining to the results of the CBSA's subsidy investigation are provided in the "Subsidy Investigation" section of this document.

[86] As part of the final stage of the investigations, case briefs and reply submissions were provided by counsel representing the complainants, exporters, producers, importers and the European Commission. Details of all representations are provided in **Appendix 1**.

DUMPING INVESTIGATION

[87] 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.

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

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

Normal Values

[90] Normal values are generally determined based on the domestic selling prices of like goods in the country of export, in accordance with 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 paragraph 19(b) of SIMA.

[91] 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 determined on the basis of section 20 of SIMA using either the selling prices or costs of like goods in a "surrogate" country.

[92] Where, in the opinion of the CBSA, sufficient information has not been furnished or is not available to enable the determination of normal values pursuant to sections 15 to 23.1 of SIMA, normal values are determined pursuant to a ministerial specification in accordance with subsection 29(1) of SIMA.

Export Prices

[93] The export price of the goods sold to the importers in Canada is generally based on the lesser of the adjusted exporter's selling price 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.

[94] Where there are sales between associated persons or a compensatory arrangement exists, the export price may be determined based on the importer's resale price of the imported goods in Canada to non-associated 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 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, pursuant to paragraphs 25(1)(c) and 25(1)(d) of SIMA. In any cases not provided for under paragraphs 25(1)(c) and 25(1)(d) of SIMA, the export price is determined in such a manner as the Minister specifies, pursuant to paragraph 25(1)(e).

[95] Where, in the opinion of the CBSA, sufficient information has not been furnished or is not available, export prices are determined pursuant to a ministerial specification under subsection 29(1) of SIMA.

Margin of Dumping

[96] The CBSA determined a margin of dumping for each of the exporters by comparing the total normal value with the total export price of the goods. When the total export price was less than the total normal value, the difference was the margin of dumping for that specific exporter.

[97] The determination of the volume of dumped goods was calculated by taking into consideration each exporter's net aggregate dumping results. If it was determined that an exporter was dumping on an overall or net basis, then the total quantity of exports attributable to that exporter (i.e. 100%) was considered to have been dumped. Similarly, if an exporter's net aggregate dumping results were zero, then the total quantity of exports considered to have been dumped by that exporter was zero.

[98] In determining the margin of dumping for the country, the margin of dumping found in respect of each exporter was weighted according to each exporter's volume of subject goods released into Canada during the POI.

[99] Details relating to the margin of dumping for each of the exporters are presented in a summary table in **Appendix 2,** while the margins of dumping for China, Korea and Spain can be found in a summary table at the end of this section.

Results of the Dumping Investigation by Country

China

Section 20 Inquiry

[100] 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.[12] Where section 20 of SIMA is applicable, the normal values of the goods are not determined using domestic prices or costs in that country.

[101] 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.

[12] China is a prescribed country under section 17.1 of the *Special Import Measures Regulations*.

[102] 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.

[103] 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.

[104] The complainants 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.*

[105] At the initiation of the investigation, the CBSA had sufficient evidence, supplied by the complainants 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

[106] 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.*

Government of China Response

[107] A response to the Section 20 RFI was not received from the GOC.

Surrogate Country Responses

[108] 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 exporters of FISC to Canada. No producers located in these countries responded to the RFI.

Responses from Importers with Sales in Canada of FISC from Other Countries than China

[109] 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 eleven importers; however, none of the importers provided information on re-sales in Canada of like goods.

CBSA's Analysis with Respect to Section 20 Inquiry

[110] The CBSA identified factors that indirectly and directly affect the fabricated structural steel sector in China, which includes FISC.

[111] Several factors identified by the CBSA directly affect the steel industry in China; thereby indirectly affecting the fabricated structural steel sector, including FISC. The GOC asserts control in the steel industry through GOC industrial policies, GOC ownership of steel suppliers, export controls and subsidization of producers in the steel industry. Through control of the steel industry, the GOC influences the supply of steel inputs and therefore the prices of steel inputs. As steel inputs are the main raw material inputs that enter into the production of FISC, the GOC indirectly influences the prices in the fabricated structural steel sector, including FISC.

[112] The CBSA also identified factors which directly affect the fabricated structural steel sector including GOC ownership of FISC producers, GOC purchases of FISC, and subsidization of producers and exporters of FISC.

[113] 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.

<u>GOC Industrial Policies</u>

[114] The CBSA has information on the record that indicates the involvement of the GOC in the steel industry, which includes the following:

- *13th Five-Year National Plan on National Economic and Social Development;*
- *The National Steel Policy and the Steel Revitalization/Rescue Plan;*
- *The 12th 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.*

13th Five-Year National Plan on National Economic and Social Development

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

[116] According to the U.S.-Business Council, the 13th 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.[14]

[117] The U.S.-Business Council notes that the 13th Five-Year Plan urges steel companies and others with declining domestic demand to find international markets. 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.[15]

[118] The 13th 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."[16]

[119] Given the current and foreseeable 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.

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[13] Exhibit 463 (PRO) - Attachment 1 – 13th Five-Year Plan on National Economic and Social Development.
[14] Exhibit 463 (PRO) - Attachment 2 – 13th Five Year Plan Stresses Economic Restructuring.
[15] Exhibit 463 (PRO) - Attachment 2 – 13th Five Year Plan Stresses Economic Restructuring.
[16] Exhibit 463 (PRO) - Attachment 1 – 13th Five-Year Plan on National Economic and Social Development.

The National Steel Policy and the Steel Revitalization/Rescue Plan

[120] 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*)[17] 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.

[121] 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).[18] 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. Although the Steel Revitalization/Rescue Plan was intended for the 2009 to 2011 period, these tasks are not fully achieved and continue to remain in effect, and incorporated into other plans. 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.

[122] 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, including FISC producers in the fabricated structural steel sector.

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[17] Exhibit 463 (PRO) - Attachment 3 – National Steel Policy.
[18] Exhibit 463 (PRO) - Attachment 4 – Steel Revitalization/Rescue Plan.

The 12th Five-Year Development Plans for the Steel Industry

[123] As cited in previous section 20 inquiries on steel products, the *12th Five-Year Development Plans for the Steel Industry* (*12th 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.[19] 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.

[124] 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[20]. This plan is the next development stage of GOC directives aimed at achieving this long-range 2020 target.

[125] The *12th 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.

[126] 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 *12th 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.[21]

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[19] Exhibit 463 (PRO) - Attachment 5 – 12th Five-Year Plan: Iron and Steel.
[20] Exhibit 463 (PRO) - Attachment 5 – 12th Five-Year Plan: Iron and Steel.
[21] Exhibit 463 (PRO) - Attachment 6 – China Daily Article, Steel industry plan forged.

[127] In the *12th 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.

[128] 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.

[129] Together with the GOC's legislation: *Criterion for the Production and Operation of Steel Industry*[22]– 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*[23]– 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."

[130] 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.[24] In respect of new construction or renovation of Chinese steel enterprises, the GOC's steel development policies also apply.

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[22] Exhibit 463 (PRO) - Attachment 7 – Criterion for the Production and Operation of Steel Industry.
[23] Exhibit 463 (PRO) - Attachment 8 – Several Observations of the General Office of the State Council.
[24] Exhibit 463 (PRO) - Attachment 7 – Criterion for the Production and Operation of Steel Industry.

[131] Currently, no information is available regarding the 13th 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)

[132] 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).*[25] 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:[26]

a. 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;
- 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."

b. 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.

[25] Exhibit 463 (PRO) - Attachment 9 – Iron and Steel Industrial Restructuring Policy (2015 Revision).
[26] Exhibit 002 (NC) - FISC Complaint – page 67, para. 201.

c. 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.

d. 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.

[133] 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."[27]

[134] 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 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.[28] 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.[29]

[27] Exhibit 002 (NC) - FISC Complaint – page 66, para. 200.
[28] Exhibit 463 (PRO) - Attachment 10 – Implications for Oil Markets.
[29] Exhibit 463 (PRO) - Attachment 11 – The Clean Technology Revolution and Its Implications For Europe.

[135] 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 control of the steel industry by the GOC.

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

[136] 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)*[30], was approved by the State Council on July 27, 2000.

[137] 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.

[138] The initial policy pertaining to strategic emerging industries (SEIs) is the *State Council Decision on Accelerating the Development of Strategic Emerging Industries,*[31] 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.[32] 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.[33]

[139] 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.

[30] Exhibit 463 (PRO) - Attachment 12 – List of Industries, Products and Technologies Currently Encouraged by the State for Development.

[31] Exhibit 463 (PRO) - Attachment 13 – The State Council Decision on Accelerating the Development of Strategic Emerging Industries.

[32] Exhibit 002 (NC) - FISC Complaint – page 79, para. 234.

[33] Exhibit 002 (NC) - FISC Complaint – page 80, para. 234, 236.

GOC Ownership of Suppliers/Producers

[140] 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

a. Suppliers of Raw Material Steel Inputs

[141] 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 determine prices in accordance with market conditions.

[142] 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.[34]

[143] The complaint indicates that China's steel production over-capacity is the result of the GOC's industrial policies and subsidies.[35] 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[36]. 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.

[34] Exhibit 463 (PRO) - Final Determination Section 20 Report – Page 12, http://www.worldsteel.org, and information from the web sites of individual companies listed by the World Steel Association.

[35] Exhibit 002 (NC) - FISC Complaint – page 69, para. 206.

[36] Exhibit 463 (PRO) - Final Determination Section 20 Report – Page 12, http://www.worldsteel.org, and information from the web sites of individual companies listed by the World Steel Association.

[144] 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.[37] The result of the merger leads to a greater concentration ratio in the steel industry and a stronger and more influential state-owned entity.

[145] According to the complainants, SOEs supply the raw material inputs required for the production of FISC in China.[38] 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. If provided in exporter responses, the CBSA used the import prices of specific inputs as benchmarks to compare with the prices of 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.[39] The CBSA found that the average prices of inputs purchased from SOEs were below these benchmark prices.[40]

[146] Given that the state-owned steel companies supply raw material steel inputs for the production of FISC, the GOC, in effect, indirectly determine the price of FISC in China.

b. Producers of FISC

[147] The information provided in the complaint, as well as information collected by the CBSA during the investigation, provide evidence of state ownership in the fabricated structural steel sector in China, which includes FISC.

[148] The complainants provided evidence and identified ten enterprises producing FISC in China which are known to be state-owned or state-controlled:[41]

- 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).

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[37] Exhibit 463 (PRO) - Attachment 14 – *Baosteel Co., Ltd. Consolidated by Merger with WISCO.*
[38] Exhibit 002 (NC) - FISC Complaint – page 70, para, 209.
[39] http://www.meps.co.uk/.
[40] Exhibit 463 (PRO) – Final Determination Section 20 Report – Page 18.
[41] Exhibit 002 (NC) - FISC Complaint – page 71, para. 213-214.

- Nanjing China Construction Chemical Equipment Manufacturing Co., Ltd.
- Shanghai COSCO Kawasaki Heavy Industries Steel Structure Co., Ltd.
- Shanghai Metal Corporation

[149] In addition, based on information collected during the investigations, the CBSA has determined that five of the responding exporters and/or producers were either state-owned or state-controlled.[42] In light of this fact, it appears the GOC is involved in fabricated structural steel sector.

[150] Without a response to the government Section 20 RFI, the CBSA was not able to conclusively determine the extent of the state-ownership and control in the fabricated structural steel sector since this information is not publically available. However, 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 stated-controlled enterprises. It is therefore reasonable to conclude that the GOC exerts control in the fabricated structural steel sector through the influence of state-owned and stated-controlled enterprises.

[151] The GOC has significant authority over SOEs in China. 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

[152] 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.[43]

[153] 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

[154] 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*).[44]

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[42] Exhibit 463 (PRO) - Attachment 15 – Which companies are stated-owned/controlled?
[43] Exhibit 463 (PRO) - Attachment 16 – Decree of the State Council of the People's Republic of China No.378.
[44] Exhibit 463 (PRO) - Attachment 17 – GOC summary of Circular of the State-Council on Supervision of State-Owned Enterprises to Prevent Loss of State Assets.

[155] 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.

[156] 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 concluded that state-owned and state-controlled FISC producers are driven by GOC mandates and as a result, prices are not necessarily determined in accordance with market forces.

<u>GOC Purchase of FISC</u>

[157] The complainants 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:[45]

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).

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[45] Exhibit 002 (NC) - FISC Complaint – page 77-78, para. 230-231.

[158] 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.[46]

[159] 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.

[160] According to information on the record, the Chinese mining industry is also largely state-owned and a major purchaser of FISC.[47] 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.

<u>GOC Export Controls</u>

[161] 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.

[162] 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.[48] 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.[49]

[163] The export controls of the GOC detailed above on steel products that are used to produce the raw material steel inputs for FISC create an increased supply and therefore lower prices of raw material steel input for FISC producers.

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[46] Exhibit 002 (NC) - FISC Complaint – page 77, para. 229.
[47] Exhibit 002 (NC) - FISC Complaint – page 79, para 232.
[48] Exhibit 463 (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.
[49] Exhibit 002 (NC) - FISC Complaint – page 82, para. 242-243.

Subsidization of the Steel Industry

[164] The complaint provides information on subsidization of the Chinese steel industry and argues that this subsidization influences the price of steel products, including FISC.[50] As submitted in the complaint, Reuters reported, in 2014, 88% of Chinese firms have received subsidies with a value worth USD 5.24 billion.[51]

[165] The complainants alleged that FISC producers 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.[52]

[166] In addition, the GOC clearly outlines tax and financial support in Part VII of the *State Council Decision on Accelerating the Development of Strategic Emerging Industries.* [53]

[167] Based on information collected as part of the subsidy investigation, the CBSA has determined that cooperative Chinese exporters have received benefits from the GOC.

[168] Generally, subsidies allow Chinese steel enterprises, including FISC producers, to market products at prices determined by factors other than the market. The direct support by the GOC of the steel industry and fabricated structural steel sector, including FISC, is evidence that the GOC influences the selling price of FISC in the domestic market.

Section 20 Opinions Respecting Steel Industry Sectors in China

[169] 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)[54] [steel pipe sector];
- certain concrete reinforcing bar (2014)[55] [long products steel sector];
- certain hot-rolled carbon steel plate and high strength low-alloy steel plate (2010)[56] [flat-rolled steel industry sector];

[50] Exhibit 002 (NC) - FISC Complaint – page 75-76, para. 223.
[51] Exhibit 002 (NC) - FISC Complaint – page 76, para. 224.
[52] Exhibit 002 (NC) - FISC Complaint – page 76, para. 225.
[53] Exhibit 463 (PRO) - Attachment 13 – The State Council Decision on Accelerating the Development of Strategic Emerging Industries.
[54] Final determination *Statement of Reasons* for Carbon and Alloy Steel Line Pipe – February 24, 2016.
[55] Final determination *Statement of Reasons* for Concrete Reinforcing Bar – December 10, 2014.
[56] Notice of Conclusion of Re-investigation, Steel Plate, July 16, 2010.

- certain flat hot-rolled carbon and alloy steel sheet and strip (2010)[57] [flat-rolled steel industry sector]; and
- certain carbon steel welded pipe (2008 & 2011)[58] [welded pipe sector].

[170] 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[59] or slab[60]. The CBSA also previously formed the opinion that domestic prices in the flat-rolled steel industry sector in China, which includes plate, were substantially determined by the government and there was sufficient reason to believe that they were not substantially the same as they would have been if they were determined in a competitive market. These low-priced plate inputs are likely to impact prices for FISC.

[171] 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.[61] Based on information on the record, one of the cooperative FISC producers in China is vertically integrated and manufactures other steel products that were previously found to be affected by section 20 conditions. This would lead to distorted prices for FISC in the domestic market.

Summary of Government Influence on Domestic Prices

[172] The GOC's measures, policies and observations detailed above illustrate that the GOC is closely administering the steel industry in China. Based on the information on the record, the scope of the GOC's macro-economic policies and measures provide evidence that the GOC is influencing the Chinese steel industry, which encompasses the fabricated structural steel sector, including FISC. These policies and measures dramatically change the demand and supply balance in the domestic market and materially influence the domestic prices of steel products such as steel slab, plate, as well as FISC.

[173] The major macro-economic policies and measures of the *GOC* include the *13th Five-Year National Plan on National Economic and Social Development*; the National Steel Policy; the *Steel Revitalization/Rescue Plan*; *the 12th 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;*

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[57] Notice of Conclusion of Re-investigation, Flat Hot-Rolled Carbon and Alloy Steel Sheet and Strip, November 16, 2010.

[58] 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.

[59] Exhibit 002 (NC) - FISC Complaint – page 59, para. 187.

[60] Exhibit 002 (NC) - FISC Complaint – page 59, para. 187.

[61] Exhibit 002 (NC) - FISC Complaint – page 59, para. 187.

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.

[174] 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 raw material steel inputs of FISC. The GOC's actions, which demonstrate its control over the steel industry, including the fabricated structural steel sector, include its purchase of FISC through state-owned and stated controlled enterprises involved in construction, industrial and infrastructure projects. Furthermore, the GOC's control is evidenced by its export controls and subsidization of the steel industry.

[175] The CBSA has previously issued opinions in respect of five steel product sectors that domestic prices are substantially determined by the GOC and that they were not substantially the same as they would have been if they were determined in a competitive market; 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, and that some of the cooperative FISC producers purchase from related suppliers of steel products who are SOEs provide further evidence of the GOC's involvement in the steel industry, including the fabricated structural steel sector and FISC.

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

Chinese Domestic Price Analysis

[177] 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.

[178] 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.

[179] 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.[62]

[180] Since FISC are customized products, a comparison of the total price of one FISC project to another is not meaningful because of the differences in the size and scale of the projects. Therefore, the CBSA determined prices on an average price-per-metric-tonne (PPMT) basis. In the CBSA's opinion, this allows for a better comparison of different projects than direct comparisons of total project prices.

[181] Based on this approach, the domestic selling prices of FISC in China, on a PPMT basis, were determined to be 5.4%[63] lower than the domestic selling prices of FISC in Korea, on a PPMT basis, during the POI.

[182] 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, beams and sections. According to the complaint, these inputs account for 20% to 40% of the cost of production of FISC.[64]

[183] 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

[184] The complaint provided information from SteelBenchmarker which includes prices for hot-rolled band from October 2014 to January 2016, which falls within the POI.[65] 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.

[62] Exhibit 002 (NC) - FISC Complaint – page 2, para. 4.
[63] Exhibit 463 (PRO) - Attachment 20 – Domestic Price Comparison of FISC.
[64] Exhibit 002 (NC) - FISC Complaint – page 73, para. 216.
[65] Exhibit 002 (NC) - FISC Complaint – page 73, para. 217.

[185] The CBSA was able to obtain limited information from MEPS (International) Ltd. ("MEPS") on the domestic prices of hot-rolled coil sold in various world markets, 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.[66] 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

[186] The complaint provided information from SteelBenchmarker which includes prices for plate from October 2014 to January 2016, which falls within the POI.[67] 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.

[187] The CBSA was able to obtain limited information from MEPS on the domestic prices of plate for the period of May 2015 to June 2016, the last fourteen months of the POI. Based on this information, the CBSA found that the Chinese domestic prices were between 26% to 48% lower than the average World Prices.

[188] 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.

C. Beams and Sections

[189] 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.[68] 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.

[190] The CBSA was able to obtain limited information from MEPS on domestic prices of structural sections and beams in various world markets 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 than the average World Prices.

[66] http://www.meps.co.uk/index.htm.
[67] Exhibit 002 (NC) - FISC Complaint – page 73, para. 217.
[68] Exhibit 002 (NC) - FISC Complaint – page 74, para. 219.

[191] 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 analysis indicated that prices of beams purchased by FISC producers/exporters from SOEs were on average 34% below average World Prices.

D. Raw Material Purchases

[192] Based on information collected during the investigations, the CBSA compared the prices of raw material steel inputs purchased by cooperative producers/exporters from SOEs to benchmark prices of the respective raw material steel inputs. The CBSA used imported prices, whenever they were available, as benchmark prices. However, if imported prices were not available, the CBSA used benchmark prices as reported on MEPS website. The analysis indicated that prices of angles, beams, channels and plate purchased by producers/exporters from SOEs were on average 37.7% to 57.7% below their respective benchmark prices.

[193] In summary, the information obtained by the CBSA from the MEPS website corroborates the information submitted in the complaint. The analysis showed that prices of hot-rolled coils, beams and sections and plate are significantly lower in China in comparison to World Prices. In addition, based on information collected from producers/exporters in the investigation, the CBSA determined that prices of angles, beams, channels and plate are significantly lower in China in comparison to relevant benchmarks.

[194] Given that the prices of hot-rolled coils, angles, beams and sections, channels and plate, which are incorporated into FISC projects, 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.

[195] In general, Chinese producers/exporters of FISC indicated in their RFI responses that they must compete with other FISC producers/exporters in China and around the world for projects in both the domestic market and foreign export markets. They further submitted that the GOC does not interfere with the negotiation process nor in the prices of FISC.

[196] The CBSA considered the arguments made by the exporters/producers in their submissions. Although the information on the record does not indicate that the GOC has direct price control of FISC in China, the CBSA finds that there is evidence that the GOC indirectly determines prices of FISC.

Summary of the Final Results of the Section 20 Inquiry

[197] 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.

[198] Based on the above analysis, for the purposes of the final determination, the CBSA affirmed the opinion rendered at the preliminary determination that the conditions described in paragraph 20(1)(a) apply in the fabricated structural steel sector in China, which includes FISC.[69]

Normal Values – Section 20

[199] Normal values could not be determined 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.

[200] Where section 20 conditions exist, the CBSA may determine 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 CBSA in accordance with the provisions of paragraph 20(1)(c) of SIMA.

[201] The CBSA received responses from one cooperative producer/exporter located in Spain and five 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 determining 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.

[202] 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 because the importers did not provide sufficient re-sale information. In addition, because FISC are custom designed for specific industrial uses, and can only be used for the projects for which they are designed, imports of FISC from third countries would not be like goods with respect to the imported subject goods.

[203] After having considered the information on the record, including information provided by the complainants, information provided by exporters/producers and publically available information, normal values for subject goods exported by cooperative exporters in China were determined pursuant to a ministerial specification under subsection 29(1) of SIMA using a cost plus profit based methodology using information from cooperative exporters and producers in Korea. The methodology used under the ministerial specification has four components: 1. cost of materials; 2. cost of labour, overhead and other production costs; 3. administrative, selling and all other costs; and, 4. an amount for profits.

[69] Preliminary Determination *Statement of Reasons* for Fabricated Structural Steel Components; February 9, 2017.

1. Cost of Materials for Subject Goods Exported from China

[204] Using information collected from cooperative producers in Korea, the CBSA established monthly benchmark unit prices of various materials used in FISC, including angles, beams, channels, gratings, pipe, plate, etc. The CBSA applied those unit prices to the quantity of each respective material used in each FISC project exported from China. For materials where price information from Korea was not available, the CBSA used the average unit price of raw materials for which the CBSA had information from the Korean exporters and producers.

2. Cost of Labour, Overhead and Other Production Costs for Subject Goods Exported from China

[205] The CBSA determined the ratio of the aggregate of the costs of labour, overhead and other production costs to the costs of materials using information on the production of FISC from cooperative exporters and producers in Korea. The ratio was calculated to be 1 to 3.13.

[206] After determining the total cost of materials under the method detailed above for subject goods from China, the CBSA multiplied the cost of materials by the ratio of 3.13 to determine the cost of labour, overhead and other production costs of the subject goods.

3. Amount for Administrative, Selling and All Other Costs for Subject Goods Exported from China

[207] In determining a reasonable amount for selling, administrative and all other costs for subject goods exported from China, the CBSA used the average of such costs provided by cooperative producers and exporters in Korea as a percent of cost of goods sold for those Korean producers and exporters. The CBSA calculated this amount to be 5.4% of the cost of production, which includes materials, labour, overhead and other production costs.

4. Amount for Profit for Subject Goods Exported from China

[208] In determining a reasonable amount for profits for subject goods exported from China, the CBSA used the average of profits made on sales of FISC by cooperative producers in Korea. The CBSA calculated this amount to be 7.2% of the full cost of the goods, which includes the cost of production and administrative, selling and all other costs.

[209] The following summarizes the results of the dumping investigation for the exporters in China that provided substantially complete responses to the CBSA:

<u>Baosteel Construction Co., Ltd. (Baosteel)</u>

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

[211] Baosteel provided a substantially complete response to the Dumping RFI[70] and supplemental RFIs (SRFIs)[71]. Baosteel also provided a response to the Section 20 RFI. Officers of the CBSA conducted verification of the information provided by Baosteel at the company's facilities in China.

[212] For the subject goods exported by Baosteel, normal values were determined under a ministerial specification pursuant to subsection 29(1) of SIMA, according to the method outlined above for cooperative exporters in China.

[213] Baosteel sold the subject goods directly to two non-associated Canadian importers. Export prices were determined in accordance with paragraph 24(a) of SIMA, based on the exporter's selling price less all costs, charges and expenses resulting from the exportation of the goods.

[214] For the final determination, the total normal value compared with the total export price results in a margin of dumping of 32.9%, expressed as a percentage of export price.

<u>Modern Heavy Industries (Taicang) Co., Ltd. (MHI)</u>

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

[216] MHI provided a substantially complete response to the Dumping RFI[72] and SRFIs[73]. MHI also provided a response to the Section 20 RFI. Officers of the CBSA conducted verification of the information provided by MHI at its facilities in China.

[217] MHI sold the subject goods to two non-associated vendors located in Germany and the United States, which sold the subject goods to two importers in Canada.

[218] For the subject goods exported by MHI, normal values were determined under a ministerial specification pursuant to subsection 29(1) of SIMA, according to the method outlined above for cooperative exporters in China.

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[70] Exhibits 070 (PRO) & 071 (NC) – Response to Exporter RFI from Baosteel Construction Co., Ltd. & Exhibits 129 (PRO) & 130 (NC) – Revised submissions pertaining to the CBSA Dumping Investigation – RFI.
[71] Exhibits 177 (PRO) & 178 (NC) – Response to Supplementary RFI #1 from Baosteel Construction Co., Ltd. & Exhibits 292 (PRO) & 293 (NC) – Response to Supplementary RFI #2 from Baosteel Construction Co., Ltd.
[72] Exhibits 076 (PRO) & 077 (NC) – Response to Exporter RFI from Modern Heavy Industries (Taicang) Co., Ltd.
[73] Exhibits 168 (PRO) & 169 (NC) – Response to Supplementary RFI #1 from Modern Heavy Industries (Taicang) Co., Ltd. & Exhibits 324 (PRO) & 325 (NC) – Response to Supplementary RFI #2 from Modern Heavy Industries (Taicang) Co., Ltd.

[219] Under section 24 of SIMA, the export price is the lesser of the exporter's selling price and the importer's purchase price. Information from the vendors and the importers is required to determine the importers' purchase prices. During the investigation, the CBSA sent RFIs to solicit information from the vendors and importers in order to determine the importers' purchase prices; however, the CBSA did not receive sufficient information to establish the importers' purchase prices.

[220] As a result, export prices of subject goods exported by MHI were determined pursuant to a ministerial specification under subsection 29(1) of SIMA. The ministerial specification determines export price based on the normal value divided by a factor equal to one plus the highest amount by which the normal value exceeded the export price on an individual transaction found for a cooperative exporter in the investigation.

[221] In previous investigations where export price information was not provided by a vendor and/or importer, the CBSA relied on import data from its Customs information system to identify the importer's purchase price for the purposes of determining the export price pursuant to section 24 of SIMA. For FISC, the CBSA was not always able to match its Customs information to subject goods in an exporter's sales contract for the following reasons: a single sale of FISC may be imported via several shipments; a shipment of subject goods may be mixed with non-subject goods; an importer in Canada may source FISC from more than one vendor for the same project in Canada, and/or an importation that includes FISC may be described by the importer as something other than FISC. As such, the CBSA could not use the information reported in the Customs information system to determine the importer's purchase price.

[222] Further, the CBSA did not use the export price reported in the exporter's submission due to the possibility of secondary dumping and compensatory arrangements between vendors or importer, some of which are associated, the export price determined under section 24(a) may not be accurate. The CBSA afforded additional opportunities for the vendors and importers to respond in the case they were not contacted during the initiation of the investigations.

[223] The approach to determine export prices in the ministerial specification is reasonable as it is based on information from a cooperative exporter in the investigation that provided sufficient information and reflects the highest amount by which the normal value exceeds the export price determined under section 24(a).

[224] For the final determination, the total normal value compared with the total export price results in a margin of dumping of 45.8%, expressed as a percentage of export price.

<u>United Steel Structures Ltd (USSL)</u>

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

[226] USSL provided a substantially complete response to the Dumping RFI[74] and SRFIs[75]. USSL also provided a response to the Section 20 RFI. Officers of the CBSA requested information and documents from USSL to verify the information it provided through a desk audit.

[227] USSL sold the subject goods to three non-associated vendors, which sold the subject goods to two importers in Canada, one of them related to two of the three vendors.

[228] For the subject goods exported by USSL, normal values were determined under a ministerial specification pursuant to subsection 29(1) of SIMA, according to the method outlined above for cooperative exporters in China.

[229] Under section 24 of SIMA, the export price is the lesser of the exporter's selling price and the importer's purchase price. Responses from the vendors and the importers are required to determine the importers' purchase prices. During the investigation, the CBSA sent RFIs to solicit information from the vendors and importers in order to determine the importers' purchase prices; however, the CBSA did not receive sufficient information to in order to determine the importer's purchase price.

[230] As explained previously, without sufficient information to determine the importers' purchase prices, export prices of subject goods exported by USSL were determined pursuant to a ministerial specification under subsection 29(1) of SIMA.

[231] For the final determination, the total normal value compared with the total export price results in a margin of dumping of 45.8%, expressed as a percentage of export price.

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[74] Exhibits 137 (PRO), 138 (NC), 147 (PRO) & 148 (NC) – Response to Exporter RFI – Dumping from United Steel Structures Ltd.

[75] Exhibits 229 (PRO) & 230 (NC) – Response to Supplementary RFI #1 from United Steel Structures Ltd.
Exhibits 210 (PRO) & 211 (NC) – Response to Supplementary RFI #2 from United Steel Structures Ltd.
Exhibits 231 (PRO) & 232 (NC) – Response to Supplementary RFI #3 from United Steel Structures Ltd.
Exhibits 294 (PRO) & 295 (NC) – Response to Supplementary RFI #4 from United Steel Structures Ltd.
Exhibits 299 (PRO) & 300 (NC) – Response to Supplementary RFI #5 from United Steel Structures Ltd.
Exhibits 320 (PRO) & 321 (NC) – Response to Supplementary RFI #6 from United Steel Structures Ltd.
Exhibits 322 (PRO) & 323 (NC) – Response to Supplementary RFI #7 from United Steel Structures Ltd.
Exhibits 359 (PRO) & 360 (NC) – Response to Supplementary RFI #8 from United Steel Structures Ltd.
Exhibits 361 (PRO) & 362 (NC) – Response to Supplementary RFI #9 from United Steel Structures Ltd.
Exhibits 375 (PRO) & 376 (NC) – Response to Supplementary RFI #10 from United Steel Structures Ltd.
Exhibits 385 (PRO) & 386 (NC) – Response to Supplementary RFI #11 from United Steel Structures Ltd.
Exhibits 388 (PRO) & 389 (NC) – Response to Supplementary RFI #12 from United Steel Structures Ltd.

Respondents in China that were not Exporters of Subject Goods

Shanghai Shuangyan Chemical Equipment Manufacturing Co. (Shuangyan Chemical)

[232] Shuangyan Chemical provided responses to the Dumping RFI[76] and SRFIs[77]; however, during the final phase of the investigation, the CBSA determined that the goods exported by Shuangyan Chemical were non-subject goods.

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

[233] Yanda Engineering provided responses to the Dumping RFIs[78] and SRFIs[79]; however, during the final phase of the investigations, the CBSA determined that the goods exported by Yanda Engineering were non-subject goods.

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

[234] Yanda Haimen provided responses to the Dumping RFI[80] and SRFIs[81]; however, during the final phase of the investigations, the CBSA determined that Yanda Haimen was not an exporter of subject goods. The exporter for SIMA purposes was determined to be the producer of the FISC.

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[76] Exhibits 092 (PRO) & 093 (NC) – Response to Exporter RFI Shanghai Shuangyan Chemical Equipment Manufacturing Co., Ltd.

[77] Exhibits 216 (PRO) & 217 (NC) – Response to SRFI #1 from Shanghai Shuangyan Chemical Equipment Manufacturing Co., Ltd.

[78] Exhibits 094 (PRO) & 095 (NC) – Response to Exporter RFI Shanghai Yanda Engineering Co., Ltd.

[79] Exhibits 218 (PRO) & 219 (NC) – Response to SRFI #1 from Shanghai Yanda Engineering Co., Ltd
Exhibits 259 (NC) & 260 (PRO) – Response to SRFI #2 from Shanghai Yanda Engineering Co., Ltd.
Exhibits 304 (NC) & 305 (PRO) – Response to SRFI #3 from Shanghai Yanda Engineering Co., Ltd.

[80] Exhibits 072 (PRO) & 073 (NC) – Response to Exporter RFI Yanda (Haimen).

[81] Exhibits 220 (PRO) & 221 (NC) – Response to SRFI #1 from Yanda (Haimen)
Exhibits 257 (PRO) & 258 (NC) – Response to SRFI #2 from Yanda (Haimen)
Exhibits 257 (PRO) & 258 (NC) – Response to SRFI #2 from Yanda (Haimen)
Exhibits 318 (PRO) & 319 (NC) – Response to SRFI #3 from Yanda (Haimen)
Exhibits 312 (PRO) & 313 (NC) – Response to SRFI #4 from Yanda (Haimen)
Exhibits 314 (PRO) & 315 (NC) – Response to SRFI #5 from Yanda (Haimen)
Exhibits 393 (PRO) & 394 (NC) – Response to SRFI #6 from Yanda (Haimen)

Korea

[235] The CBSA received substantially complete responses to the Dumping RFI and SRFIs from the following producers and/or exporters of subject goods from Korea; Hanmaek Heavy Industries Co., Ltd.,[82] Nara KIC Inc.,[83] Samjin Industries Co., Ltd. and Samjin Steel Structure Co., Ltd (collectively "Samjin")[84], SK Engineering and Construction Co., Ltd.[85] and Sungchang Engineering & Construction Co., Ltd.[86] Further, the CBSA received a response from a Spanish vendor of goods originating in Korea, Técnicas Reunidas SA.[87]

SK Engineering and Construction Co. Ltd. (SK E&C)

[236] SK E&C, an EPC contractor, is considered to be the exporter of subject goods used in an industrial project located in Fort McMurray, Alberta.

[237] SK E&C provided a substantially complete response to the CBSA's Dumping RFI and SRFIs. Officers of the CBSA conducted verification of the information provided by SK E&C at its offices in Korea.

[238] The subject goods exported to Canada by SK E&C were produced by a number of unrelated producers in Korea.

[82] Exhibits 086 (PRO) & 087 (NC) – Response to Exporter RFI from Hanmaek Heavy Ind.
Exhibits 183 (PRO) & 184 (NC) – Response to SRFI #1 from Hanmaek Heavy Ind.
Exhibits 271 (PRO) & 272 (NC) – Response to SRFI #2 from Hanmaek Heavy Ind.
Exhibits 368 (PRO) & 369 (NC) – Response to SRFI #3 from Hanmaek Heavy Ind.

[83] Exhibits 088 (PRO) & 089 (NC) – Response to Exporter RFI from Nara KIC.
Exhibits 181 (PRO) & 182 (NC) – Response to SRFI #1 from Nara KIC.
Exhibits 269 (PRO) & 270 (NC) – Response to SRFI #2 from Nara KIC.

[84] Exhibits 084 (PRO) & 085 (NC) – Response to Exporter RFI from Samjin Industrial & Steel Structure.
Exhibits 175 (NC) & 176 (PRO) – Response to SRFI #1 from Samjin Industrial & Steel Structure.
Exhibits 297 (PRO) & 298 (NC) – Response to SRFI #2 from Samjin Industrial & Steel Structure.

[85] Exhibits 080 (PRO) & 081 (NC) – Response to Exporter RFI from SK Engineering & Construction.
Exhibits 189 (PRO) & 190 (NC) – Response to SRFI #1 from SK Engineering & Construction.
Exhibits 223 (PRO) & 224 (NC) – Response to SRFI #2 from SK Engineering & Construction.
Exhibits 253 (NC) & 254 (PRO) – Response to SRFI #3 from SK Engineering & Construction.

[86] Exhibits 082 (PRO) & 083 (NC) – Response to Exporter RFI from Sungchang.
Exhibits 170 (PRO), 171 (NC), 185 (PRO) & 186 (NC) – Response to Supplementary RFI #1 from Sungchang.
Exhibits 255 (NC) & 256 (PRO) – Response to SRFI #2 from Sungchang.
Exhibits 308 (PRO) & 309 (NC) – Response to SRFI #3 from Sungchang.
Exhibits 399 (PRO & 400 (NC) – Response to SRFI #4 from Sungchang.

[87] Exhibits 206 (PRO) & 207 (NC) – Response to Exporter RFI from Técnicas Reunidas SA.

[239] Four of the main producers in Korea that supplied subject goods to SK E&C, Sungchang Engineering & Construction Co., Ltd. (Sungchang), Hanmaek Heavy Industries Co., Ltd (Hanmaek), Nara KIC Inc. (Nara), and Samjin Industries Co., Ltd and Samjin Steel Structure Co., Ltd (collectively referred to as Samjin), provided substantially complete responses to the Dumping RFI and SRFIs. The CBSA selected two producers in Korea, Hanmaek and Samjin, for onsite verification, and conducted verification of the information provided by those producers at their facilities in Korea. The other two producers, Sungchang and Nara, were verified through desk audit.

[240] SK E&C sold the subject goods to Sunlake Company Limited (Sunlake), a subsidiary of SK E&C located in Canada. Sunlake provided a substantially complete response to the importer RFI. Although Sunlake was the importer of record on Customs documents, at the preliminary determination the CBSA specified another company not associated with SK E&C, to be the importer of the goods for purposes of SIMA. The designation of that company as the importer of the goods exported by SK E&C was based on information provided by the parties involved.

[241] SK E&C did not have domestic sales of like goods. For the majority of the subject goods exported by SK E&C, the CBSA determined normal values under paragraph 19(b) of SIMA, using the sum of the cost of production, a reasonable amount for administrative, selling and all other costs, and a reasonable amount for profits.

[242] The costs of production were determined using the cost data provided by the four producers of the goods that provided a response to the CBSA's RFI, plus certain costs of SK E&C such as further processing and engineering costs.

[243] Reasonable amounts for administrative, selling and all other costs were determined under subparagraph 11(1)(c)(ii) of the *Special Import Measures Regulations* (SIMR), and included costs from the exporter and the producers.

[244] Amounts for profits were determined under subparagraph 11(1)(b)(iv) of the SIMR using weighted average profits made on domestic sales by the four cooperative producers in Korea of goods that were of the same general category as the exported goods. Goods of the same general category is all FISC. Pursuant to paragraph 13(b) of the SIMR, in determining amounts for profits for the producers, adjustments were made under paragraph 5(d) of SIMR to account for the difference between the conditions of sale between the domestic customers and the importer in Canada.

[245] In instances where the CBSA did not have the cost of production of the goods because information was not available from the producers of the goods, the normal value was determined using a ministerial specification under subsection 29(1) of SIMA, on the basis of the export price of the goods advanced by 45.8%, the highest amount by which a normal value exceeded the export price on an individual transaction from a cooperative exporter in the investigation.

[246] Export prices were determined under paragraph 24(a) of SIMA, using the exporter's selling price less all costs, charges and expenses resulting from the exportation of the goods. The determination of the export prices for FISC required some allocations between subject and non-subject goods and services included in the contract price.

[247] For the final determination, the total normal value compared with the total export price results in a margin of dumping of 2.4% for SK E&C, expressed as a percentage of export price.

Hanmaek Heavy Industries Co., Ltd. (Hanmaek)

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

[249] Hanmaek provided a substantially complete response to the Dumping RFI and SRFIs. Officers of the CBSA conducted verification of the information provided by Hanmaek at its facilities in Korea.

[250] Hanmaek sold the subject goods to Técnicas Reunidas of Spain, which sold the subject goods to a non-associated importer in Canada, North West Redwater Partnership.

[251] Hanmaek did not have domestic sales of like goods. The CBSA determined normal values under paragraph 19(b) of SIMA, using the sum of the costs of production, reasonable amounts for administrative, selling and all other costs, and reasonable amounts for profits.

[252] The costs of production of the goods were determined using the cost data provided by Hanmaek in the response to the CBSA's RFI.

[253] Reasonable amounts for administrative, selling and all other costs were determined under subparagraph 11(1)(c)(ii) of the SIMR, on the basis of expenses incurred by Hanmaek that are not included in the cost of production, but reasonably attributable to the production and sale of the goods.

[254] Amounts for profits were determined under subparagraph 11(1)(b)(ii) of the SIMR using weighted average profits made by Hanmaek on domestic sales of goods of the same general category as the exported goods. Goods of the same general category is all FISC. In determining amounts for profits, adjustments were made under paragraph 5(d) of SIMR to account for the difference between the conditions of sale between the domestic customers and the importer in Canada.

[255] Export prices were determined pursuant to paragraph 24(a) of SIMA, using the exporter's selling price less all costs, charges and expenses resulting from the exportation of the goods. Under section 24 of SIMA, the export price is the lesser of the exporter's selling price determined under paragraph 24(a) of SIMA and the importer's purchase price determined under paragraph 24(b) of SIMA.

[256] For the final determination, the total normal value compared with the total export price results in a margin of dumping of 1.9%, expressed as a percentage of export price.

Spain

Cintasa S.A. (Cintasa)

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

[258] Cintasa provided a substantially complete response to the Dumping RFI[88] and SRFIs.[89] Officers of the CBSA conducted verification of the information provided by Cintasa at its facilities in Spain.

[259] Cintasa did not have domestic sales of like goods. The CBSA determined normal values under paragraph 19(b) of SIMA, using the sum of the costs of production, reasonable amounts for administrative, selling and all other costs, and a reasonable amount for profits.

[260] The costs of production of the goods were determined using the cost data provided by Cintasa in their response to the CBSA's RFI.

[261] Reasonable amounts for administrative, selling and all other costs were determined under subparagraph 11(1)(c)(ii) of the SIMR, using expenses incurred by Cintasa that are not included in the cost of production but are reasonably attributable to the production and sale of the goods.

[262] Amounts for profits were determined under subparagraph 11(1)(b)(ii) of the SIMR using weighted average profits made by Cintasa on domestic sales of goods of the same general category as the exported goods. Goods of the same general category is all FISC. Adjustments were made under paragraph 5(d) of SIMR to account for the difference between the conditions of sale between the domestic customers and the importer in Canada.

[263] Export price was determined pursuant to paragraph 24(a) of SIMA, using the exporter's selling price less all costs, charges and expenses resulting from the exportation of the goods.

[264] For the final determination, the total normal value was compared with the total export price to determine the margin of dumping. The CBSA determined that the subject goods exported to Canada by Cintasa were not dumped.

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[88] Exhibits 064 (PRO) & 065 (NC) – Response to Exporter RFI from Cintasa S.A.
[89] Exhibits 173 (PRO) & 174 (NC) – Response to SRFI #1 from Cintasa S.A.
Exhibits 208 (PRO) & 209 (NC) – Response to SRFI #2 from Cintasa S.A.
Exhibits 212 (PRO) & 213 (NC) – Response to SRFI #3 from Cintasa S.A.
Exhibits 225 (NC) & 226 (PRO) – Response to SRFI #4 from Cintasa S.A.
Exhibits 273 (PRO) & 274 (NC) – Response to SRFI #5 from Cintasa S.A.

All Other Exporters in China, Korea and Spain

[265] 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.

[266] Where, in the opinion of the CBSA, sufficient information regarding the subject goods was not provided, normal values and export prices were determined under a ministerial specification pursuant to subsection 29(1) of SIMA on the basis of facts available. In establishing the methodology for determining normal values and export prices under the ministerial specification, the CBSA examined all information on the record, including information from the complaint, information provided by exporters, importers, publicly available information and customs documentation.

[267] The CBSA considered that the normal values and export prices determined for the exporters where sufficient information was provided, rather than the information provided in the complaint, was the best information on which to base the methodology for determining normal values since it reflects exporters' trading practices during the POI. The CBSA examined the difference between the normal value and export price of each individual transaction for the exporters where sufficient information was provided in order to obtain an appropriate amount for the normal value methodology. The transactions were also examined to ensure that anomalies were not considered; such anomalies can include low volume shipments, very low value sales, effects of seasonality or other business or environmental factors. However, no anomalies were identified.

[268] The CBSA considers that the highest amount by which the normal value exceeded the export price found on an individual transaction (expressed as a percentage of the export price), is an appropriate basis for determining normal values. This method of determining normal values is 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. Therefore, the normal values were determined under a ministerial specification pursuant to subsection 29(1) of SIMA, based on the export price as determined under section 24, 25 or 29 of SIMA, plus an amount equal to 45.8% of that export price.

[269] The CBSA considered that the information submitted on the CBSA customs entry documentation was the best information on which to determine the export price of the goods for all other exporters as it reflects actual import data.

[270] Based on the above methodologies, the subject goods exported to Canada by all other exporters were found to be dumped by a margin of dumping of 45.8%, expressed as a percentage of the export price.

Summary of Results – Dumping

[271] A summary of the 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	Volume of Dumped Goods as Percentage of Country Imports	Margin of Dumping as Percentage of Export Price*	Volume of Goods as Percentage of Total Imports	Volume of Dumped Goods as Percentage of Total Imports
China	100%	41.0%	38.1%	38.1%
Korea	100%	3.1%	25.9%	25.9%
Spain	92.7%	42.4%	3.6%	3.4%

* Expressed as a percentage of the export price.

[272] Under paragraph 41(1)(a) of SIMA, the CBSA shall make a final determination of dumping when it is satisfied that the goods have been dumped and that the margin of dumping of the goods of a country is not insignificant. 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.

[273] The margins of dumping of FISC from China, Korea and Spain are above 2% of the export price of the goods and are, therefore, not insignificant.

SUBSIDY INVESTIGATION

[274] 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.

[275] 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.

[276] 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.

[277] 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.

[278] 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/or
(d) the manner in which discretion is exercised by the granting authority indicates that the subsidy is not generally available.

[279] 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.

[280] 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.

Results of the Subsidy Investigation

[281] 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.

[282] As such, the GOC and all exporters were given the opportunity to participate in the investigation. They 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.

[283] The GOC did not provide a response to the CBSA's government Subsidy RFI, which limited the CBSA's ability to determine the amount of subsidy in the prescribed manner as the required information relating to financial contribution, benefit and specificity was not provided. It also limited the CBSA's ability to determine whether producers, or other suppliers of goods and services, are public bodies.

[284] Due to a lack of government response, subsidy amounts for all exporters were determined pursuant to subsection 30.4(2) of SIMA, based on a ministerial specification.

[285] The CBSA received responses to the Subsidy RFI from three exporters/producers and one related supplier of raw material steel inputs. The programs used by the responding companies are listed in **Appendix 3**.

[286] For each of the exporters that provided sufficient information in response to the Subsidy RFI, an individual amount of subsidy was determined under a ministerial specification, based on the information provided in response to the RFI and obtained during the on-site verification or desk audit.

[287] For exporters that did not provide sufficient information in response to the RFI, amounts of subsidy were determined under a ministerial specification on the basis of facts available.

[288] At the initiation of the subsidy investigation, the CBSA identified 158 potential subsidy programs. Details regarding these potential subsidies were provided in the *Statement of Reasons* issued for the initiation and preliminary determination of this investigation. These documents are available through the CBSA's website at the following address: www.cbsa-asfc.gc.ca/sima-lmsi.

[289] At the preliminary determination, the CBSA had identified an additional eleven subsidy programs. However, during the final phase of the investigation, the CBSA determined that only two of the programs were applicable to exporters of subject goods. The remaining nine programs were applicable to exporters of non-subject goods. These programs were identified in the exporters' responses to the RFIs.

[290] Amounts of subsidy relating to each of the exporters that provided a response to the RFI are presented in a summary table in **Appendix 2** while the amount of subsidy for China can be found in a summary table at the end of this section.

Results of the Subsidy Investigation by Exporter

<u>Baosteel Construction Co., Ltd. (Baosteel)</u>

[291] Baosteel is a producer and exporter of subject goods. Baosteel filed a substantially complete response to the CBSA's Subsidy RFI and SRFIs.[90]

[292] Baosteel was found to have benefitted from four subsidy programs.

[293] The amount of subsidy for Baosteel is 151.70 Renminbi per metric tonne, or 0.8%, expressed as a percentage of the export price.

<u>Modern Heavy Industries (Taicang) Co., Ltd. (MHI)</u>

[294] MHI is a producer and exporter of subject goods. MHI filed a substantially complete response to the CBSA's Subsidy RFI and SRFIs.[91]

[295] MHI was found to have benefitted from four subsidy programs.

[296] The amount of subsidy for MHI is 607.66 Renminbi per metric tonne, or 3.3%, expressed as a percentage of the export price.

<u>United Steel Structures Ltd. (USSL)</u>

[297] USSL is a producer and exporter of subject goods. USSL provided a substantially complete response to the CBSA's Subsidy RFI and SRFI.[92] USSL also purchased raw material goods from related and unrelated suppliers.

[298] USSL was found to have benefitted from six subsidy programs directly. This number includes the pass-through subsidies received from the associated supplier of raw material steel inputs.

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[90] Exhibits 117 (PRO) & 118 (NC) – Response to Subsidy RFI from Baosteel Construction Co., Ltd.
[91] Exhibits 107 (PRO) & 108 (NC) – Response to Subsidy RFI from Modern Heavy Industries (Taicang) Co., Ltd.
[92] Exhibits 139 (PRO) & 140 (NC) – Response to Subsidy RFI from United Steel Structures Ltd.

[299] The amount of subsidy for USSL is 675.47 Renminbi per metric tonne, or 4.6% expressed as a percentage of the export price.

All Other Exporters

[300] For all other exporters in China that, in the opinion of the CBSA, did not provide sufficient information, the CBSA determined an amount of subsidy on the basis of facts available.

[301] In establishing the methodology for determining 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 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 determining amounts of subsidy. The amounts of subsidy were determined on the basis of the following methodology:

1) the highest amount of subsidy for each of the ten subsidy programs, as found at the final determination, for the named exporters, plus;

2) the average of the amounts of subsidy for the ten programs referenced in (1), applied to each of the remaining 150 potentially actionable subsidy programs for which sufficient information is not available or has not been provided at the final determination.

[302] The CBSA considers that this is an appropriate basis for determining the amounts of subsidy for all other exporters since the information available supports that the potentially actionable subsidy programs outlined in **Appendix 3** 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 final 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 determining 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.

[303] Using the above methodology, the amount of subsidy for all other exporters is 11,656.06 Renminbi per metric tonne, or 70.2%, expressed as a percentage of the total export price. The overall weighted average amount of subsidy for China is equal to 34.6% of the total export price of the subject goods.

Summary of Results – Subsidy

[304] The following table summarizes the results of the subsidy investigation respecting all subject goods released into Canada during the POI:

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

Country	Volume of Subsidized Goods as Percentage of Country Imports	Amount of Subsidy*	Volume of Subsidized Goods as Percentage of Total Imports
China	100%	34.6%	38.1%

* Expressed as a percentage of export price.

[305] In making a final determination of subsidizing under paragraph 41(1)(a) of SIMA, the CBSA must be satisfied that the subject goods have been subsidized and that the amount of subsidy on the goods of a country is not insignificant. According to subsection 2(1) of SIMA, an amount of subsidy that is less than 1% of the export price of the goods is considered insignificant.

[306] The amount of subsidy of FISC originating in or exported from China is above 1% and is, therefore, not insignificant.

DECISIONS

[307] On the basis of the results of the dumping investigation, the CBSA is satisfied that FISC originating in or exported from China, Korea, and Spain have been dumped and that the margins of dumping are not insignificant. Consequently, on April 25, 2017, the CBSA made a final determination of dumping pursuant to paragraph 41(l)(a) of SIMA.

[308] On the basis of the results of the subsidy investigation, the CBSA is satisfied FISC originating in or exported from China have been subsidized and that the amount of subsidy is not insignificant. Consequently, on April 25, 2017, the CBSA made a final determination of subsidizing pursuant to paragraph 41(1)(a) of SIMA.

FUTURE ACTION

[309] The provisional period began on January 25, 2017, and will end on the date the CITT issues its finding. The CITT is expected to issue its decision by May 25, 2017. Subject goods imported during the provisional period will continue to be assessed provisional duties as determined at the time of the preliminary determinations. For further details on the application of provisional duties, refer to the *Statement of Reasons* issued for the preliminary determinations, which is available through the CBSA's website at: www.cbsa-asfc.gc.ca/sima-lmsi/menu-eng.html.

[310] If the CITT finds that the dumped and subsidized goods have not caused injury and do not threaten to cause injury, all proceedings relating to these investigations will be terminated. In this situation, all provisional duties paid or security posted by importers will be returned.

[311] If the CITT finds that the dumped and subsidized goods have caused injury, the anti-dumping and/or countervailing duties payable on subject goods released by the CBSA during the provisional period will be finalized pursuant to section 55 of SIMA. Imports released by the CBSA after the date of the CITT's finding will be subject to anti-dumping duty equal to the margin of dumping and countervailing duty equal to the amount of subsidy.

[312] The importer in Canada shall pay all applicable duties. If the importers of such goods do not indicate the required SIMA code or do not correctly describe the goods in the customs documents, an administrative monetary penalty could be imposed. The provisions of the *Customs Act* apply with respect to the payment, collection or refund of any duty collected under SIMA.[93] As a result, failure to pay duty within the prescribed time will result in the application of interest.

[313] Where sufficient information is not provided or is not otherwise available to determine the normal value, the normal value will be determined by advancing the export price by 45.8%, pursuant to a ministerial specification. Anti-dumping duty will apply based on the amount by which the normal value exceeds the export price of the subject goods. Similarly, exporters of subject goods who did not provide sufficient information in the subsidy investigation will be subject to a countervailing duty amount of 11,656.06 Renminbi per metric tonne, based on a ministerial specification pursuant to subsection 30.4(2) of SIMA.

[314] For purposes of the preliminary determination of dumping or subsidizing, the CBSA is responsible for determining whether the actual and potential volume of goods is negligible. After the preliminary determination of dumping or subsidizing, the CITT, in accordance with subsection 42(4.1) of SIMA, 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

[315] 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.

[93] *Customs Act* R.S.C. 1985.

[316] 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.

PUBLICATION

[317] A notice of these final determinations of dumping and subsidizing will be published in the *Canada Gazette* pursuant to paragraph 41(3)(a) of SIMA.

INFORMATION

[318] This *Statement of Reasons* has been provided to persons directly interested in these proceedings. It is also available through 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, 11th floor
Ottawa, Ontario K1A 0L8
Canada

Telephone:

Nalong Manivong:	613-960-6096
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E-mail: simaregistry@cbsa-asfc.gc.ca

Website: www.cbsa-asfc.gc.ca/sima-lmsi/

Darryl Larson
Acting Director General
Trade and Anti-dumping Programs Directorate

ATTACHMENTS

1. **Appendix 1 - Dumping and Subsidy Representations**
2. **Appendix 2 - Summary of Margins of Dumping and Amounts of Subsidy**
3. **Appendix 3 - Summary of Findings for Named Subsidy Programs**

APPENDIX 1 – DUMPING AND SUBSIDY REPRESENTATIONS

Case briefs were received on behalf of:

- Baosteel Construction Co. Ltd.[94] (exporter);
- Cintasa S.A (exporter)[95];
- European Commission[96];
- Samjin Industrial Co., Ltd, Nara KIC Inc., Sungchang Engineering & Construction Co., Ltd., Hanmaek Heavy Industries Co., Ltd. and SK Engineering and Construction Co., Ltd.[97] (exporters/producers);
- Supermetal Structures Inc., Supreme Group LP, Waiward Steel LP and the Canadian Institute of Steel Construction (complainants)[98]; and
- Yanda (Haimen) Heavy Equipment Manufacturing Co. Ltd. (producer). [99]

Reply submissions were received on behalf of:

- Cintasa S.A.[100];
- Supermetal Structures Inc., Supreme Group LP, Waiward Steel LP and the Canadian Institute of Steel Construction[101]; and
- Yanda (Haimen) Heavy Equipment Manufacturing Co. Ltd.[102]

Dumping Representations

Absence of Importer and Producer Submissions

Case Briefs

Counsel for the complainants submitted that incomplete responses to importer RFIs should result in the CBSA not determining company-specific margins of dumping or amounts of subsidy for exporters.[103] Counsel also submitted that complete and accurate cost of production information related to significant sub-contracting expenses was not provided to the CBSA.

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[94] Exhibit 435 (NC) – Case Brief – Baosteel Construction Co. Ltd.
[95] Exhibit 426 (NC) & 428 (NC) – Case Brief – Cintasa S.A.
[96] Exhibit 429 (NC) – Case Brief – European Commission.
[97] Exhibit 373 (NC) & Exhibit 436 (NC) – Case Brief – Samjin Industrial Co., Ltd, Nara KIC Inc., Sungchang. Engineering & Construction Co., Ltd., Hanmaek Heavy Industries Co., Ltd. and SK Engineering and Construction Co., Ltd.
[98] Exhibit 433 (NC) – Case Brief – Supermetal Structures Inc., Supreme Group LP, Waiward Steel LP and the Canadian Institute of Steel Construction.
[99] Exhibit 431 (NC) – Case Brief – Yanda (Haimen) Heavy Equipment Manufacturing Co. Ltd.
[100] Exhibit 444 (NC) – Reply Submission – Cintasa S.A.
[101] Exhibit 440 (NC) – Reply Submission – Supermetal Structures Inc., Supreme Group LP, Waiward Steel LP and the Canadian Institute of Steel Construction.
[102] Exhibit 442 (NC) – Reply Submission – Yanda (Haimen) Heavy Equipment Manufacturing Co. Ltd.
[103] Exhibit 433 (NC) – Case Brief – Supermetal Structures Inc., Supreme Group LP, Waiward Steel LP and the Canadian Institute of Steel Construction, para. 2, 40, 80, 128.

Further, counsel argued that in instances where the sub-contracting is for the conversion of raw materials into FISC, the sub-contractor is the manufacturer of the goods.[104]

Counsel for SK E&C argued that in instances where the actual producer of the goods did not provide information on its cost of production, it would be reasonable for the CBSA to use its purchase price as a surrogate value of the producer's costs of production in the normal value calculation.[105]

CBSA's Response

The CBSA distinguished instances where the fabrication for a given production contract was entirely or mostly sub-contracted to third parties, and instances where a producer sub-contracted small elements of a project to third parties.

Where the majority of production was subcontracted by the supplier to third parties, the CBSA requires a response to the RFI from the subcontractor. The CBSA is of the opinion that a producer can outsource a portion of fabrication or some processing, and still be considered to be the producer. This seems to be common in the industry and the complainants have acknowledged this in the complaint.[106]

For producers who did not respond to the RFI or who did not provide sufficient information the CBSA determined normal values under a ministerial specification pursuant to subsection 29(1) of SIMA, on the basis of the export price of the goods advanced by 45.8%, the highest amount by which a normal value exceeded the export price on an individual transaction from a cooperative exporter in the investigation.

Also as explained previously, in instances without sufficient information to determine importers' purchase prices, export prices of subject goods exported by exporters were determined pursuant to a ministerial specification under subsection 29(1) of SIMA.

Subject versus Non-subject Goods

Case Briefs

On February 3, 2017, counsel for Praxair made representations that cold boxes are not subject goods. Counsel asserted that while some components in a cold box may resemble sub-components in a module, the specialized nature of construction of the cold box means it cannot be classified in the same manner.

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[104] Exhibit 433 (NC) – Case Brief – Supermetal Structures Inc., Supreme Group LP, Waiward Steel LP and the Canadian Institute of Steel Construction, para. 3-6; 83-86; 133, 142-144; 163-166.
[105] Exhibit 436 (NC) – Case Brief – Samjin Industrial Co., Ltd, Nara KIC Inc., Sungchang Engineering & Construction Co., Ltd., Hanmaek Heavy Industries Co., Ltd. and SK Engineering and Construction Co., Ltd., p. 4
[106] Exhibit 002 (NC) – Non-confidential version of the Complaint, para. 119.

In addition, counsel further argued that cold boxes are not for use in structures for any of the end-uses specified in the product definition.[107] Counsel for Praxair submitted information in relation to the cold boxes and an air separation facility.[108]

Counsel for the complainants argued that the structural steel components of cold boxes are subject goods if it meets one of the end uses specified in the product definition. Counsel also presumed that a cold box, installed and connected to a refinery, meets the end-use enumerated in the product definition.[109]

Reply Submissions

Counsel for Yanda Haimen submitted that the product definition is over-expansive and argue that it would be unreasonable for the CBSA to presume any enumerated end-use.[110]

CBSA's Response

The CBSA considers the structural steel components of cold boxes to be subject goods when they are imported for the end uses enumerated in the product definition. As the cold boxes in question were not imported for one of the end uses enumerated in the product definition, they were determined not to be subject goods.

Case Briefs

Counsel for Cintasa argued that it is not a manufacturer of FISC but a manufacturer of equipment. In addition, it asserts that complete and operational conveyancing systems are not subject goods as the tariff classification of a good is determined at the time of the goods importation.[111]

CBSA's Response

The CBSA considers the structural steel components of complete conveyor systems to be subject goods whether the goods are imported assembled or partially assembled into modules, or unassembled. The tariff classification of the goods does not determine whether the imports are subject goods.

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[107] Exhibit 310 (NC) – Response on behalf of Praxair Canada Inc. to correspondence dated 17 January 2017 from Counsel to Supermetal Structures Inc. Supreme Group LP and Waiward Steel LP.

[108] Exhibit 417 (NC) – Information from Praxair Canada Inc.

[109] Exhibit 433 (NC) – Case Brief – Supermetal Structures Inc., Supreme Group LP, Waiward Steel LP and the Canadian Institute of Steel Construction, para. 29-33; 62, 70-71.

[110] Exhibit 442 (NC) – Reply Submission – Yanda (Haimen) Heavy Equipment Manufacturing Co. Ltd., para. 17-18.

[111] Exhibit 426 (NC) Case Brief – Cintasa S.A., para. 2, 17-22) and Exhibit 428 (NC) – Case Brief – Cintasa S.A., para. 2-3.

Case Briefs

SK E&C argued that the platform and ladder of a small vessel are not subject because small vessels are not subject to the investigation (i.e. they are not process tanks).[112]

Counsel for the complainants argued, in comments provided prior to the preliminary determination, that if the imported goods meet the FISC product definition, they are *prima facie* subject goods.[113]

CBSA's Response

The CBSA considers that small vessels are not process tanks; however, small vessels are process equipment, and the platform and ladder are fabricated structural steel components of this process equipment. As such, the platform and ladder are subject goods.

Negligibility & *De Minimis* Margin of Dumping

Case Briefs

On March 17, 2017, the European Commission (EC) made representations requesting that non-dumped imports need to be deducted from the volume of dumped imports for the purpose of establishing the de-minimis thresholds in accordance with Article 5.8 of the Anti-dumping Agreement. The E.U. also submitted that the CBSA incorrectly used import values in order to examine the negligibility of importations.[114]

Counsel for Cintasa submitted that Cintasa did not dump subject goods into Canada during the POI. As such, the CBSA must terminate the investigation against Cintasa and not impose antidumping duties on goods exported to Canada by Cintasa.[115] Counsel also submitted that the CBSA must apply the test of negligibility pursuant to subsection 2(1) of SIMA in respect of volume.[116] Counsel further suggested that the CBSA remove Cintasa's non-dumped imports and imports from other exporters of non-subject goods in determining the negligibility of Spain.[117]

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[112] Exhibit 436 (NC) – Case Brief – Samjin Industrial Co., Ltd, Nara KIC Inc., Sungchang Engineering & Construction Co., Ltd., Hanmaek Heavy Industries Co., Ltd. and SK Engineering and Construction Co., Ltd., p. 4-5.
[113] Exhibit 252 (NC) – Comments sent on behalf of Supermetal Structures Inc., Supreme Group LP, Waiward Steel LP and the Canadian Steel Producers Association, p. 4-5.
[114] Exhibit 429 (NC) – Case Brief – European Commission.
[115] Exhibit 426 (NC) – Case Brief – Cintasa S.A., para. 24-30.
[116] Exhibit 426 (NC) – Case Brief – Cintasa S.A., para 34.
[117] Exhibit 426 (NC) – Case Brief – Cintasa S.A., para 39-42.

Reply Submissions

In its reply brief, counsel for the complainants submitted that the definition of "negligible" under subsection 2(1) of SIMA refers to the volume of goods of a country. Counsel maintained that while certain imports are excluded in the consideration of *de minimis* threshold applicable to margins of dumping, the second sentence of Article 5.8 of the ADA also contains the negligibility requirement. Counsel argued that since the second sentence does not apply in respect of a preliminary determination; there is no obligation in the ADA to terminate for negligibility at the preliminary stage or to remove certain exports in the determination of negligibility. [118]

CBSA's Response

Negligibility

SIMA requires the CBSA to terminate its investigation at any time before a preliminary determination if it is satisfied that the actual and potential volume of goods of a country is negligible. After a preliminary determination is made, the CITT is responsible for conducting the negligibility test and is required to terminate its inquiry in respect of goods from a country if it determines that the volume of dumped goods from that country is negligible.

During the preliminary phase of the investigations, 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 reported inconsistently[119], it was not feasible to estimate the imports of subject goods by volume. For purposes of the preliminary determination of dumping, the CBSA estimated the volume of imports based on a value methodology. The CBSA estimated that the volume of imports from China, Korea and Spain were each above 3 per cent, which was not negligible.

De Minimis Margin of Dumping

SIMA requires that the CBSA make a final determination of dumping if the CBSA determines that the margin of dumping of subject goods from of an investigated country is not insignificant. The CBSA determined that the margin of dumping for subject goods originating in, or exported from Spain was 42.4 per cent. Accordingly, the CBSA did not terminate its investigation in respect of subject goods from Spain.

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[118] Exhibit 440 (NC) – Reply Submission – Supermetal Structures Inc., Supreme Group LP, Waiward Steel LP and the Canadian Institute of Steel Construction., para. 12-17.

[119] The CBSA has found that the quantity reported for various entries are not reported in a consistent unit of measure. For example, the quantity reported may be in metric tonnes, in kilograms, in pieces, number of containers, etc. As such, the CBSA was unable to determine the sum of the weight of all imports.

In January 2017, the WTO Dispute Settlement Body adopted the panel's findings and recommendations in DS482. The panel found that SIMA was inconsistent with the Anti-dumping Agreement because it did not allow the CBSA to terminate an investigation with respect to an exporter with a margin of dumping of less than 2%. Canada is required to implement the recommendations of the panel by March 25, 2018.

The Government announced in Budget 2017 that amendments will be made to SIMA in respect of exporters with an insignificant margin of dumping, in order to bring Canada into compliance with its international obligations. The proposed amendments were tabled in Parliament on April 11, 2017 as part of the *Budget Implementation Act, 2017, No. 1.*

Rate for All Other Exporters

Case Briefs

The EC submitted that the CBSA acted inconsistently with the WTO ADA when establishing the dumping margin and duty rate for "all other exporters", and referred to the findings of the panel in *Mexico - Definitive Anti-Dumping Measures on Beef and Rice* (DS295) and *Canada – Anti-Dumping Measures on Imports of Certain Carbon Steel Welded Pipe from the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu* (DS482) in support of its argument.
The E.U. urged the CBSA to align its determination with regard to the duty rate for all other exporters with the relevant WTO requirements.[120]

Reply Submissions

Counsel for the complainants noted that the EC appears to recognize that the WTO Panel did not find that applying the highest margin on an individual transaction for determining the all other exporters rate is inconsistent with the ADA. Counsel concluded that the CBSA is justified in maintaining the methodology of the all other exporters rate so long that it provides an explanation as to why it was chosen. Non-cooperative exporters should not be placed in a position where they stand to benefit from refusing to cooperate with the CBSA in an investigation.[121]

CBSA's Response

In December 2016, the WTO Dispute Settlement Body adopted the panel's findings and recommendations in DS482. The panel found that certain aspects of the CBSA's calculation of the duty rate on "all other exporters" were inconsistent with the ADA.

The CBSA is considering the implications of the panel's findings in DS482 on its practice. Canada is required to implement the recommendations of the panel by March 25, 2018.

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[120] Exhibit 429 (NC) – Case Brief – European Commission.
[121] Exhibit 440 (NC) – Reply Submission – Supermetal Structures Inc., Supreme Group LP, Waiward Steel LP and the Canadian Institute of Steel Construction. para. 18-23.

Determination of Export Prices

Case Briefs

Counsel for Hanmaek argued that the CBSA should not use the original contract date as the date of sale because the contract was amended subsequently with substantial changes to the material terms of sales such as selling price, scope of products, delivery and other terms depending on a change of production or engineering situation. The final settlement date should be considered as the date of sale because all material terms of sale were established at that date.[122]

Counsel for the complainants asserted that the date of sale is the date when the contract arose under Canadian law between the supplier and purchaser of FISC. It submitted that the date of sale does not change with subsequent amendments to the scope of the contract. Counsel also argued that this is the date where the parties to the contract agreed to the price and each accepted their respective risks associated with currency fluctuations.[123]

Counsel for Baosteel argued that the CBSA use the exchange rates at the dates of payments or the POI average of the exchange rates to convert the export prices into Canadian dollars.[124]

CBSA's Response

Where normal values and export prices must be converted from a foreign currency to Canadian dollars, the currency exchange rates are determined in the manner prescribed in subsection 44(1) of the SIMR based on the date of sale.

The CBSA is of the view that a contract existed as of the date of the original contract, and that the material terms of the sale were established on that date, including the nature and quantities of the goods to be supplied, the price, payment terms, delivery terms, etc. The CBSA did not consider the subsequent amendments to the original contract as representing substantial changes to the terms of the sale.

Case Briefs

Counsel for Baosteel argued that the present value adjustments in the determination of export price is not necessary. Counsel submits that Baosteel did not incur financing costs as payments are received in light of progress of the project implementation. Additionally, counsel argued that material purchases are not made until payments are received.[125]

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[122] Exhibit 373 (NC) – Case Arguments Filed on Behalf of Samjin Industrial Co., Ltd., Nara KIC Inc., Sungchang Engineering & Construction Co., Ltd., Hanmaek Heavy Industries Co., Ltd., and SK Engineering and Construction Co., Ltd.

[123] Exhibit 433 (NC) – Case Brief – Supermetal Structures Inc., Supreme Group LP, Waiward Steel LP and the Canadian Institute of Steel Construction, para. 10, 89, 134-140.

[124] Exhibit 435 (NC) – Case Brief – Supermetal Structures Inc., Supreme Group LP, Waiward Steel LP and the Canadian Institute of Steel Construction, para. 7-10.

[125] Exhibit 435 (NC) – Case Brief – Supermetal Structures Inc., Supreme Group LP, Waiward Steel LP and the Canadian Institute of Steel Construction, para. 11-13.

CBSA's Response

The CBSA reviewed and verified the payment terms of the contract and determined that a financing agreement did not exist. Therefore, a present value of the payments was not calculated in order to adjust the export price pursuant to subsection 27(1) of SIMA.

Determination of Normal Values

Case Briefs

Counsel for the complainants submitted that section 15 of SIMA is not appropriate for determining normal values for goods exported to Canada since FISC is a customized product and do not meet the criteria for like goods.[126] Counsel also reminded the CBSA to consider whether or not the basis of the profit calculation is "such as to permit a proper comparison" and where it is not, the CBSA should use the next most appropriate methodology as prescribed.[127]

Counsel for SK E&C argued that normal values should be determined on the basis of paragraph 19(b) of SIMA by using the cost of manufacturing of each fabricator, an amount for administrative, selling and all other costs for each fabricator and for SK E&C, and a weighted average amount for profits based on the domestic sales of the Korean fabricators.[128]

CBSA's Response

The CBSA determined that the FISC sold domestically in Korea and Spain are not like goods to the subject goods exported from Korea and Spain and sold to the importer in Canada because FISC are custom designed for specific industrial uses, and can only be used for the projects for which they are designed. Where sufficient information was available, the CBSA determined normal values pursuant to paragraph 19(b) of SIMA for exporters in Korea and Spain.

For exporters who did not respond to the RFI or who did not provide sufficient information, the CBSA determined normal values based on a ministerial specification pursuant to subsection 29(1) of SIMA.

More detailed information on the determination of normal values for all exporters, including SK E&C, can be found in the "Dumping Investigation" portion of this *Statement of Reasons.*

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[126] Exhibit 433 (NC) – Case Brief – Supermetal Structures Inc., Supreme Group LP, Waiward Steel LP and the Canadian Institute of Steel Construction, para. 27-28.
[127] Exhibit 433 (NC) – Case Brief – Supermetal Structures Inc., Supreme Group LP, Waiward Steel LP and the Canadian Institute of Steel Construction, para. 8.
[128] Exhibit 373 (NC) – Case Brief – Samjin Industrial Co., Ltd, Nara KIC Inc., Sungchang Engineering & Construction Co., Ltd., Hanmaek Heavy Industries Co., Ltd. and SK Engineering and Construction Co., Ltd. p. 5.

Case Briefs

Counsel for Baosteel submitted that adjustments to the raw material prices for Baosteel should not be done because the majority of the raw materials are imported. It argued that, if adjustments are made, it should only be applicable to domestically purchased materials.[129] Counsel also submitted that as final settlement amounts were reduced by an amount related to buy-out of remaining materials at the end of the relevant projects; these materials should not be included in the cost of materials.[130]

CBSA's Response

The CBSA considered the argument regarding the adjustments to raw materials as estimated at the preliminary determination. For purposes of the final determination, normal values could not be determined on the basis of domestic selling prices in China or on the full cost of goods plus profit, because the CBSA affirmed the opinion that the conditions of paragraph 20(1)(a) of SIMA exist in the fabricated structural steel sector, which includes FISC, in China.

For exporters in China, normal values were determined pursuant to subsection 29(1) of SIMA using material benchmark prices provided by producers/exporters in Korea as described in the "Normal Values – Section 20" portion of this *Statement of Reasons*

With respect to the buy-out materials, Baosteel reduced its final settlement price to the importer in Canada; however, the buy-out materials were not returned to Baosteel and Baosteel did not receive compensation for the buy-out materials. Therefore, the CBSA did not offset the cost of materials by the amount of the discount in its final settlement price.

Case Briefs

Counsel for the complainants argued that the responses to the Dumping *Request for Information* (RFI) and to the Supplemental RFIs from all the exporters in this investigation are incomplete, inaccurate and unreliable. As a result, the CBSA should not determine margins of dumping based on these responses and should determine normal values for the exporters by ministerial specification under subsection 29(1) of the SIMA.[131] Counsel argued that Cintasa's costing methodology is arbitrary and does not assign costs appropriately.[132]

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[129] Exhibit 435 (NC) – Case Brief – Baosteel Construction Co. Ltd., para. 14-21.
[130] Exhibit 435 (NC) – Case Brief – Baosteel Construction Co. Ltd., para. 22-24.
[131] Exhibit 433 (NC) – Case Brief – Supermetal Structures Inc., Supreme Group LP, Waiward Steel LP and the Canadian Institute of Steel Construction, para. 43-55, 59, 91, 94-96, 117, 154, 160, 176.
[132] Exhibit 433 (NC) – Case Brief – Supermetal Structures Inc., Supreme Group LP, Waiward Steel LP and the Canadian Institute of Steel Construction, para. 170-173.

Reply Submissions

Counsel for Cintasa argued that it cooperated completely with CBSA officials during on-site verification. Counsel for Cintasa submits that it provided the CBSA with a methodology to separate FISC and non-FISC elements. Cintasa also provided relevant costing information which was verified against Cintasa's financial and accounting systems.[133]

CBSA's Response

The CBSA reviewed the exporters' responses to the RFIs and to the SRFIs. Where the CBSA determined that the exporters provided substantially complete responses to the RFIs and SRFIs, the CBSA conducted on-site verifications or desk audits of the exporters' submissions. Following verification, where the CBSA concluded that an exporter's submission was substantially complete and the information could be relied upon for the purposes of the final determination, the CBSA determined normal values, export prices and a margin of dumping on the basis of the exporter's submission. For exporters who did not respond to the RFI or who did not provide sufficient information, the CBSA determined normal values and export prices based on a ministerial specification pursuant to subsection 29(1) of SIMA.

Application of Section 20 of SIMA With Respect to the Fabricated Structural Steel Sector in China

Case Briefs

Counsel for complainants submitted that the normal values for China should continue to be determined under section 20 of SIMA in the final determination. Counsel argued that no additional information was added to the record to reverse the CBSA's opinion. In addition, the complainants note that GOC did not provide a response to the section 20 RFI.[134]

Counsel for Yanda Haimen argued that the CBSA should reverse its opinion regarding the conditions of paragraph 20(1)(a) as the CBSA lacked sufficient evidence to demonstrate that the GOC directly or indirectly determines prices. Counsel argued that the CBSA was not able to demonstrate how the various industrial policies identified actually direct pricing of FISC in the Chinese domestic industry. Counsel further argued that the CBSA erroneously focused on FISC project inputs in drawing conclusions with respect to the domestic price of FISC in China and that the CBSA failed to carry out a "pass-through" analysis to assess the impact on the domestic price of FISC in China.[135]

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[133] Exhibit 444 (NC) – Reply Submission – Cintasa S.A., para. 6-13.

[134] Exhibit 433 (NC) – Case Brief – Supermetal Structures Inc., Supreme Group LP, Waiward Steel LP and the Canadian Institute of Steel Construction, para. 11-26.

[135] Exhibit 431 (NC) – Case Brief – Yanda (Haimen) Heavy Equipment Manufacturing Co. Ltd., para. 32-52, 61-76, 77-82.

Reply Submissions

Counsel for the complainants argued that counsel for Yanda Haimen erred it its interpretation of section 20 of SIMA since it failed to recognize the distinction between forming an "opinion" and making a "determination" of section 20.[136]

Counsel for Yanda Haimen reiterated its comments regarding the CBSA's determination of conditions under section 20.[137]

CBSA's Response

The CBSA exercised its investigative function and conducted a section 20 inquiry to examine the extent to which the conditions of section 20 exist in the fabricated structural steel sector in China.

The CBSA considered information provided by the complainants, exporters, and obtained through its own research. Based on this information, the CBSA formed the opinion that the conditions of paragraph 20(1)(a) of SIMA exist in China, with respect to the fabricated structural steel sector.

Further explanation of the factors upon which the CBSA's section 20 opinion was based, can be found in the "Section 20 Inquiry" portion of this document.

Other Dumping Issues

Case Briefs

Counsel for the complainants submitted that normal values should not be determined for goods that are intermingled with subject and non-subject goods where segregated information is not provided to the CBSA.[138]

Counsel for the complainants submitted that the actual cost of production of free-issued goods provided to a producer/exporter must be taken into consideration in the determination of normal values.[139]

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[136] Exhibit 440 (NC) – Reply Submission – Supermetal Structures Inc., Supreme Group LP, Waiward Steel LP and the Canadian Institute of Steel Construction, para. 5-11.
[137] Exhibit 435 (NC) – Case Brief – Baosteel Construction Co. Ltd., para. 27-32.
[138] Exhibit 433 (NC) – Case Brief – Supermetal Structures Inc., Supreme Group LP, Waiward Steel LP and the Canadian Institute of Steel Construction, para. 9, 38, 63, 72-73, 77, 148-149, 150-151.
[139] Exhibit 433 (NC) – Case Brief – Supermetal Structures Inc., Supreme Group LP, Waiward Steel LP and the Canadian Institute of Steel Construction, para. 78-79.

Counsel for the complainants argued that a trade level adjustment is not warranted for sales made by Cintasa to Canada and to customers in the domestic market because the level of trade is the same.[140]

Counsel for Nara KIC argued that the reversal of bad debt allowance should offset bad debt expense.[141]

Counsel for SK E&C argued that amounts retained by SK E&C from FISC fabricators should not be included as bond/warranty expenses because they are outstanding payments.[142] Counsel argued that the CBSA should limit any adjustment to the opportunity interest expenses incurred during the retention period.

Reply Submissions

Counsel for Cintasa rejected the complainants' argument and reminded the CBSA that the trade levels were further reviewed during on-site verification.[143]

CBSA's Response

Based on the information on the record and in accordance with SIMA and SIMR, the CBSA has taken the representations on these issues into account when determining normal values.

Subsidy Representations

Completeness of Exporters Submissions

Case Briefs

Counsel for the complainants argued that the responses to the Subsidy *Request for Information* (RFI) and to the Supplemental RFIs from all the exporters in this investigation are incomplete, inaccurate and unreliable.[144]

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140 Exhibit 433 (NC) – Case Brief – Supermetal Structures Inc., Supreme Group LP, Waiward Steel LP and the Canadian Institute of Steel Construction, para. 174-175.
141 Exhibit 436 (NC) – Case Brief – Samjin Industrial Co., Ltd, Nara KIC Inc., Sungchang Engineering & Construction Co., Ltd., Hanmaek Heavy Industries Co., Ltd. and SK Engineering and Construction Co., Ltd., p.3.
142 Exhibit 436 (NC) – Case Brief – Samjin Industrial Co., Ltd, Nara KIC Inc., Sungchang Engineering & Construction Co., Ltd., Hanmaek Heavy Industries Co., Ltd. and SK Engineering and Construction Co., Ltd., p. 2
143 Exhibit 444 (NC) – Reply Submission – Cintasa S.A., para. 14.
144 Exhibit 433 (NC) – Case Brief – Supermetal Structures Inc., Supreme Group LP, Waiward Steel LP and the Canadian Institute of Steel Construction, para. 75, 97, 102-107, 112-116, 118-122; 123-126.

Reply Submission

Counsel for Yanda Haimen asserted that what irregularities may have existed in the initial responses to RFIs have been corrected over the course of the on-site verification. Counsel for Yanda Haimen indicated that they provided clarification and documentation as requested.[145]

CBSA's Response

Based on the information on the record and in accordance with SIMA and SIMR, the CBSA has taken the representations on these issues into account when determining the amounts of subsidy.

For each of the exporters that provided sufficient information in response to the subsidy RFI, an individual amount of subsidy was determined under ministerial specification, based on the information provided in response to the RFI and obtained during the on-site verification or desk audit.

For exporters who did not respond to the RFI or who did not provide sufficient information , the CBSA determined amounts of subsidy based on a ministerial specification pursuant to subsection 30.4(2) of SIMA, based on the methodology explained in the "All Other Exporters" section above.

Specificity

Case Briefs

Counsel for Yanda Haimen submitted that the CBSA erred in initiating a subsidy investigation as the complaint does not contain the requisite evidence required by the *Agreement on Subsidies and Countervailing Measures.* It further argued that the CBSA must engage in a serious and thorough review of each program and consider the rule of specificity as outlined in SIMA. Counsel also argued that the amount of subsidy estimated at the preliminary determination was not accurate as it allocated the subsidies based on total weight which included subject and non-subject goods.[146]

Counsel for the complainants submitted that exporters have benefitted from subsidy programs which appear to be specific and actionable. Given that the GOC did not provide a response to the Subsidy RFI, the approach taken by the CBSA is appropriate.[147]

[145] Exhibit 442 (NC) – Reply Submission – Yanda (Haimen) Heavy Equipment Manufacturing Co. Ltd., para. 25.
[146] Exhibit 431 (NC) – Case Brief – Yanda (Haimen) Heavy Equipment Manufacturing Co. Ltd., para. 95-126.
[147] Exhibit 433 (NC) – Case Brief – Supermetal Structures Inc., Supreme Group LP, Waiward Steel LP and the Canadian Institute of Steel Construction, para. 178-181.

CBSA's Response

The CBSA assessed the complaint and found that the complainants provided sufficient evidence to support their allegations that FISC from China has been subsidized. The evidence also disclosed a reasonable indication that the subsidizing has caused injury and is threatening to cause injury to the Canadian industry producing like goods. As such, the CBSA initiated an investigation to determine the extent of subsidization of goods from China.

The CBSA determined that Yanda Haimen was not an exporter of subject goods. Amounts of subsidy were only determined for exporters of subject goods.

Due to a lack of government response, subsidy amounts for all exporters were determined pursuant to subsection 30.4(2) of SIMA, based on a ministerial specification. However, in consideration of the responses to the Subsidy RFI provided by cooperative exporters, individual amounts of subsidy were determined under the ministerial specification for those exporters based on the information provided in their submissions.

Double Counting

Case Briefs

Counsel for Baosteel submitted that the CBSA did not address the issue of double counting when it adjusted the cost of raw materials upward in determining normal values and determined an amount of subsidy for purchases of raw materials from SOEs.[148]

Counsel for Yanda Haimen also argued that the CBSA must consider its WTO obligation to avoid double remedies where normal values are determined pursuant to section 20 and countervailing duties are collected.[149]

CBSA's Response

The CBSA assessed that the complaint met the requirements to initiate a subsidy investigation and a dumping investigation and therefore it proceeded with these investigations concurrently, as provided for in SIMA. In conducting the dumping investigation, the CBSA evaluated the market conditions in the fabricated structural steel sector in China and concluded that the conditions of paragraph 20(1)(a) of SIMA exist in this sector, which includes FISC. The CBSA notes that the Appellate Body's decision in DS379 does not preclude the concurrent application of anti-dumping and countervailing duties where non-market economy dumping methodologies are used.

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[148] Exhibit 435 (NC) – Case Brief – Baosteel Construction Co. Ltd., para. 27-28.
[149] Exhibit 442 (NC) – Reply Submission – Yanda (Haimen) Heavy Equipment Manufacturing Co. Ltd., para. 7-14, 33-39.

Other Subsidy Issues

Case Briefs

Counsel for the complainants submitted that there is a discrepancy between the subsidies reported by Baosteel to the CBSA and the amounts recorded in its annual reports. Also, Baosteel mis-identified the ownership status of two suppliers of raw materials.[150]

Counsel for Baosteel argued that purchases from private trading companies should not be deemed countervailable.[151]

CBSA's Response

Based on the information on the record and in accordance with SIMA and SIMR, the CBSA has taken the representations on these issues into account when determining amounts of subsidies.

[150] Exhibit 433 (NC) – Case Brief – Supermetal Structures Inc., Supreme Group LP, Waiward Steel LP and the Canadian Institute of Steel Construction, para. 92, 97.

[151] Exhibit 434 (NC) – Case Brief – Supermetal Structures Inc., Supreme Group LP, Waiward Steel LP and the Canadian Institute of Steel Construction, para. 29-32.

APPENDIX 2 – SUMMARY OF MARGINS OF DUMPING AND AMOUNTS OF SUBSIDY

Exporters	Margin of Dumping*	Amount of Subsidy (Renminbi per Metric Tonne)	Amount of Subsidy*
China			
Baosteel Construction Co., Ltd.	32.9%	151.70	0.8%
Modern Heavy Industries (Taicang) Co., Ltd.	45.8%	607.66	3.3%
United Steel Structures Ltd.	45.8%	675.47	4.6%
All other exporters in China	45.8%	11,656.06	70.2%
Total - China	**41.0%**	N/A	**34.6%**
Korea			
SK Engineering & Construction Co., Ltd.	2.4%	N/A	N/A
Hanmaek Heavy Industries Co., Ltd.	1.9%	N/A	N/A
All other exporters in Korea	45.8%	N/A	N/A
Total - Korea	**3.1%**	N/A	N/A
Spain			
Cintasa S.A.	0.0%	N/A	N/A
All other exporters in Spain	45.8%	N/A	N/A
Total - Spain	**42.4%**	N/A	N/A

* Expressed as a percentage of export price

NOTE: The margins of dumping reported in the table above are the margins determined by the CBSA for purposes of the final determination of dumping. These margins may not reflect the amount of anti-dumping duty to be levied on future importations of dumped goods.

In the event of an injury finding by the CITT, the anti-dumping duty for future exports of subject goods will be determined on the basis of the margin of dumping of those specific goods. The margin of dumping is equal to the difference between the normal value and the export price of the goods. Where sufficient information is not provided or is not otherwise available to determine the normal value, the normal value will be determine by advancing the export price by 45.8%, pursuant to a Ministerial Specification.

For subject goods originating in or exported from China, the countervailing duty for future exports will be based on the specific amount of subsidy, per metric tonne, converted into Canadian dollars.

APPENDIX 3 – SUMMARY OF FINDINGS FOR NAMED SUBSIDY PROGRAMS

As noted in the body of this document, the government of China did not submit a response to the subsidy Request for Information (RFI). This has limited the Canada Border Services Agency's (CBSA) ability to conduct its analysis of the programs. However, in recognition of the amount of cooperation and the volume of information provided by the responding companies, the CBSA has determined 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 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.

Subsidy Programs Used by the Responding Exporters

The CBSA has used the best information available to describe the 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 program constitutes 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. This award confers a direct benefit equal to the amount of the award 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 6: Award for Tax Payments

During the POI, one of the responding exporters received a benefit under this program in the form of an award from the municipal government.

II. Preferential Loans and Loan Guarantees

Program 30: Preferential Loans From State-Owned Banks

During the POI, three of the responding exporters benefited from preferential loans from state-owned banks.

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.

In terms of the first concept, the CBSA requested information from the exporters regarding information on their loans, banking information, interest rates, and maturity dates. Based on the information in their submissions, the four responding exporters have received loans from state-owned banks.

Due to the lack of cooperation from the GOC, detailed information for all of the state-owned banks was not available, however, information was found on one state-owned bank, the Export-Import Bank of China (EXIM Bank).

In terms of the second concept, the following analysis considers whether EXIM Bank could be regarded as "government" for the purpose of subsection 2(1) of SIMA. SOEs 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.

According to its website, "the Export-Import Bank of China is a state bank solely owned by the Chinese government and under the direct leadership of the State Council." The mission of EXIM Bank " With the Chinese government's credit support, the Bank plays a crucial role in promoting steady economic growth and structural adjustment, supporting foreign trade, and implementing the "going global" strategy. It is committed to reinforcing financial support to key sectors and weak links in the Chinese economy to ensure sustainable and healthy economic and social development."

Furthermore, the mission statement of the EXIM goes on to say, "Its financial support goes to foreign trade, cross-border investment, the Belt and Road Initiative, international industrial capacity and equipment manufacturing cooperation, science and technology, cultural industry, "going global" endeavors of small and medium enterprises, and the building of an open economy."[152]

Based on the above evidence, the CBSA considers that the EXIM Bank constitutes "government" for the purpose of subsection 2(1) of SIMA as it was found to have exercised government functions.

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, the CBSA considered all state-owned banks as "government".

The third concept considered was the market interest rates of the loans provided by SOEs. A comparison of the interest rates at which the loans were provided by the government with the market interest rates of loans in China was required for the purpose of evaluating whether the interest rates on the loans were preferential.

In order to assess whether or not there was a financial contribution, the CBSA established a benchmark to which it could compare the loan interest rates submitted by the exporters. The CBSA determined the loan benchmark interest rate issued by the People's Bank of China for RMB denominated loans and the London Interbank Offered Rate benchmark interest rate for USD denominated loans were appropriate benchmark interest rates.

Where the exporter's loan interest rates were below the benchmark rate, the CBSA considered the difference 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 confers a benefit to the exporter by way of reducing its financial costs upon obtaining loans from a financial institution, and the benefit is equal to the amount of the exemption/deduction.

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.

[152] http://english.eximbank.gov.cn/tm/en-TCN/index_617.html.

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 responding 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 responding 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 responding exporters received a benefit under this program from the district's local government.

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

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

Program 159: Financial Subsidy for Town-Level

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

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

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 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 from the GOC and suppliers has limited the CBSA's ability to 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 that exporters of subject goods to Canada acquired raw material steel inputs from SOEs in China.

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 material steel inputs of FISC. Accordingly, 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 final determination.

Due to the influence of SOE suppliers and producers of raw material steel inputs of FISC in the domestic industry, the CBSA determined that prices reported within China are not appropriate benchmarks for establishing the amount of subsidy. As such, the CBSA compared the price at which the goods were provided by the government with the fair market value of the goods outside of China. The CBSA considered the price of raw material steel inputs imported by the responding exporters and world benchmark prices as reported on the MEPS website to be appropriate benchmarks. When the purchase price from government suppliers was less than the benchmark price, 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 amount of subsidy per metric tonne was established.

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 included in the current investigation. Questions concerning these programs were included in the 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 does not have sufficient information to determine that any of the following programs should be removed from the investigation for purposes of the final determination.

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
Program 5:	Local Income Tax Exemption and/or Reduction
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 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
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 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
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 19:	Exemption of Service Fees, Administrative Fees and/or Real Estate Tax
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 83: Refund of taxes and fees previously collected by the governments
Program 84: Financial support to encourage the transformation/application of high-new tech achievements
Program 85: Financial Subsidy for Training Employees
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 Debt to Equity Swaps
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 147: Preferential Tax Policy to Support and Encourage Employment
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. Reduction in Land Use Fees

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

VII. 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

VIII. Equity Programs

Program 158: Debt to Equity Swaps