



UWM 2018 ER

OTTAWA, February 8, 2019

STATEMENT OF REASONS

Concerning an expiry review determination under
paragraph 76.03(7)(a) of the *Special Import Measures Act*
regarding

THE DUMPING AND SUBSIDIZING OF
CERTAIN UNITIZED WALL MODULES FROM CHINA

DECISION

On January 24, 2019, pursuant to paragraph 76.03(7)(a) of the *Special Import Measures Act*, the Canada Border Services Agency determined that the expiry of the Canadian International Trade Tribunal's finding made on November 12, 2013, in Inquiry No. NQ-2013-002:

- i. is likely to result in the continuation or resumption of dumping of certain unitized wall modules originating in or exported from China; and
- ii. is likely to result in the continuation or resumption of subsidizing of certain unitized wall modules originating in or exported from China.

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

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EXECUTIVE SUMMARY

[1] On August 27, 2018, the Canadian International Trade Tribunal (CITT), pursuant to subsection 76.03(3) of the *Special Import Measures Act* (SIMA), initiated an expiry review of its finding made on November 12, 2013, in Inquiry No. NQ-2013-002, concerning the dumping and subsidizing of certain unitized wall modules (UWM) originating in or exported from the People's Republic of China (China).

[2] As a result of the CITT's notice of expiry review, the Canada Border Services Agency (CBSA), on August 28, 2018, initiated an investigation to determine, pursuant to paragraph 76.03(7)(a) of SIMA, whether the expiry of the finding is likely to result in the continuation or resumption of dumping and/or subsidizing of the goods.

[3] The CBSA received 12 responses to its Canadian Producer Expiry Review Questionnaire (ERQ), from BVGlazing Systems Ltd., Ferguson Neudorf Glass Inc., Flynn Group of Companies (Flynn Canada Ltd. And Northern Facades Ltd.), Contract Glaziers Corp., Inland Glass & Aluminum Ltd. / Aluminum Curtainwall Systems Inc., Integro Building Systems, Oldcastle Building Envelope Canada Inc. (as of December 31, 2018, the company's name changed to Antamex Industries ULC), Quest Window Systems Inc., Sotawall Limited, Starline Windows Ltd., State Window Corporation and Toro Aluminum/ Toro Glasswall Inc. These companies may also collectively be referred to as "the Canadian producers" in this *Statement of Reasons*. The submissions made by the Canadian producers included information supporting their position that continued or resumed dumping and subsidizing of certain UWM from China is likely if the CITT's finding is rescinded.

[4] The CBSA received a response to the Exporter ERQ from Shenyang Yuanda Aluminium Industry Engineering Co. Ltd. (Shenyang Yuanda). The submission made by Shenyang Yuanda did not explicitly express an opinion with respect to the likelihood of continued or resumed dumping and/or subsidizing of certain UWM from China if the CITT's finding is rescinded.

[5] In addition to responding to the ERQ, the Canadian producers submitted supplementary information prior to the closing of the record. The CBSA also received a joint case brief on behalf of the Canadian producers. The case brief submitted by the Canadian producers included arguments supporting their position that continued or resumed dumping and subsidizing of certain UWM from China is likely if the CITT's finding is rescinded. Shenyang Yuanda submitted a reply submission to the case brief of the Canadian producers, where it contested some of the allegations made by the Canadian producers.

[6] No importers in Canada responded to the ERQ nor did they provide a case brief or reply submission.

[7] The CBSA did not receive a response to the ERQ from the Government of China (GOC) nor did the GOC provide a case brief or reply submission.

[8] Analysis of information on the administrative record in respect of the weakening UWM market conditions and the excess production capacity in China; the increasing export orientation of Chinese producers, the attractiveness of the Canadian market and its increased competition from domestic and foreign sources, along with the propensity of Chinese exporters to undercut Canadian prices, indicates a likelihood of continued or resumed dumping into Canada of certain UWM originating in or exported from China should the CITT's finding be rescinded.

[9] In addition, analysis of information on the administrative record in respect of the continued availability of subsidy programs for UWM exporters in China, the subsidizing of primary aluminum in China and other government intervention in the primary aluminum industry and the countervailing measures against Chinese aluminum products in Canada and in other jurisdictions, indicates a likelihood of continued or resumed subsidizing of certain UWM from China should the CITT's finding be rescinded.

[10] For the foregoing reasons, the CBSA, having considered the information on the record, made a determination under paragraph 76.03(7)(a) of SIMA that:

- i. the expiry of the finding in respect of the dumping of certain UWM originating in or exported from China is likely to result in the continuation or resumption of dumping of the goods into Canada; and
- ii. the expiry of the finding in respect of the subsidizing of certain UWM originating in or exported from China is likely to result in the continuation or resumption of subsidizing of the goods exported to Canada.

BACKGROUND

[11] On March 4, 2013, following a complaint filed by Allan Window Technologies (now BVGlazing Systems), Ferguson Neudorf Glass Inc., Flynn Canada Ltd., Inland Glass & Aluminum Ltd./Aluminum Curtainwall Systems Inc., Oldcastle Building Envelope (now Antamex Industries ULC), Sota Glazing Inc., Starline Architectural Windows Ltd., State Windows Corporation, Toro Aluminum/Toro Glasswall Inc. and Windsor Glass Company (1992) Ltd. (now Contract Glaziers Inc.), (hereafter 'the Complainants'), the CBSA initiated investigations pursuant to subsection 31(1) of SIMA, respecting the dumping and subsidizing of certain UWM originating in or exported from China.

[12] On October 10, 2013, pursuant to subsection 41(1) of SIMA, the CBSA made final determinations respecting the dumping and subsidizing of UWM originating in or exported from China.

[13] On November 12, 2013, pursuant to subsection 43(1) of SIMA, the CITT found that the dumping and subsidizing of UWM originating in or exported from China threatened to cause injury to the domestic industry in Canada.

[14] On May 26, 2014, the CBSA concluded a re-investigation to update the normal values and export prices of certain UWM from China.

[15] On May 8, 2018, pursuant to subsection 76.03(3) of SIMA, the CITT issued a notice concerning the expiry of its finding, which was scheduled to occur on November 11, 2018. Based on the information filed during the expiry process, the CITT decided that a review of the finding was warranted.

[16] On August 27, 2018, the CITT initiated an expiry review of its finding pursuant to subsection 76.03(3) of SIMA.

[17] On August 28, 2018, the CBSA commenced an expiry review investigation to determine whether the expiry of the finding is likely to result in continued or resumed dumping and/or subsidizing of the subject goods.

PRODUCT DEFINITION

[18] The goods subject to the finding under review are defined as:

“Unitized wall modules, with or without infill, including fully assembled frames, with or without fasteners, trims, cover caps, window operators, gaskets, load transfer bars, sunshades and anchor assemblies; excluding non-unitized building envelope systems such as stick systems and point-fixing systems, originating in or exported from the People’s Republic of China.”

Additional Product Information¹

[19] Unitized wall modules (i.e. the subject goods and the like goods produced by the Canadian industry), are an aluminum-framed engineered fenestration product which forms the building envelope or facade for multi-story buildings. The two main styles of unitized wall modules building envelope systems are referred to as “curtain wall” and “window wall”.

[20] Unitized wall modules are prefabricated segments of the building envelope that interlock with each other when installed. They are manufactured and shipped to customers’ building sites where they are installed by the customer or building contractor.

[21] Installed unitized wall modules separate the outdoors from a building’s indoor environment. The unitized wall modules are designed to resist extreme wind pressures, limit air infiltration and exfiltration, prevent water infiltration and meet heat loss and energy usage criteria.

¹ Exhibit 007 (NC) – CBSA – *Statement of Reasons – Final Determination*; para. 25-33

[22] The unitized wall modules are generally designed to meet any of the following or equivalent specifications:

- air infiltration/exfiltration to a minimum 0.10 L/s/m^2 (litres/second/square metre) when tested in accordance with American Society of Testing and Materials ("ASTM") Standard E283 at 0.3kPa (kilopascals) negative and positive pressure differential or equivalent proprietary or other internationally accepted standard;
- no water infiltration when tested under static wind load in accordance with ASTM Standard E331 using 205 litres of water per square metre for 15 minutes at a minimum 0.3kPa negative pressure differential or equivalent proprietary or other internationally accepted standard; no water infiltration when tested under dynamic wind load in accordance to American Architectural Manufacturers Association ("AAMA") Standard 501.1 using 205 litres of water per square metre for 15 minutes at a minimum 0.3kPa negative pressure differential or equivalent proprietary or other internationally accepted standard;
- structural performance when tested to ASTM Standard E330 by uniform static air pressure at a minimum 0.5kPa for 60 seconds without permanent deformation or equivalent proprietary or other internationally accepted standard; or
- thermal performance calculated in accordance with Canadian Standards Association ("CSA") Standard A440.2 to deliver a maximum of $3.0 \text{ W/m}^2\text{C}$ (watt/square metre/Celsius) for vision glass areas and $1.5 \text{ W/m}^2\text{C}$ for opaque areas (including framing) or equivalent proprietary or other internationally accepted standard.

[23] Unitized wall modules usually consist of three principal components: extruded pre-finished (mill, alodine, painted or anodized) aluminum frame, hardware and infill materials.

[24] The frame is the structural component that provides support for the infill materials. Hardware consists of fasteners, gaskets and sealants used to attach or sit between the frame and the infill materials. Infill materials include, but are not limited to, insulated glass units, monolithic glass, panels of various materials such as stone, granite or limestone, aluminum or galvanized steel back pans, insulation, terracotta tiles, ceramic tiles, thin veneer unitized bricks, louvers, grilles and photovoltaic panels. Patio or terrace doors and operable windows also are used as infill materials.

[25] The subject goods do not include non-unitized systems such as "stick systems" or "point-fixing systems". Stick system building envelopes or facades are not subject goods as they are not unitized. Unlike unitized wall modules, stick systems are not interlocking and require installation of individual framing components on-site to form the supporting grid for those systems. Stick systems are shipped to the project site as vertical and horizontal member components which are then installed and connected piece by piece to form the structural grid for a stick system envelope or facade for buildings. Once the grid of support members is secured to the building structure, infill materials are installed from the exterior and/or interior side of the building.

[26] Once a stick system building envelope or facade is completed, the appearance of the building exterior will be similar to a “unitized wall module” building envelope or facade. However, a stick system envelope or facade is differentiated from a “unitized wall module” building envelope or facade when viewed from the building interior, where the vertical frame members in the stick envelope or facade will be one-piece, while in the “unitized wall module” envelope or facade the vertical frame members will be two interlocked pieces.

[27] Products referred to as “point-fixing glass wall/curtain wall” and “full-glass glass wall/curtain wall” use glass fins, patch fittings, cable supports and other means for structural support and do not rely on the extruded aluminum members used in the subject goods covered by this finding. These products cannot be “unitized” and are not subject goods.

Production Process²

[28] The process begins with the fabrication of individual module components. Aluminum extrusions in the required sizes, shapes and finishes are purchased as required for each project. They are verified for colour and surface quality meeting the applicable standards and to ensure they meet the specifications of the individual project for which they are destined.

[29] Thermal breaks made from non-metal materials such as polyvinyl chloride or polyamide extrusions are sized and inserted into the aluminum extrusions to separate interior from exposed exterior sections of the frame. These composite frame sections are cut to length, shaped and machined to the final size of the unitized wall modules.

[30] The frame sections are then assembled. Typically the vertical mullions and horizontal frame sections are assembled using screws to connect the vertical to the horizontal frame sections. At this point the frames are fully assembled. Frames are typically rectangular in shape, but may also be manufactured to different shapes by using various angles and curves.

[31] The frames are prepared for the installation of infill materials. Frame connections are sealed using various sealant such as silicone, butyl, acrylic and elastomeric sealants. Frame sections are prepared by installing various types of air seal and glazing gaskets and/or glazing tapes to achieve air and water tight seals between the frame and infill materials.

[32] Once the frames have been prepared the infill materials are added. This can be done in a stationary manner on a fixed assembly table or on a conveyor assembly line. The process of installation into the assembled frames varies depending on the type of infill and complexity of the final unitized wall modules.

² Exhibit 007 (NC) – CBSA – *Statement of Reasons* – Final Determination; para. 34-39

[33] For a typical unitized wall module, the following assembly/infill procedures apply:

- install aluminum or galvanized steel back pans at spandrel conditions / opaque areas;
- seal back pans at the perimeter to the horizontal and vertical frame sections;
- install insulation boards of various thickness and materials into the backpan area. The insulation boards typically used are mineral board and fiberglass board;
- install glass panels of various thickness and assemblies into the vision and spandrel areas;
- glass panels or other infill materials are secured to frame sections mechanically using extruded glass stops, pressure plates and caps, or are glued using structural silicone or special structural adhesive tapes;
- infill materials can vary in type, thickness, and colour. Materials include, but are not limited to, insulated glass units, monolithic glass, aluminum or galvanized steel back pans, insulation, panels of metal, granite, limestone, photovoltaic, fibre reinforced or thin precast concrete, terra cotta and ceramic tiles, thin veneer unitized bricks, louvers, grilles and fixed or operable sun shading devices. Patio or terrace doors and operable windows are also used as infill materials; and
- once the frame assembly and installation of infill materials is completed, the assembled unitized wall modules is protected for shipment using cardboard, wood crating or steel racks. The product is then ready for shipment to the customer.

CLASSIFICATION OF IMPORTS

[34] The subject goods are usually classified under the following tariff classification numbers:

7610.10.00.20
7610.90.90.90

[35] The subject goods may also be imported under the following tariff classification numbers:

7008.00.00.00
7308.30.00.21
7610.10.00.10
7610.90.90.30

[36] This listing of tariff classification numbers is for convenience of reference only. The tariff classification numbers provided may include goods that are not subject goods and subject goods may be imported into Canada under tariff classification numbers other than those provided. Refer to the product definition for authoritative details regarding the subject goods.

PERIOD OF REVIEW

[37] The period of review (POR) for the CBSA's expiry review investigation is January 1, 2015, to June 30, 2018.

CANADIAN INDUSTRY

[38] The Canadian industry for UWM is comprised of 26 known companies, as listed below. Of these companies, 10 were complainants (one of the “other producers” is now related to a complainant) and another 9³ supported the complaint.

Antamex Industries ULC (formerly Oldcastle Building Envelope Canada Inc.)	Concord	ON	Complainant
BVGlazing Systems Ltd.	Concord	ON	Complainant
Contract Glaziers Corp.	Windsor	ON	Complainant
Ferguson Neudorf Glass Inc.	Beamsville	ON	Complainant
Flynn Group of Companies (Flynn Canada Ltd. and Northern Facades Ltd.)	Mississauga	ON	Complainant
Inland Glass & Aluminum Ltd. / Aluminum Curtainwall Systems Inc.	Kamloops	B.C.	Complainant
Sotawall Limited	Brampton	ON	Complainant
Starline Windows Ltd.	Surrey	B.C.	Complainant
State Window Corporation	Vaughan	ON	Complainant
Toro Aluminum / Toro Glasswall Inc.	Concord	ON	Complainant
Applewood Glass & Mirror Inc.	Mississauga	ON	Supporting Producer
Epsilon Concept Inc.	Québec	QC	Supporting Producer
Groupe Lessard Inc.	Dorval	QC	Supporting Producer
Noram Enterprises Inc.	Mississauga	ON	Supporting Producer
Phoenix Glass Inc.	Delta	B.C.	Supporting Producer
Primeline Window and Doors Inc.	Toronto	ON	Supporting Producer
Quest Window Systems Inc.	Mississauga	ON	Supporting Producer
Transit Glass and Aluminum Ltd.	Kanata	ON	Supporting Producer
Verval Ltd.	Gatineau	QC	Supporting Producer
Aluminum Window Design Ltd.	Woodbridge	ON	Other Producer
Basic Industries Glazing	St. Catharines	ON	Other Producer
Columbia Glazing Systems Inc.	Burnaby	BC	Other Producer
Erie Architectural Products Inc.	Lakeshore	ON	Other Producer
Gamma Windows and Walls International Inc.,	Concord	ON	Other Producer
Integro Building Systems	Maple	ON	[Other producer related to a complainant (State Window Corporation) since 2015]
Sky Window Technologies Inc.	Toronto	ON	Other Producer

³ It is the CBSA’s understanding that of the 10 producers that supported the UWM complaint, one company, OVG Inc., ceased operations, and therefore was not included on the list of producers.

[39] At the time of the original investigations, the CBSA and the CITT were satisfied that the complainants accounted for a major proportion of known domestic production of like goods and that the complainants and the supporting producers collectively represented a large majority of the total domestic production of like goods.⁴

[40] As mentioned, responses to the Canadian Producers ERQ were received from the following 12 producers:

Antamex Industries ULC (formerly Oldcastle Building Envelope Canada Inc.)

[41] Antamex Industries ULC (Antamex), formerly Oldcastle Building Envelope Canada Inc., of Concord, Ontario, is a custom high-performance unitized façade solutions provider for high-end, complex building applications. Antamex offers highly engineered and customized products for its customer base located in markets across the United States (U.S.) and Canada.

BVGlazing Systems Ltd.

[42] BVGlazing Systems Ltd. (BVG) is the amalgamation of The Allen Windows Group of Companies, Global Architectural Metals and LSC Railings. Window wall and curtain wall production facilities are located in Concord, Ontario and Niagara Falls, Ontario, with regional offices in British Columbia and Cornwall, New York. The company has been producing UWM since 1980 and sells to customers across Canada and in select markets in the United States.⁵

Contract Glaziers Corp.

[43] Established in 1971, Contract Glaziers Corp. (CGC), of Windsor, Ontario, designs and manufactures high performance commercial glass products for institutional and commercial customers in North America. CGC specializes in the development, design, engineering and installation of high performance unitized curtain wall. UWM are also produced by its subsidiary Ennova Facades Inc., in Windsor, Ontario.⁶

Ferguson Neudorf Glass Inc.

[44] Ferguson Neudorf Glass Inc. (Ferguson) is a self-performing contract glazing company, incorporated in 1986. Ferguson designs, engineers, manufactures and installs curtain wall modules throughout North America. Ferguson produces UWM in Beamsville, Ontario and in Stevensville, Ontario.⁷

⁴ Exhibit 027 (NC) - CBSA – *Statement of Reasons* – Certain Wall Modules Originating in or Exported from China - Initiation; para. 6, 7, 35, 36; Exhibit 008 (NC) – CITT, Finding and Reasons – Inquiry No. NQ-2013-002 - Unitized Wall Modules. Para. 53

⁵ Exhibit 035 (NC) - Response to producer ERQ from BVGlazing Systems Ltd, Q9

⁶ Exhibit 037 (NC) - Response to producer ERQ from Contract Glazing Corp., Q7, 9

⁷ Exhibit 033 (NC) - Response to producer ERQ from Ferguson Neudorf Glass Inc., Q5, 9

Flynn Group of Companies (Flynn Canada Ltd and Northern Facades Ltd.)

[45] Flynn Canada Ltd. (Flynn), of Mississauga, Ontario, is a privately-owned company that originated as a Winnipeg based roofing company, incorporated in 1978. Growth and expansion through various acquisitions has led the company to become a total building envelope contractor. UWM production, marketing and installation was added to the company's offerings in 2006. Flynn produces UWM at its production facilities in Mississauga and in Surrey, BC. Production by Flynn includes production of its subsidiary Northern Facades Ltd.⁸

Inland Glass & Aluminum Ltd. / Aluminum Curtainwall Systems Inc.

[46] Inland Glass & Aluminum Ltd. (IGA), of Kamloops, BC, produces custom architectural aluminum unitized curtain wall products since its incorporation on January 21, 1974. The firm operates within both Canada and the United States. IGA's products generally comprise of custom unitized curtain wall modules but the company offers a larger range of other products, including: aluminum stick system (site glazed), skylights, sunshades, storefronts/entrances and windows.⁹

Integro Building Systems

[47] Integro Building Systems (IBS) was incorporated in Ontario on February 17, 2015. UWM are designed and fabricated in house for supply and (at times) installation on commercial, institutional and mixed use towers throughout North America. The company opened its first manufacturing facility in Boynton Beach, Florida in March 2015. This was a turn-key facility needed to meet delivery schedules for the first major project located in San Francisco, California. A Canadian facility was next set up in Langley, BC to serve as an assembly and glazing plant to this and other projects on the West Coast. A Canadian manufacturing facility was opened in late 2016 in Maple, Ontario. The Maple facility more than doubled the company's manufacturing capacity.¹⁰

Quest Window Systems Inc.

[48] Quest Window Systems Inc. (Quest), a producer based in Mississauga, Ontario, has manufactured window wall since 2000. The company was founded as a window and glass products manufacturer catering to multi-residential high-rise condominium developers and constructors in Canada and the U.S.. In 2017, Quest was purchased by Exchange Income Corporation, of Winnipeg, Manitoba.¹¹

⁸ Exhibit 039 (NC) - Response to producer ERQ from Flynn Canada Inc., Q1, 3, 5, 9

⁹ Exhibit 041 (NC) - Response to producer ERQ from Inland Glass & Aluminum Ltd., Q9

¹⁰ Exhibit 043 (NC) - Response to producer ERQ from Integro Building Systems., Q5, 9

¹¹ Exhibit 047 (NC) - Response to producer ERQ from Quest Window Systems Inc., Q8, 9

Sotawall Limited

[49] Sotawall Limited (Sotawall), of Brampton, Ontario, was incorporated as Sota Glazing Inc. in 1991 from a corporate buyout. Sotawall has two UWM production facilities in Brampton, Ontario and a third in Mississauga, Ontario. The company also has drafting/engineering and sales offices in Winnipeg, Manitoba; Edmonton, Alberta; and St. Catharines, Ontario. Sotawall is a subsidiary of Apogee Enterprises of Minneapolis, MN, U.S.¹²

Starline Windows Ltd.

[50] Starline Windows Ltd. (Starline) (formerly Starline Architectural Windows Ltd.), of Surrey, BC, was incorporated in 2001 in British Columbia. From its inception, Starline has manufactured UWM's for the high-rise market in Western Canada and the Western United States. Its facility includes approximately 46,500 square metres of production area with automated inventory, painting, rolling, cutting and machining.¹³

State Window Corporation

[51] State Window Corporation (State Window), of Vaughan, Ontario, was incorporated on July 15, 2002. It is 100% Canadian and is privately held. The company began producing unitized window wall in 2006. One of the company's affiliated entities also provides installation of unitized curtain wall systems. The company mainly supplies to and installs for domestic clients, but has also supplied U.S. based clients in the past. The company does not import its UWM. The company also shares facilities with a related entity from which it receives custom fabrication services in relation to the manufacturing of its window wall modules as well as another related entity that manufactures aluminum railings.¹⁴

Toro Aluminum / Toro Glasswall Inc.

[52] Toro Aluminum / Toro Glasswall Inc. (Toro) is a UWM producer located in Concord, Ontario. Established in 1979, Toro Aluminum has become the window wall and door supplier for high-rise condominiums, office buildings and hotels across Canada, the United States and Mexico. Established in 2008, Toro Glasswall has become the curtain wall supplier for high-rise condominiums, office buildings and hotels across Canada and the United States.¹⁵

¹² Exhibit 048 (PRO) & 049 (NC) - Response to producer ERQ from Sotawall Limited, Q5, 8, 9

¹³ Exhibit 051 (NC) - Response to producer ERQ from Starline Windows Ltd, Q. 9

¹⁴ Exhibit 053 (NC) - Response to producer ERQ from State Window Corporation, Q. 9

¹⁵ Exhibit 055 (NC) - Response to producer ERQ from Toro Aluminum / Toro Glasswall Inc., Q. 9

CANADIAN MARKET

[53] The apparent Canadian market for UWM over the POR, which includes Canadian production, is indicated in **Table 1** and **Table 2** below. In light of the limited number of parties involved, the CBSA cannot release specific quantitative data respecting imports of subject goods in 2015 and 2016 as it would lead to the disclosure of confidential information. As a result, the CBSA is also unable to disclose specific data for the total apparent market for those years.

Table 1
Apparent Canadian Market for the Period of Review*
(Value in CANS)

Source	2015	2016	2017	2017 Jan. – June	2018 Jan. – June
From Canadian Production**	638,723,476	689,827,632	695,627,032	327,369,795	398,369,437
China ¹⁶	xxxx	xxxx	0	0	0
All Other Countries ¹⁷	9,164,634	14,679,482	23,183,815	13,175,766	9,353,232
Total Imports	xxxx	xxxx	23,183,815	13,175,766	9,353,232
Total Market	xxxx	xxxx	718,810,847	340,545,561	407,722,669

*The CBSA is unable to provide the total apparent Canadian market figures in terms volume because some of the information is not available in a consistent unit of measurement (i.e. Customs data mixes area vs weight vs number of units, etc.).

** The consensus among the responding Canadian producers is that the “Coalition of Canadian UWM producers” (i.e. Antamex, BVG, CGC, Ferguson, Flynn, IGA, IBS, Quest, Sotawall, Starline, State Window, and Toro) collectively held the vast majority (the average estimate being 76 %) of the total Canadian production of UWM for the Canadian market between January 1, 2015 and June 30, 2018. The CBSA therefore determined Canadian producers’ sales data on the basis of the data provided by these respondents, plus 31.6% (i.e. 1/76%) of that amount as an estimate of the other producers’ sales volume.

Table 2
Canadian Producers’ Production of UWM
(Quantity in square metres)

	2015	2016	2017	H1 2017	H1 2018
Production for Domestic Sales*	1,159,204	1,156,123	1,134,718	551,117	671,378

* The consensus among the responding Canadian producers is that the “Coalition of Canadian UWM producers” (i.e. Antamex, BVG, CGC, Ferguson, Flynn, IGA, IBS, Quest, Sotawall, Starline, State Window, and Toro) collectively held the vast majority (the average estimate being 76 %) of the total Canadian production of UWM for the Canadian market between January 1, 2015 and June 30, 2018. The CBSA therefore determined Canadian producers’ sales data on the basis of the data provided by these respondents, plus 31.6% (i.e. 1/76%) of that amount as an estimate of the other producers’ production volume.

¹⁶ Exhibit 057 (NC) - Finalized Import Stats and Market Table (CBSA)

¹⁷ Exhibit 057 (NC) - Finalized Import Stats and Market Table (CBSA)

[54] In terms of trend, the total market increased steadily throughout the POR, including an additional increase of 19.7% in the first half of 2018, compared to the same period in the previous year.

[55] While the CBSA is unable to provide the total apparent Canadian market figures in terms of volume because some of the information is not available in a consistent unit of measurement (i.e. Customs data mixes area, weight, number of units, etc.), if it is assumed that the same market shares applies to the volumes as to the values, it can be estimated that the total Canadian market was approximately 1,175,000 square metres (m²) in 2017.

Canadian Sales from Canadian Production

[56] Based on the apparent Canadian market figures in Table 1 above, the domestic sales value of UWM produced in Canada increased by 8.9% between 2015 and 2017, with most of the increase occurring in 2016. The increase in sales value accelerated in 2018, with sales during the first half of 2018 being 21.7% higher than during the same period in 2017.

[57] Despite the increase in value between 2015 and 2017, the actual volume decreased by 2.1% during that time. In 2018, however, the volume increased proportionally to the increase in value, with an increase of 21.8% during the first half of 2018 compared to the same period in 2017.

[58] The increase in value despite a decrease in the volume between 2015 and 2017 could be attributable to a number of factors. On the one hand, this may reflect a higher profit margin by Canadian producers. Based on the available financial reports of a sample of nine Canadian producers,¹⁸ the weighted average profit margin increased slightly between 2015 and 2017. On this matter, one producer did report "...slight increase in system pricing for modules over the past three to four years in opportunities – over and above standard inflation."¹⁹ On the other hand, the increase in sales value despite a decrease in the sales volume may also be partially explained by the reported building code changes and consumer preferences that have demanded improved performance, resulting in an increase in cost and value.²⁰ In other words, the quality of the goods have improved in the past few years, likely resulting in a higher value per square metre.

[59] During the POR, the Canadian producers held on to the vast majority of the Canadian market.

¹⁸ Based on the financial statements of BVG, Contract, Ferguson, Aluminum Curtainwall Systems Inc. (in Inland's response), Inland, Starline, State, Toro Aluminum and Toro Glasswall.

¹⁹ Exhibit 045 (NC) - Response to producer ERQ from Oldcastle Building Envelope Canada Inc., Q. 25

²⁰ As reported by several Canadian producers in response to question 25 of the ERQ and also by Chinese exporter Shenyang Yuanda in response to question 52 of its ERQ.

Imports - China

[60] As a result of the limited number of parties involved in the exportation/importation of the subject goods, the CBSA cannot release specific quantitative data respecting imports of subject goods as it would lead to the disclosure of confidential information. As can be seen in Table 1 above, during the POR, subject goods were only present in the Canadian market in 2015 and 2016.

Imports – Other Countries

[61] As shown in Table 1 above, while Chinese imports disappeared from the Canadian market after 2016, importers of UWM found new sources of imports. As such, imports from countries other than China increased from about \$9 million in 2015 to just over \$23 million in 2017, an increase of 153% over these years. During that time, their share of the total market increased. Imports seem to be lower in 2018, with a decrease of 29% during the first half of 2018 compared to the same period in 2017. Overall, total imports increased between 2015 and 2017.

Market Projections

Demand:

[62] As a general consensus, Canadian producers foresee healthy market demand in Canada in the foreseeable future. Most producers expect steady growth in market demand while others expect the market to remain stable in the foreseeable future.²¹

Supply:

[63] On the supply side, the CBSA expects increased competition in the Canadian market in the foreseeable future. There were several reports in Canadian producers' ERQ responses of new foreign entrants in the Canadian or North American market, from Asia (other than China) and also from Europe. Further, on the basis of the CBSA's compilation of the producers' data,²² the domestic industry has been on an expansion during the POR. Overall domestic production capacity increased by 26% between 2015 and 2017, along with an additional increase of 16% in the first half of 2018. Production also increased, although at a slightly lower pace of 20% between 2015 and 2017, and an additional 16% in the first half of 2018. The capacity utilization rate has been decreasing during that time, from 59% in 2015 to 56% in 2017 to 50% in the first half of 2018.

[64] Overall, the expected demand growth and the increased competition may keep the demand and supply balance stable for the foreseeable future.

²¹ Canadian producers' responses to questions 24-29 of ERQ.

²² Based on the data provided in Appendix 5 of the Producers' responses to the ERQ.

ENFORCEMENT DATA

[65] As a result of the limited number of parties involved in the exportation/importation of subject goods during the POR, the CBSA cannot release the specific amounts of anti-dumping duty and countervailing duty assessed in 2015 and 2016 as this would lead to the disclosure of confidential information. The majority of the duties assessed in 2015 and 2016 consisted of countervailing duty. The total amount of anti-dumping duty assessed during 2015 and 2016 is considered to be minimal. There were no imports of subject goods during the remainder of the POR.

PARTIES TO THE PROCEEDINGS

[66] On August 28, 2018, the CBSA sent a notice concerning the initiation of the expiry review investigation and ERQs to known Canadian producers, importers and exporters. The GOC was also sent an ERQ relating to subsidy.

[67] The ERQs requested information needed to consider the expiry review factors, as found in subsection 37.2(1) of the *Special Import Measures Regulations* (SIMR), relevant to this expiry review investigation.

[68] Twelve Canadian producers: Antamex, BVG, CGC, Ferguson, Flynn, IGA, IBS, Quest, Sotawall, Starline, State Window, and Toro, participated in the expiry review investigation and provided ERQ responses. Additional documents were also filed on behalf of these Canadian producers prior to the closing of the record.

[69] One exporter, Shenyang Yuanda also participated in the expiry review investigation and provided an ERQ response.

[70] A case brief was received from counsel on behalf of the Canadian producers. A reply submission was filed on behalf of Shenyang Yuanda.

[71] No importers in Canada responded to the ERQ nor did they provide a case brief or reply submission.

[72] The CBSA did not receive a response to the ERQ from the GOC nor did the GOC provide a case brief or reply submission.

INFORMATION CONSIDERED BY THE CBSA

Administrative Record

[73] The information considered by the CBSA for purposes of this expiry review investigation is contained on the administrative record. The administrative record includes the exhibits listed on the CBSA's Exhibit Listing, which is comprised of the CITT's administrative record relating to the initiation of the expiry review, CBSA exhibits and information submitted by interested persons, including information which they feel is relevant to the decision as to whether dumping and/or subsidizing is likely to continue or resume, if the finding is rescinded. This information may consist of expert analyst reports, excerpts from trade magazines and newspapers, orders and findings issued by authorities of Canada or of a country other than Canada, documents from international trade organizations such as the World Trade Organization and responses to the ERQs submitted by domestic producers, importers, exporters and foreign governments.

[74] For purposes of an expiry review investigation, the CBSA sets a date after which no new information submitted by interested parties may be placed on the administrative record or considered as part of the CBSA's investigation. This is referred to as the closing of the record date. This allows participants time to prepare their case briefs and reply submissions based on the information that is on the record as of the date the record closed. For this expiry review investigation, the record closed on October 22, 2018.

[75] In terms of procedural issues, the CBSA notes that at paragraphs 4 and 5 of Shenyang Yuanda's reply submission, references were made to statistical data from the National Bureau of Statistics of China. As this data is new information that did not form part of administrative record for this expiry review investigation, the CBSA did not consider this information in its analysis.²³

POSITION OF THE PARTIES – DUMPING

Parties Contending that Continued or Resumed Dumping is Likely

[76] The participating Canadian producers made representations in their ERQ responses and in their case brief supporting their position that dumping of certain UWM from China is likely to continue or resume should the CITT's finding expire. Therefore, they argued that the anti-dumping measures should remain in place.

²³ In any event, the actual statistical data was not provided by Shenyang Yuanda. Its reply submission only referred to their existence and requested the CBSA to find them at a provided internet link.

[77] The main arguments made by the Canadian producers can be summarized in the following categories:

- Weakening Market Conditions in China
- Excess Production Capacity / Oversupply in China
- Chinese Producers are Increasingly Export-focused
- Attractiveness of the Canadian and North American Markets
- Propensity to Dump
- Measures in Other Jurisdictions and Other Factors Likely to Lead to Diversion
- Positive Effect of Finding

Weakening Market Conditions in China

[78] The Canadian producers alleged that there were indications that the Chinese UWM market was losing its momentum and that demand for UWM will continue to stagnate over the foreseeable future.²⁴ The Canadian producers pointed to the weakening of the Chinese construction market due to developments in the Chinese economy, including concerns about debt levels and a real estate bubble.²⁵ The Canadian producers also referred to policies implemented by the GOC in response to these issues, such as policies to dampen demand, especially in the residential market.²⁶ The producers also provided evidence of a slow-down in the construction of office buildings in China.²⁷

[79] The Canadian producers provided information indicating that Chinese developers were highly leveraged and facing heightened liquidity risks.²⁸ The producers provided evidence of concerns with respect to the risk of bankruptcies among developers in China. For example, they cited the chairman of a major property development holding company, who predicted that 20 to 30 percent of real estate firms would go bankrupt annually in the coming years.²⁹ The producers argued that weakening investment growth and declining construction starts are indicative of a slowdown in the UWM market.³⁰

[80] The Canadian producers argued that since production of UWM often follows as much as 24 months after construction begins, the current state of the construction industry in China will impact UWM production and delivery over the foreseeable future.³¹

²⁴ Exhibit 34 (PRO) & Exhibit 35 (NC) Response to producer ERQ from BVG (as well as in all other producers' ERQ responses); Response to Producer Questionnaire Q30, p 3

²⁵ Exhibit 34 (PRO) & Exhibit 35 (NC) Response to producer ERQ from BVGlazing Systems Ltd; Response to Producer Questionnaire Q30, p.3; and Exhibit 61 (PRO) & 62 (NC) – Case Briefs of Canadian Producers, para. 40

²⁶ Exhibit 62 (NC) – Case Briefs of Canadian Producers, para. 41

²⁷ Exhibit 62 (NC) – Case Briefs of Canadian Producers, para. 46

²⁸ Exhibit 62 (NC) – Case Briefs of Canadian Producers, para. 40

²⁹ Exhibit 62 (NC) – Case Briefs of Canadian Producers, para. 41

³⁰ Exhibit 62 (NC) – Case Briefs of Canadian Producers, para. 45

³¹ Exhibit 62 (NC) – Case Briefs of Canadian Producers, para. 48

[81] The producers referred to the annual reports of a number of Chinese UWM producers which discuss the challenging environment in the domestic market, an unbalanced supply and demand and declining sales.³² The Canadian producers pointed to the financial data of one major Chinese producer, Yuanda China Holdings Limited (CNYD), which showed strong decline in awarded domestic projects and backlogs³³, as further evidence of the state of the Chinese market.³⁴

[82] The producers argued that such developments in the Chinese economy, and policies implemented by the GOC, will lead to the export of dumped subject goods.³⁵

Excess Production Capacity / Oversupply in China

[83] The Canadian producers argued that China has tremendous production capacity that has grown exponentially in recent years at a rate far greater than necessary to fulfil its domestic UWM product needs.³⁶ The Canadian producers point out that in one of the major UWM Chinese producers' recent annual reports, a description of the key risks and uncertainties flags the excess supply of curtain wall products on the mainland, which has sparked fierce competition.³⁷

[84] The Canadian producers argued that the evidence suggests that one Chinese producer, CNYD, has a production capacity of 12 million m², as compared to the total annual Canadian consumption of just over 1 million m².³⁸ The Canadian producers indicate that CNYD could supply the entire Canadian market with just 9% of its capacity.³⁹ They alleged that this Chinese producer has announced plans to further increase capacity. Further, the Canadian producers allege that evidence suggests that there are at least 260 other UWM producers in China.⁴⁰

[85] The Canadian producers pointed to a report suggesting that the total production of curtain wall in China has risen from 16 million m² in 2001 to just over 80 million m² in 2010 and to approximately 154.6 million m² in 2016.⁴¹ The Canadian producers suggest that since there is evidence indicating that there was excess capacity in 2016, the actual total production capacity in China must be well over 200 million m². Assuming a 70% capacity utilization rate in 2016, the Canadian producers estimated that the total production capacity in 2016 may have been 223.4 million m².⁴²

³² Exhibit 35 (NC) Response to producer ERQ from BVGlazing Systems Ltd; Response to Producer Questionnaire Q30, p. 2-4

³³ Backlogs are orders that a producer has received but has not yet produced and delivered.

³⁴ Exhibit 35 (NC) Response to producer ERQ from BVGlazing Systems Ltd; Response to Producer Questionnaire Q30., p. 3-8; Exhibit 61 (PRO) & 62 (NC) – Case Briefs of Canadian Producers, para. 51-63

³⁵ Exhibit 62 (NC) – Case Briefs of Canadian Producers, para. 43-44

³⁶ Exhibit 35 (NC) Response to producer ERQ from BVGlazing Systems Ltd; Response to Producer Questionnaire Q30, p. 2

³⁷ Exhibit 35 (NC) Response to producer ERQ from BVGlazing Systems Ltd; Response to Producer Questionnaire Q30., p. 2; Exhibit 61 (PRO) & 62 (NC) – Case Briefs of Canadian Producers, para. 27

³⁸ Exhibit 35 (NC) Response to producer ERQ from BVGlazing Systems Ltd; Response to Producer Questionnaire Q30, p. 3; Exhibit 61 (PRO) & 62 (NC) – Case Briefs of Canadian Producers, para. 30

³⁹ Exhibit 62 (NC) – Case Briefs of Canadian Producers, para. 30, 33

⁴⁰ Exhibit 62 (NC) – Case Briefs of Canadian Producers, para. 31-32

⁴¹ Exhibit 35 (NC) Response to producer ERQ from BVGlazing Systems Ltd; Response to Producer Questionnaire Q30, p. 2; Exhibit 61 (PRO) & 62 (NC) – Case Briefs of Canadian Producers, para. 29

⁴² Exhibit 62 (NC) – Case Briefs of Canadian Producers, para. 29

[86] The Canadian producers maintained that the existing excess production capacity in the Chinese market, combined with weakening market conditions, will push Chinese producers to increase sales to their export markets, including to Canada, in order to maintain production and service their debt.⁴³

Chinese Producers are Increasingly Export-Focused

[87] The Canadian producers argued that the Chinese producers are export oriented and that current market conditions are further influencing producers to continue to expand globally.⁴⁴

[88] The producers referred to the recent public annual reports of specific major Chinese producers and other public information, which indicate that these companies are strategically strengthening the expansion of their export markets. Such companies include CNYD, Far East Global, Jangho Curtain Wall Co., Ltd, and Meite.⁴⁵

[89] The Canadian producers maintained that while CNYD's export markets accounted for 39% of its newly awarded projects in 2015, it represented 62% of new projects in 2017.⁴⁶ They maintained that the Chinese producer's backlog follows the same pattern. Backlogs are orders that a producer has received but has not yet produced and delivered. They maintain that this increasing focus on export markets is likely shared by other producers.⁴⁷

Attractiveness of the Canadian and North American Markets to Chinese Producers

[90] The Canadian producers contend that considering the state of the Chinese UWM market, the Canadian market is a very attractive one to Chinese producers.⁴⁸ The Canadian producers argued that the Canadian market is stable and healthy, and attracts higher prices than the Chinese market. The producers believe that the Canadian market will remain strong over the next two years. According to the Canadian producers, the Chinese UWM producers will be attracted by a stable market with financially secure developers.⁴⁹

⁴³ Exhibit 62 (NC) – Case Briefs of Canadian Producers, para. 43-44

⁴⁴ Exhibit 62 (NC) – Case Briefs of Canadian Producers, para. 64

⁴⁵ Exhibit 35 (NC) Response to producer ERQ from BVGlazing Systems Ltd; Response to Producer Questionnaire Q30, pp. 10-12 ; Exhibit 62 (NC) – Case Briefs of Canadian Producers, para. 65-68

⁴⁶ Exhibit 35 (NC) Response to producer ERQ from BVGlazing Systems Ltd; Response to Producer Questionnaire Q30. p. 11

⁴⁷ Exhibit 62 (NC) – Case Briefs of Canadian Producers, para. 57

⁴⁸ Exhibit 62 (NC) – Case Briefs of Canadian Producers, para. 88-96

⁴⁹ Exhibit 62 (NC) – Case Briefs of Canadian Producers, para. 90

[91] The Canadian producers stated that Chinese producers already have relationships and legal entities in Canada. Further, they argued that while Chinese producers are already present and interested in the American UWM market, the trade frictions between China and the U.S. and the existing aluminum extrusion finding in the U.S., whose scope includes the aluminum extrusions that form part of UWM, could result in diversions to Canada if the finding was rescinded.⁵⁰ The producers argue that six years of litigation by Beijing Jangho Curtainwall Company Ltd. and CNYD in the U.S. Aluminum Extrusions case demonstrates their interest in remaining in the North American market.⁵¹ The producers noted that these companies are the same two companies that were involved in the original UWM investigation in Canada.

[92] The Canadian producers also argued that the attractiveness of the Canadian market is evidenced by exporters in new countries seeking to enter the Canadian market. Some Canadian producers noted an increase in competition from new players in the North American market.⁵²

[93] The producers claim that if the finding is rescinded, Chinese producers would likely try to undercut these new foreign entrants and thus sell at dumped prices.⁵³

Propensity to Dump

[94] The Canadian producers alleged that when the risk of purchasing UWM from a production facility that is a great distance away is taken into consideration, the Chinese producers can only compete in the Canadian market by undercutting domestic prices. This was also the case during the period prior to the CITT finding.⁵⁴ The Canadian producers claimed that in the original inquiry, the CITT recognized that Canadian customers would only consider offshore UWM if they were priced lower than those produced in Canada as a result of the risk associated with having production far away.⁵⁵ They also pointed to the CITT's Finding and Reasons which discussed the extent of the price undercutting and to the CBSA's *Statement of Reasons*, which indicated the extent of the dumping for the cooperating exporters, as evidence that Chinese producers are unable to export to Canada at non-dumped prices.⁵⁶ The Canadian producers argue that this situation remains applicable today.⁵⁷

⁵⁰ Exhibit 35 (NC) - Response to producer ERQ from BVGlazing Systems Ltd; Response to Producer Questionnaire Q30, pp. 12-13

⁵¹ Exhibit 62 (NC) - Case Briefs of Canadian Producers, para. 92-93

⁵² Exhibit 62 (NC) - Case Briefs of Canadian Producers, para. 94-95

⁵³ Exhibit 045 (NC) - Response to producer ERQ from Oldcastle Building Envelope Canada Inc., Q.30

⁵⁴ Exhibit 35 (NC) Response to producer ERQ from BVGlazing Systems Ltd; Response to Producer Questionnaire Q30, p. 13; Exhibit 61 (PRO) & 62 (NC) - Case Briefs of Canadian Producers, para. 97-102

⁵⁵ Exhibit 62 (NC) - Case Briefs of Canadian Producers, para. 97

⁵⁶ Exhibit 62 (NC) - Case Briefs of Canadian Producers, para. 98, 100

⁵⁷ Exhibit 62 (NC) - Case Briefs of Canadian Producers, para. 99

Measures in Other Jurisdictions and Other Factors Likely to Lead to Diversion

[95] The Canadian producers maintained that the U.S. dumping and subsidy findings against aluminum extrusions from China apply to aluminum extrusions within UWM, and that this finding was continued following a sunset review in 2017.⁵⁸ The producers also note that the U.S. tariff on aluminum under Section 232 of the *Trade Expansion Act of 1962* applies to aluminum extrusions but not to finished goods made from aluminum extrusions. The Canadian producers argue that this will push Chinese producers to export finished goods, such as UWM, rather than the extrusions themselves, affecting subject goods prices to Canada.⁵⁹

[96] The Canadian producers also argued that other markets for Chinese UWM may be slowing, particularly the construction industry in the Middle East region, which will force Chinese producers to seek to diversify their export markets.⁶⁰ The Canadian producers also argued that geopolitical tensions, emerging trade protectionism and global financial austerity, still persist and have a direct impact on Chinese producers.⁶¹

Positive Effect of Finding

[97] The Canadian producers argue that the decrease in the volume of subject goods imported since the finding was put in place demonstrates the effect of the finding.⁶² The producers alleged that the lower volume, along with the assessment of SIMA duties support the conclusion that the Chinese producers cannot compete in the Canadian market without dumping subject goods.⁶³

⁵⁸ Exhibit 62 (NC) – Case Briefs of Canadian Producers, para. 103-105

⁵⁹ Exhibit 62 (NC) – Case Briefs of Canadian Producers, para. 106

⁶⁰ Exhibit 62 (NC) – Case Briefs of Canadian Producers, para. 107-108

⁶¹ Exhibit 62 (NC) – Case Briefs of Canadian Producers, para. 24

⁶² Exhibit 62 (NC) – Case Briefs of Canadian Producers, para. 86-87

⁶³ Exhibit 62 (NC) – Case Briefs of Canadian Producers, para. 86-87

Parties Contending that Continued or Resumed Dumping is Unlikely

[98] None of the parties contended that continued or resumed dumping of subject goods from China is unlikely if the finding is rescinded.

[99] However, Shenyang Yuanda did provide a response to the ERQ and also provided a reply submission in which it argued that the evidence on the record does not support an affirmative determination of propensity to dump. Shenyang Yuanda also contested some of the arguments made by the Canadian producers in their case brief.

[100] Shenyang Yuanda argued that the Canadian producers erroneously refer to a reduction of the growth rate in China as contraction.⁶⁴ Shenyang Yuanda believes that despite a real estate slowdown in China, demand for UWM will remain stable.⁶⁵ Shenyang Yuanda also argued that the arguments made by the Canadian producers based on data suggesting a decrease in the Chinese domestic project prices and an increase in export project prices does not support that there is a threat of dumping should the finding be rescinded.⁶⁶

CONSIDERATION AND ANALYSIS – DUMPING

[101] In making a determination under paragraph 76.03(7)(a) of SIMA whether the expiry of the finding is likely to result in the continuation or resumption of dumping of the goods, the CBSA may consider the factors identified in subsection 37.2(1) of the SIMR, as well as any other factors relevant under the circumstances.

[102] Guided by the aforementioned factors and having considered the information on the administrative record, the following list represents a summary of the CBSA's analysis conducted in this expiry review investigation with respect to dumping:

- Weakening Market Conditions in China
- Excess Production Capacity / Oversupply in China
- Chinese Producers are Increasingly Export-focused
- Attractiveness of the Canadian Market to Chinese Producers
- Increased Competition in the Canadian Market from Domestic and New Foreign Sources
- Propensity of Chinese Exporters to Undercut Canadian Prices

[103] As previously mentioned, the CBSA received ERQ responses from 12 Canadian producers and from one exporter. In addition to responding to the ERQ, the Canadian producers submitted supplementary information prior to the closing of the record as well as a case brief, and Shenyang Yuanda, an exporter, provided a reply submission.

⁶⁴ Exhibit 064 (NC) - Reply Submissions filed on behalf of Shenyang Yuanda Aluminium Engineering Co., Ltd; para. 10

⁶⁵ Exhibit 064 (NC) - Reply Submissions filed on behalf of Shenyang Yuanda Aluminium Engineering Co., Ltd; para. 8

⁶⁶ Exhibit 064 (NC) - Reply Submissions filed on behalf of Shenyang Yuanda Aluminium Engineering Co., Ltd; para. 19-20.

[104] The CBSA relied on the information submitted by these parties, as well as other information on the administrative record for purposes of this expiry review investigation.

[105] Specific supply and demand data for the Chinese UWM market is limited. Nevertheless, evidence on the record suggests that demand in the Chinese curtain wall market expanded significantly in the recent past, resulting in an increase in production by the Chinese industry. However, the Chinese curtain wall industry is currently operating in a weakening construction market with evidence of an oversupply condition.

[106] China's rapid economic growth and the fast pace of urbanization has spurred strong growth in fixed assets and construction investments. This in turn has led to rapid growth in the Chinese curtain wall industry, particularly for UWM. Similarly, limited land-use rights in China pushed developers to build taller buildings, which increased demand for UWM.⁶⁷

[107] Evidence on the record suggests a total output of approximately 267 billion RMB for curtain wall production at the time of the finding, in 2013.⁶⁸ The total output increased to 320 billion RMB in 2014, 340 billion RMB in 2015, and 370 billion RMB in 2016.⁶⁹ This represents an increase of 38.6% between 2013 and 2016. In terms of volume, domestic production output was approximately 156.4 million m² in 2016,⁷⁰ up from approximately 115 million m² in 2013.⁷¹ This represents a 36 % increase between 2013 and 2016.

[108] The Chinese curtain wall industry is known to be very fragmented and highly competitive. According to the CITT, at the time of the finding, there were allegedly as many as 200 producers of UWM in China.⁷² One Chinese producer, referring to statistics from the China Building Decorating Association, noted that in 2016, there was a total of 260 companies with Class A Curtain Wall Designing Qualification, 210 companies which possess Level I Curtain Wall Contracting Qualification, and 947 companies holding Level I Building Decoration Contracting Qualifications.⁷³

⁶⁷ Exhibit 30 (PRO) & Exhibit 31 (NC) – Response to Exporter ERQ – Shenyang Yuanda Aluminum Industry Engineering Co., Ltd., Q34

⁶⁸ Exhibit 029 (NC); CBSA Research regarding Expiry Review; China Construction Curtain Wall Industry Report, 2013-2016

⁶⁹ Exhibit 35 (NC) Response to producer ERQ from BVGlazing Systems Ltd; Response to Producer Questionnaire Q30; public attachment 3; Golden Metropolis International Limited, Amendment No1 to Form F-1, US Securities and Exchange Commission; p. 56.

⁷⁰ Exhibit 35 (NC) Response to producer ERQ from BVGlazing Systems Ltd; Response to Producer Questionnaire Q30; public attachment 3; Golden Metropolis International Limited, Amendment No1 to Form F-1, US Securities and Exchange Commission; p. 57.

⁷¹ Exhibit 29 (NC); CBSA Research regarding Expiry Review; China Construction Curtain Wall Industry Report, 2013-2016

⁷² Exhibit 028 (NC) CITT, *Unitized Wall Modules* – NQ-2013-002, para. 145.

⁷³ Exhibit 35 (NC) Response to producer ERQ from BVGlazing Systems Ltd; Response to Producer Questionnaire Q30; public attachment 3; Golden Metropolis International Limited, Amendment No1 to Form F-1, US Securities and Exchange Commission; p. 9

[109] Sales of UWM depend heavily on the performance of the construction and real estate industries. During the POR, China experienced a slowdown of its real estate investments. This slowdown appears to be in part the result of specific policies of the GOC aimed at deflating the housing bubble and tightening its credit policies. The GOC's measures were seemingly successful at curbing demand for real estate, reducing buyers' leverage and weakening the willingness of developers to further invest in 2018.⁷⁴

[110] The slowdown in the real estate market and its negative impact on the Chinese UWM market was flagged by Yuanda China Holdings Limited (CNYD) in its 2015, 2016 and 2017 Annual Reports.⁷⁵ CNYD, one of the major UWM producers in China and a major global player, is the parent company of Shenyang Yuanda, who participated in this expiry review investigation and exported subject goods to Canada at the time of the original investigation. CNYD's revenue from its domestic market decreased by 22.9% in 2015, by 25.2% in 2016 and again by 28.3% in 2017.⁷⁶ The company attributed the drop in its domestic market sales to the slowdown in the real estate market and the effects of government measures. Domestic sales in the foreseeable future are not expected to recover, as suggested by a 32.1% drop in newly-awarded domestic projects in 2017.⁷⁷ Projects awarded in any given year are what generate workload and revenue for the subsequent one to two years. In their 2017 Annual Reports, both CNYD⁷⁸ and Far East Global,⁷⁹ another major Chinese producer and global player, mentioned the need to be selective in choosing curtain wall projects in China and focus on major projects owned by customers with good reputations. Such a statement suggests great concern with respect to the sustainability of ongoing real estate investments in the current environment if it relates to concerns that ongoing projects may not proceed or be completed. This is also consistent with the information provided by the Canadian producers which indicated that Chinese developers were highly leveraged and faced heightened liquidity risks.

[111] In each of its 2015, 2016 and 2017 Annual Reports, CNYD indicated that the Chinese market was characterized by excess supply of curtain wall products on the mainland, the fragmentation of the industry and the presence of fierce competition.⁸⁰ Far East Global also described the domestic market as fragmented, disordered and oversupplied.⁸¹

[112] CNYD has an annual production capacity for curtain wall of as much as 10 million⁸² to 12 million⁸³ m². This is 10 to 12 times the size of the entire estimated Canadian market. Although a portion of that capacity is used for the production of non-subject goods, such as stick systems, the capacity to produce UWM remains substantial.

⁷⁴ Exhibit 25 (NC) – CNYD 2016 Annual Report, p. 13-15, 30

⁷⁵ Exhibit 25 (NC) – CNYD 2015 Annual Report, pp. 19, 27; CNYD 2016 Annual Report, pp. 13-14, 30; CNYD 2017 Annual Report, pp. 9, 12, 15, 24, 30

⁷⁶ Exhibit 25 (NC) – CNYD 2015 Annual Report, p.19; CNYD 2016 Annual Report, p. 19.; CNYD 2017 Annual Report, p. 15

⁷⁷ Exhibit 25 (NC) – CNYD 2017 Annual Report, p. 30

⁷⁸ Exhibit 25 (NC) – CNYD 2017 Annual Report, p. 30

⁷⁹ Exhibit 35 (NC) Response to producer ERQ from BVGlazing Systems Ltd; Response to Producer Questionnaire Q30; public attachment 7; Far East Global, Annual Report 2017, p. 19

⁸⁰ Exhibit 25 (NC) – CNYD 2015 Annual Report, p.27; CNYD 2016 Annual Report, pp. 30; CNYD 2017 Annual Report, p. 24

⁸¹ Exhibit 35 (NC) Response to producer ERQ from BVGlazing Systems Ltd; Response to Producer Questionnaire Q30; public attachment 7; Far East Global, Annual Report 2017, pp. 19, 22

⁸² Exhibit 58 (NC) – CBSA exhibit; CNYD Company Profile from its Corporate Website; p. 2

⁸³ Exhibit 60 (NC) – Close of Record documents from Canadian Producers; Attachment 18

[113] As suggested by the Canadian producers, if Chinese producers were operating at 70% of their capacity in 2016, the total Chinese production of 156.4 million m² in 2016⁸⁴ would suggest a total capacity of over 223.4 million m², or about 67 million m² in overcapacity. If Chinese producers were operating at 50% capacity utilization, the excess capacity increases to 156.4 million m², based on 2016 data. If total capacity actually increased since 2016, a likely scenario, the excess capacity may be even greater. This excess capacity is quite substantial compared to the Canadian market, estimated at just over 1.1 million m² in 2017.

[114] Evidence suggests that Chinese UWM producers are increasingly turning to export markets to make up for their decreases in domestic sales, put their excess production capacity to use and seek some stability.

[115] For example, CNYD's export sales as a percentage of total sales increased from 21.2% in 2014, prior to the POR, to 29% in 2015, 37.7% in 2016, and 42.5% in 2017.⁸⁵ The trend is believed to be continuing in 2018. In fact, the export markets represented over 62% of new projects total value in 2017, which is indicative of its workload in 2018 and parts of 2019.⁸⁶

[116] Shenyang Yuanda claims that re-entering the Canadian market would be difficult even without SIMA duties in place.⁸⁷ The confidential evidence on the record, however, does not suggest that the company would have a difficult time re-entering the market if the finding was no longer in place.

[117] Other Chinese UWM producers are also increasingly export focused. The Canadian producers compiled information on 20 Chinese producers that export UWM products, and hold substantial production capacity.⁸⁸ One such company, Beijing Jangho Curtainwall Company Ltd., which previously exported to Canada and was a cooperating party in the original investigation, is currently advertising its presence in the international market, with over 20 branches. While all of its manufacturing is done in China, the company still has a Canadian subsidiary, Jangho Curtain Wall Canada Co., Ltd, who filed a submission with the CITT in their proceedings.⁸⁹ Similarly, in its 2017 Annual Report, Far East Global discussed the expansion of its production and manufacturing base in Mainland China in order to fulfil growing demand for projects in their export markets.⁹⁰ The company, which, according to the Canadian producers, has a production capacity of about 850,000 m², specifically notes its past successes in the Canadian market on the "About Us" section of its corporate website.

⁸⁴ Exhibit 35 (NC) Response to producer ERQ from BVGlazing Systems Ltd; Response to Producer Questionnaire Q30; public attachment 3; Golden Metropolis International Limited, Amendment No1 to Form F-1, US Securities and Exchange Commission; p. 3; Exhibit 61 (PRO) & 62 (NC) – Case Briefs of Canadian Producers, para. 29

⁸⁵ Exhibit 25 (NC) – CNYD 2015 Annual Report, p.134; CNYD 2016 Annual Report, p. 171.; CNYD 2017 Annual Report, p. 158

⁸⁶ Exhibit 25 (NC) – CNYD 2017 Annual Report, p. 12

⁸⁷ Exhibit 31 (NC) – Response to Exporter ERQ – Shenyang Yuanda Aluminum Industry Engineering Co., Ltd., Q52

⁸⁸ Exhibit 60 (NC) – Close of Record documents from Canadian Producers; Attachment 18

⁸⁹ Exhibit 22 (PRO) & Exhibit 23 (NC) – CITT's Administrative Record; LE-2018-002-05.02

⁹⁰ Exhibit 35 (NC) Response to producer ERQ from BVGlazing Systems Ltd; Response to Producer Questionnaire Q30; public attachment 7; Far East Global, Annual Report 2017, p. 19

[118] Meanwhile, the Canadian market is expected to remain stable and healthy, and attract higher prices than the Chinese market. As mentioned in the Canadian Market section above, Canadian producers foresee healthy market demand in Canada in the foreseeable future, with most producers expecting steady growth in market demand while others expect the market to remain stable.⁹¹ Shenyang Yuanda alleged that the price per square metre in the Canadian market more than doubled over the last five years, and that the range of prices for curtain walls is substantially higher than it was five years ago.⁹² Shenyang Yuanda expects strong demand for residential condominium and for commercial buildings.

[119] As noted earlier, on the supply side, the CBSA expects increased competition in the Canadian market in the foreseeable future. There were several reports in Canadian producers' ERQ responses of new foreign entrants in the Canadian or North American market, from Asia (other than China) and also from Europe. Further, on the basis of the CBSA's compilation of the producers' data,⁹³ the domestic industry has been on an expansion during the POR. Overall, the expected demand growth and the increased competition may keep the demand and supply balance stable for the foreseeable future.

[120] In the original UWM inquiry, the CITT acknowledged that while UWM are not commodities, price is nonetheless of considerable importance. As stated by the CITT, "[l]ate delivery poses a significant risk to general contractors as purchasers of UWMs, having regards to the financial penalties that they may incur, should the project fall behind schedule, and the potential damage to the general contractor's reputation."⁹⁴ Nevertheless, although the domestic industry has a significant advantage in delivery time,⁹⁵ many purchasers seemed willing to assume this risk (i.e. of importing from abroad) if a price quotation is low enough.⁹⁶ On this matter, the Canadian producers argued that developers would only consider offshore UWM if they are priced lower than those produced in Canada as a result of the risk associated with having production far away.⁹⁷ The CITT estimated that the lower risk associated with sourcing domestically allowed like goods to command a risk mitigation premium over the price of the subject goods.⁹⁸ The CITT also noted the significance of the price undercutting of subject goods, which ranged, at the time, between 38% and 49% for unitized curtain wall modules and between 16% and 28% for unitized window wall modules.⁹⁹

⁹¹ Canadian producers' responses to questions 24-29 of ERQ.

⁹² Exhibit 30 (PRO) & Exhibit 31 (NC) – Response to Exporter ERQ – Shenyang Yuanda Aluminum Industry Engineering Co., Ltd., Q.52

⁹³ Based on the data provided in Appendix 5 of the Producers' responses to the ERQ.

⁹⁴ Exhibit 028 (NC); CITT Finding and Reasons – UWM; November 27, 2013 – CITT; para. 74

⁹⁵ Exhibit 028 (NC); CITT Finding and Reasons – UWM; November 27, 2013 – CITT; para. 73

⁹⁶ Exhibit 028 (NC); CITT Finding and Reasons – UWM; November 27, 2013 – CITT; para. 75

⁹⁷ Exhibit 62 (NC) – Case Briefs of Canadian Producers, para. 97

⁹⁸ Exhibit 028 (NC); CITT Finding and Reasons – UWM; November 27, 2013 – CITT; para. 76

⁹⁹ Exhibit 028 (NC); CITT Finding and Reasons – UWM; November 27, 2013 – CITT; para. 79

[121] The CBSA acknowledges that in light of the higher prices in the Canadian market, the Chinese producers can undercut Canadian suppliers without necessarily dumping, provided that the price is sufficiently high to cover the cost of production of the goods, the administrative, selling and all other costs, and a reasonable amount for profit. Some projects were in fact sold at un-dumped prices at the beginning of the POR¹⁰⁰ or prior to that period.¹⁰¹

[122] Nevertheless, the CBSA believes that the risk involved with supplying UWM from China remains the same as it was at the time of the original investigation, and that for this reason, a Chinese supplier is likely to be selected to supply UWM only if the price is sufficiently low to justify the added risk. Information on the record suggests that Chinese exporters would not only have to undercut Canadian producers but possibly also new foreign entrants in the Canadian market. During the period of investigation for the original dumping investigation, a time when market conditions in China for UWM were much stronger than they are today, the CBSA determined margins of dumping of 15.7% and 49.3% for the two cooperating exporters. Considering the weakening market conditions in China and the increasing oversupply in that market, the CBSA expects that Chinese producers are likely to undercut the prices of Canadian producers and other bidders in the Canadian market by significant margins in order to re-enter the market, re-gain market share, and fill some of their excess capacity. The CBSA believes that Chinese UWM producers are likely to export UWM to Canada at prices that are insufficient to recover their full cost plus a reasonable amount for profit, and hence at a dumped price. Evidence on the record also suggests that the extent of the excess capacity in China is such that a significant volume of dumped UWM could be expected to be exported to Canada if the finding is rescinded.

Determination Regarding Likelihood of Continued or Resumed Dumping

[123] Based on the information on the administrative record demonstrating; the weakening UWM market conditions and the excess production capacity in China; the increasing export orientation of Chinese producers, the attractiveness of the Canadian market and increased competition from domestic and foreign sources, along with the propensity of Chinese exporters to undercut Canadian prices, the CBSA determined that the expiry of the finding is likely to result in the continuation or resumption of dumping into Canada of certain UWM originating in or exported from China.

POSITION OF THE PARTIES - SUBSIDIZING

Parties Contending that Continued or Resumed Subsidizing is Likely

Canadian Producers

[124] The participating Canadian producers contend that the subsidizing of certain UWM from China is likely to continue or resume should the CITT's finding be rescinded.

¹⁰⁰ Exhibit 026 (PRO) – CBSA Ruling Letters;

¹⁰¹ Exhibit 026 (PRO) – CBSA Ruling Letters

[125] The Canadian producers alleged that Chinese producers remain heavily subsidized. The Canadian producers argued that there is no indication that the programs identified by the CBSA in 2013 have ceased, and believe that Chinese producers are likely receiving even greater subsidies, maintaining that subsidies to their main industries are a key tenet of Chinese economic policy.¹⁰²

[126] The Canadian producers referred to the GOC's "Made in China 2025" programs as one example of wide-scale government subsidization of important industries. The Canadian producers indicated that estimates put subsidies under this program in the hundreds of millions of dollars.¹⁰³ The Canadian producers also alleged that the GOC's 13th 5-year plan for Economic and Social Development, which was issued after the 2013 finding, contains three core objectives that are likely to benefit Chinese UWM producers: i) promotion of green manufacturing, which, they claim, likely means additional grants and programs to improve production methods; ii) construction of green buildings, where Chinese UWM producers may receive government support in the development of its products to achieve the desired design, performance, and technology aims of this program; and iii) GOC playing a main role in providing basic housing, which, it is argued, is likely to result in subsidies to industries that supply materials for new housing, including Chinese UWM producers.¹⁰⁴

[127] The Canadian producers also argued that CNYD reported receiving grants of several millions of dollars during the POR, according to the company's annual report¹⁰⁵. The producers noted that Shenyang Yuanda, CNYD's subsidiary that produces and exports UWM, was determined by the CBSA to have benefited from 14 countervailable programs during the original investigation.¹⁰⁶ The Canadian producers contended that evidence on the record demonstrates that Shenyang Yuanda received subsidies during the POR.¹⁰⁷

[128] The Canadian producers also contend that both Australia and the U.S. reviewed their countervailing duties in 2017 and 2018 against aluminum extrusions from China, and identified a significant number of applicable subsidy programs. They argue that the subsidy programs are highly relevant to UWM producers, and the pricing of subject goods, as extrusions are a significant input of UWM.¹⁰⁸

¹⁰² Exhibit 35 (NC) Response to producer ERQ from BVGlazing Systems Ltd; Response to Producer Questionnaire Q30, pp. 8-10

¹⁰³ Exhibit 35 (NC) Response to producer ERQ from BVGlazing Systems Ltd; Response to Producer Questionnaire Q30, p. 9. The CBSA notes that while the Producers' narrative states that the estimates put subsidies under this program in the hundreds of millions of dollars, the supporting document (Council on Foreign Relations, Is 'Made in China 2025' a Threat to Global Trade? (August 2, 2018) actually states that the estimates put subsidies under this program in the hundreds of billions of dollars.

¹⁰⁴ Exhibit 35 (NC) Response to producer ERQ from BVGlazing Systems Ltd; Response to Producer Questionnaire Q30; pp. 9-10; Exhibit 61 (PRO) & 62 (NC) – Case Briefs of Canadian Producers, para. 77-81

¹⁰⁵ Exhibit 35 (NC) Response to producer ERQ from BVGlazing Systems Ltd; Response to Producer Questionnaire Q30., p. 8

¹⁰⁶ Exhibit 062 (NC) – Case Briefs of Canadian Producers, para. 74

¹⁰⁷ Exhibit 062 (NC) – Case Briefs of Canadian Producers, para. 76 and 123

¹⁰⁸ Exhibit 062 (NC) – Case Briefs of Canadian Producers, para. 84

[129] As detailed in the dumping section above, the Canadian producers argued that the already existing excess production capacity in the Chinese market, combined with weakening market conditions in their market will push Chinese producers to seek to increase sales to their export markets, including to Canada, given the attractiveness of the Canadian market. The Canadian producers maintain that these sales will not only be dumped, but they will be subsidized by an even greater amount than what was determined in the original investigation.

Parties Contending that Continued or Resumed Subsidizing is Unlikely

[130] None of the parties contended that continued or resumed subsidizing of subject goods from China is unlikely should the CITT's finding be rescinded.

[131] However, in its reply submission, Shenyang Yuanda did contest some of the allegations made by the Canadian producers in their case brief. Shenyang Yuanda argued that the Canadian producers misrepresented the subsidies it received resulting in an exaggeration of the amount of subsidies, which should typically be presented as a percentage of production or sales.¹⁰⁹ Shenyang Yuanda argued that on this basis, its financial statement shows subsidies equal to only 0.51% in 2016 and 0.14% in 2017, expressed as a percentage of sales. Shenyang Yuanda contends that this demonstrates that it received a de minimis amount of subsidy during the POR.

CONSIDERATION AND ANALYSIS – SUBSIDIZING

[132] In making a determination under paragraph 76.03(7)(a) of SIMA as to whether the expiry of the finding in respect of goods from China is likely to result in the continuation or resumption of subsidizing of these goods, the CBSA may consider factors identified in subsection 37.2(1) of the SIMR, as well as any other factors relevant in the circumstances.

[133] Guided by the aforementioned factors and having considered the information on the administrative record, the following list represents a summary of the CBSA's analysis conducted in this expiry review investigation with respect to subsidizing:

- the continued availability of subsidy programs for UWM exporters in China;
- the subsidizing of primary aluminum in China and other government intervention; and
- the countervailing measures against Chinese aluminum products in Canada and in other jurisdictions.

The continued availability of subsidy programs for UWM exporters in China

[134] At the time of the initiation of the original subsidy investigation in 2013, the CBSA had identified 180 subsidy programs to be investigated. Further to that investigation, the CBSA found that 33 of the identified programs had conferred benefits to at least one of the two cooperative exporters; Guangzhou Jangho Curtain Wall System Engineering Co. Ltd. (Guangzhou Jangho) and associated companies, and Shenyang Yuanda.¹¹⁰

¹⁰⁹ Exhibit 063 (PRO) & 064 (NC) - Reply Submissions filed on behalf of Shenyang Yuanda Aluminium Engineering Co., Ltd; par. 13

¹¹⁰ Exhibit 007 (NC) – CBSA – Statement of Reasons – Certain Wall Modules Originating in or Exported from China - Final Determination; para. 119, 121 and 127 and Appendix 2.

[135] At that time, the CBSA found that 100% of the goods exported from China were subsidized. The weighted average amount of subsidy, expressed as a percentage of the export price, was equal to 25.8%. The amounts of subsidy found for the cooperative exporters were equal to 3.8% and 5.3% of the export price, or 32.01 to 64.83 Renminbi (RMB) per m². For all other exporters, the amount of subsidy was determined under Ministerial Specification pursuant to subsection 30.4(2) of SIMA. The amount of subsidy found for non-cooperative exporters was equal to 41.6%, expressed as a percentage of the export price, or 458.31 RMB per m².¹¹¹

[136] The 33 programs which were found by the CBSA to be conferring benefits to the cooperating exporters included several direct subsidy programs, such as grants, preferential loans, and preferential tax programs and also a subsidy passed-through from the purchase of aluminum extrusion.

[137] Despite the limited information with respect to current subsidy programs specifically applicable to UWM producers and exporters, in part due to the non-participation by the GOC in this expiry review investigation, information on the record provides evidence of the continued availability of subsidy programs for UWM exporters in China.

[138] There is evidence on the record that *Program 166: Corporate Income Tax Reduction for New High-Technology Enterprises*, a subsidy program that was found to benefit both cooperating exporters at the time of the investigation¹¹² is still benefiting UWM producers. Under this program, some companies enjoy a preferential corporate tax rate of 15% relating to a preferential policy for high-tech enterprise. Considering the corporate tax rate of 25% in China, this represent a reduction of 40% of the company's income tax.

¹¹¹ Exhibit 007 (NC) – CBSA – Statement of Reasons – Certain Wall Modules Originating in or Exported from China - Final Determination, paras. 122, 128, 133 and 134.

¹¹² Exhibit 007 (NC) – CBSA – Statement of Reasons – Certain Wall Modules Originating in or Exported from China - Final Determination, Appendix 2.

[139] In addition, information on the record confirms that Shenyang Yuanda has been receiving government subsidies during the POR.¹¹³ The subsidies reported were as high as 0.5% of total revenue in 2016. While Shenyang Yuanda argued, in its reply submissions, that this amount is de minimis, the CBSA stresses that this amount is believed to represent only grants. Given that there were also other types of subsidy programs that were applicable to Shenyang Yuanda at the time of the original investigation, the total amount reported in Shenyang Yuanda's financial statements may represent only a portion of the total amount of subsidy received during the POR. For instance, exporters may have received benefits from the preferential tax subsidies discussed above, other types of tax benefits such as certain tariff and VAT refunds or exemptions (e.g. Program 19, Program 174, Program 176, which were found to have benefitted the cooperating exporters in the investigation), and preferential loans (e.g. Program 28 respecting preferential loans from the EXIM Bank). Additionally, it does not include the value of any subsidy passed-through from the purchase of aluminum extrusions, as further discussed below. The financial statements also do not provide information as to the nature of the grants, including whether they consist of export subsidies, in which case they would be allocated over export revenues only. In addition, the amount of grants indicated in the financial statements does not include any subsidies received by other entities within Shenyang Yuanda's corporate structure, which could be allocable to UWM.

[140] Among the subsidy programs found by the CBSA to have conferred benefits to UWM exporters in the original investigation were upstream subsidies received by aluminum extruders and passed-through to exporters of UWM through the purchase of aluminum extrusions. Aluminum extrusions are one of the principle inputs of UWM and one of its principle cost components.

¹¹³ Exhibit 064 (NC) - Reply Submissions filed on behalf of Shenyang Yuanda Aluminium Engineering Co., Ltd; par. 13

[141] There is currently a finding in place with respect to the subsidizing of aluminum extrusions from China. In that case, 56 potential subsidy programs were investigated and 15 of those programs were determined to have conferred benefits to the cooperative exporters.¹¹⁴ The information received from the cooperative exporters in that case indicates that they received benefits under one or more of the following programs:

- Preferential Tax Policies for Enterprises with Foreign Investment Established in the Coastal Economic Open Areas and in Economic and Technological Development Zones
- Research & Development (R&D) Assistance Grant
- Superstar Enterprise Grant
- Matching Funds for International Market Development for SMEs
- One-time Awards to Enterprises Whose Products Qualify for "Well-Known Trademarks of China" or "Famous Brands of China"
- Export Brand Development Fund
- Preferential Tax Policies for Foreign Invested Enterprises – Reduced Tax Rate for Productive FIEs Scheduled to Operate for a Period not less than 10 Years
- Preferential Tax Policies for Foreign-Invested Export Enterprises
- Local Income Tax Exemption and/or Reduction
- Exemption of Tariff and Import VAT for Imported Technologies and Equipment
- Patent Award of Guangdong Province
- Training Program for Rural Surplus Labor Force Transfer Employment
- Reduction in Land Use Fees
- Provincial Scientific Development Plan Fund
- Primary Aluminum Provided by Government at Less than Fair Market Value

[142] Countervailing measures with respect to Aluminum Extrusions are also applicable in Australia and in the United States.

¹¹⁴ Exhibit 025 (NC) – CBSA – Statement of Reasons – Certain Aluminum Extrusions Originating in or Exported from the People's Republic of China - Final Determination, para. 256.

[143] In August 2016, in a sunset review of its countervailing finding on Aluminum Extrusions from China originally made on April 4, 2011, the United States Department of Commerce (US DOC) found that the revocation of its countervailing duty finding on aluminum extrusions would likely lead to a continuation or recurrence of a countervailable subsidy at substantial rates.¹¹⁵ It is noted that aluminum extrusions that form part of UWM are included within the scope of the American measures on Aluminum Extrusions. In 2017, the U.S. International Trade Commission continued the countervailing findings on those goods.¹¹⁶ In December 2017, the US DOC, further to an administrative review of the order, determined that the mandatory respondents received countervailable subsidies during the period of review.¹¹⁷

[144] In a review of its measures applying to Aluminum Extrusions concluded in October 2017, the Australian authorities found that cooperating exporters benefited from subsidies that had been granted under a total of 32 programs.¹¹⁸ The subsidy margins varied between 0% and 4.5% of the export price for cooperating exporters.¹¹⁹

[145] Further, the Canadian, Australian and American authorities have all determined that the subsidies to the aluminum extrusion producers/exporters included benefits from the provision of primary aluminum at less than adequate remuneration, as discussed below.

Subsidizing of Primary Aluminum in China and Other Government Intervention

[146] The record contains evidence that the Chinese government continues to provide financial benefits to primary aluminum producers. For example, a report submitted to the U.S.-China Economic and Security Review Commission estimated benefits of US\$444 million to Aluminum Corporation of China Limited (Chalco), a Chinese SOE and China's largest primary aluminum producer, in the form of grants, preferential tax rates, preferential loans and preferential electricity prices by the government.¹²⁰ This amount was equivalent to a subsidy rate of 4.7% of revenues according to the report.¹²¹ As was the case at the time of the UWM investigation, subsidies may be passed through to aluminum extrusion producers and ultimately, in full or in part, to UWM producers.

¹¹⁵ U.S. Department of Commerce, Aluminum Extrusions from the People's Republic of China: Final Results of Expedited First Sunset Review of the Countervailing Duty Order, August 5, 2016; <https://www.federalregister.gov/documents/2016/08/05/2016-18656/aluminum-extrusions-from-the-peoples-republic-of-china-final-results-of-expedited-first-sunset>.

¹¹⁶ US ITC; Aluminum Extrusions From the People's Republic of China: Continuation of Antidumping and Countervailing Duty Orders; April 25, 2017; <https://www.federalregister.gov/documents/2017/04/25/2017-08352/aluminum-extrusions-from-the-peoples-republic-of-china-continuation-of-antidumping-and>

¹¹⁷ U.S. Department of Commerce, Aluminum Extrusions From the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2015; December 8, 2017, <https://www.federalregister.gov/documents/2017/12/08/2017-26488/aluminum-extrusions-from-the-peoples-republic-of-china-final-results-of-countervailing-duty>

¹¹⁸ Exhibit 014 (NC) – Australia Anti-Dumping Commission Report No. 392; Review of Anti-Dumping Measures Applying to Aluminum Extrusions Exported to Australia from the P.R. of China; pp. 41-42

¹¹⁹ *Ibid.*, p. 45

¹²⁰ Exhibit 014 (NC) – An Assessment of China's Subsidies to Strategic and Heavyweight Industries, Submitted to the U.S.-China Economic and Security Review Commission by Capital Trade Incorporated; p. 82

¹²¹ *Ibid.*, p 85

[147] In addition to directly subsidizing its aluminum industry, a report by the European Commission (EC) listed a number of instruments used by the GOC to control and influence its domestic aluminum industry.¹²² Although the EC report does not conclude whether such measures consist of subsidies, such as income or price support, the report does provide insight as to the GOC's intervention in the market by applying a number of different instruments. Such instruments include restrictive export-related measures on bauxite, a key input in aluminum production, with the effect of increasing domestic supply and lowering its cost. The GOC also implemented VAT policies that discourage the export of primary aluminum and its inputs, with the aim of encouraging exports of higher added value aluminum products, including aluminum extrusions and UWM. The result, as per the report, is a "depression of prices of primary aluminum in the Chinese domestic market, and thereby providing a significant cost advantage for Chinese producers of processed aluminum products".¹²³ Similarly, the GOC also implemented an export tax of 15% on unwrought aluminum and aluminum scrap, again shifting exports towards high added value products.¹²⁴

[148] The EC report also identified specific subsidies, in particular, the subsidizing of electricity, as yet another measure taken by the GOC to support its aluminum producers.¹²⁵ Such measures are significant considering that electricity accounts for as much as a third of primary aluminum production costs.¹²⁶

[149] These measures demonstrate the importance that the GOC has placed on its aluminum industry and in particular, the higher value-added downstream products, including aluminum extrusions and UWM. As demonstrated, the GOC is supporting these industries and providing the producers of aluminum products an advantage in the export markets. Several of these measures consist of countervailable subsidies. Such advantage extends to producers of UWM and are likely to continue to exist in the foreseeable future.

The countervailing Measures Against Chinese Aluminum Products in Canada and in Other Jurisdictions

[150] The existence of countervailing measures in place in Canada, Australia, the European Union (EU) and in the US concerning aluminum products from China reinforces the argument that Chinese exporters/producers of UWM products receive countervailable benefits from the GOC and the GOC has placed a great deal of importance on its aluminum industry and subsidized it accordingly.

¹²² Exhibit 14 (NC) – European Commission; Commission Staff Working Document on Significant Distortion in the Economy of the P.R. of China for the Purposes of Trade Defence Investigation, December 19, 2017, pp. 388

¹²³ Exhibit 14 (NC) – European Commission; Commission Staff Working Document on Significant Distortion in the Economy of the P.R. of China for the Purposes of Trade Defence Investigation, December 19, 2017, p. 389

¹²⁴ Exhibit 14 (NC) – European Commission; Commission Staff Working Document on Significant Distortion in the Economy of the P.R. of China for the Purposes of Trade Defence Investigation, December 19, 2017, p. 390

¹²⁵ Exhibit 14 (NC) – European Commission; Commission Staff Working Document on Significant Distortion in the Economy of the P.R. of China for the Purposes of Trade Defence Investigation, December 19, 2017, p. 390

¹²⁶ Exhibit 014 (NC) – An Assessment of China's Subsidies to Strategic and Heavyweight Industries, Submitted to the U.S.-China Economic and Security Review Commission by Capital Trade Incorporated; p. 83

[151] The CBSA currently has a countervailing measure in place against aluminum extrusions and photovoltaic modules and laminates from China.¹²⁷ Information on the administrative record indicates that Australia, the EU and the US also have countervailing measures against aluminum products from China. The products that are subject to the Australian countervailing measures include: Aluminum Extrusions, Aluminum road wheels, and Aluminum Zinc Coated Steel.¹²⁸ The European Union also has countervailing measures against crystalline silicon photovoltaic modules and key components.¹²⁹ The products that are subject to the US countervailing measures include: Aluminum Extrusions (including the aluminum extrusions that form part of UWM), certain aluminum foil, crystalline silicon photovoltaic cells, and certain crystalline silicone photovoltaic products.¹³⁰

[152] On the basis of the above, there are strong indications that the GOC will likely continue to subsidize its domestic UWM producers in the future, both directly and indirectly by subsidizing aluminum extrusion producers and/or the primary aluminum producers.

Determination Regarding Likelihood of Continued or Resumed Subsidizing

[153] Based on information on the record in respect of the continued availability of subsidy programs for UWM exporters in China, the subsidizing of primary aluminum in China and other government intervention, and the countervailing measures against Chinese aluminum products in Canada and in other jurisdictions, the CBSA determined that the expiry of the finding is likely to result in the continuation or resumption of subsidizing of certain UWM originating in or exported from China.

CONCLUSION

[154] For the purpose of making a determination in this expiry review investigation, the CBSA conducted its analysis within the scope of the factors found under subsection 37.2(1) of the SIMR. Based on the foregoing consideration of pertinent factors and an analysis of the information on the record, on January 24, 2019, the CBSA made a determination pursuant to paragraph 76.03(7)(a) of SIMA that the expiry of the CITT's finding made on November 12, 2013, in Inquiry No. NQ-2013-002:

- i. in respect of certain unitized wall modules originating in or exported from China is likely to result in the continuation or resumption of dumping of the goods; and
- ii. in respect of certain unitized wall modules originating in or exported from China is likely to result in the continuation or resumption of subsidizing of the goods.

¹²⁷ Exhibit 011 (NC) - WTO Semi-annual report under article 25.11 of the Agreement – Canada, G/SCM/N/328/CAN

¹²⁸ Exhibit 011 (NC) - WTO Semi-annual report under article 25.11 of the Agreement – United States of America, G/SCM/N/328/AUS

¹²⁹ Exhibit 011 (NC) - WTO Semi-annual report under article 25.11 of the Agreement – United States of America, G/SCM/N/328/UEU

¹³⁰ Exhibit 011 (NC) - WTO Semi-annual report under article 25.11 of the Agreement – United States of America, G/SCM/N/328/USA

FUTURE ACTION

[155] On January 25, 2019, the CITT commenced its inquiry to determine whether the expiry of the finding with respect to the dumping and subsidizing of certain UWM from China is likely to result in injury. The CITT's Expiry Review schedule indicates that it will make its decision by July 3, 2019.

[156] If the CITT determines that the expiry of the finding with respect to the goods is likely to result in injury, the CITT will make an order continuing the finding in respect of those goods, with or without amendment. If this is the case, the CBSA will continue to levy anti-dumping and/or countervailing duties on dumped and/or subsidized importations of the subject goods.

[157] If the CITT determines that the expiry of the finding with respect to the goods is not likely to result in injury, the CITT will make an order rescinding the finding in respect of those goods. Anti-dumping and/or countervailing duties would then no longer be levied on importations of the subject goods, and any anti-dumping and/or countervailing duties paid in respect of goods that were released after the date that the finding was scheduled to expire will be returned to the importer.

INFORMATION

[158] For further information, please contact the officers listed below:

Mail: SIMA Registry and Disclosure Unit
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Web site: www.cbsa-asfc.gc.ca/sima-lmsi

A handwritten signature in black ink, appearing to be 'DB' or similar initials, written in a cursive style.

Doug Band
Director General
Trade and Anti-dumping Programs Directorate