



OTTAWA, June 12, 2009

4214-23

STATEMENT OF REASONS

concerning a preliminary determination with
respect to the dumping of

**CERTAIN WATERPROOF FOOTWEAR
ORIGINATING IN OR EXPORTED FROM
THE PEOPLE'S REPUBLIC OF CHINA AND VIETNAM**

DECISION

Pursuant to subsection 38(1) of the *Special Import Measures Act*, the President of the Canada Border Services Agency made a preliminary determination of dumping on May 28, 2009, respecting waterproof footwear and waterproof footwear in nearly finished form, constructed wholly or in part of rubber and/or thermoplastic rubber (TPR), originating in or exported from the People's Republic of China and waterproof footwear and waterproof footwear in nearly finished form, constructed wholly or in part of rubber, thermoplastic rubber (TPR) and/or plastic, originating in or exported from Vietnam.

Cet *Énoncé des motifs* est également disponible en français. Veuillez vous reporter à la section « Renseignements ».
This *Statement of Reasons* is also available in French. Please refer to the "Information" section.

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SUMMARY OF EVENTS

[1] On January 8, 2009, the Canada Border Services Agency (CBSA) received a complaint from the Shoe Manufacturers' Association of Canada (SMAC) of Baie d'Urfé, Quebec. The complaint alleged that imports into Canada of certain waterproof footwear were being dumped and were causing injury to the Canadian industry. The subject goods include certain waterproof rubber footwear originating in or exported from the People's Republic of China (China) and certain waterproof rubber and/or plastic footwear originating in or exported from Vietnam.

[2] On January 29, 2009, pursuant to paragraph 32(1)(a) of the *Special Import Measures Act* (SIMA), the CBSA informed SMAC that the complaint was properly documented. The CBSA also notified the governments of China and Vietnam that the CBSA had received a properly documented complaint.

[3] The complainant provided evidence to support the allegation that imports of the subject goods into Canada were being dumped. The evidence also disclosed a reasonable indication that the dumping had caused injury or was threatening to cause injury to the Canadian industry.

[4] In accordance with subsection 31(1) of SIMA, the President of the CBSA (President) was of the opinion that there was evidence that the subject goods had been dumped, as well as evidence that disclosed a reasonable indication that the dumping had caused injury or was threatening to cause injury. Accordingly, the President initiated an investigation into the alleged injurious dumping of the subject goods on February 27, 2009.

[5] Upon receiving notice of the initiation of the investigation, the Canadian International Trade Tribunal (Tribunal) started a preliminary injury inquiry into whether the evidence disclosed a reasonable indication that the alleged dumping of the subject goods had caused injury or retardation or was threatening to cause injury. On April 28, 2009, pursuant to subsection 37.1(1) of SIMA, the Tribunal determined that there was evidence that disclosed a reasonable indication that the dumping of the subject goods had caused injury.

[6] On May 28, 2009, pursuant to subsection 38(1) of SIMA, the President made a preliminary determination of dumping with respect to the subject goods.

PERIOD OF INVESTIGATION

[7] The investigation covered all subject goods imported into Canada from October 1, 2007 to September 30, 2008, the period of investigation (POI).

INTERESTED PARTIES

Complainant

[8] SMAC submitted the complaint on behalf of its members who produce waterproof footwear made of plastic and/or rubber. The name and the address of the complainant is:

The Shoe Manufacturers' Association of Canada
90 Morgan Road, Suite 203
Baie d'Urfé QC H9X 3A8

Exporters

[9] At the initiation of the investigation, the CBSA identified 2,340 exporters¹ potentially shipping subject goods from import documentation and from the complaint. Given the large number of exporters, the CBSA relied upon paragraph 30.3(1)(a) of SIMA, which provides that margins of dumping may be determined in relation to the largest percentage of goods of each country that can reasonably be investigated if it is determined that it would be impracticable to determine a margin of dumping in relation to all goods because of the number of exporters, producers or importers.

[10] Of the 2,340 exporters identified at the initiation of the investigation, the CBSA identified 297 exporters that shipped in quantities valued at \$200,000² or more during the POI (sampled exporters). Of these, 263 shipped goods originating in China, 22 shipped goods originating in Vietnam, and 12 shipped goods originating in both China and Vietnam. These sampled exporters account for 75% of the quantity from China and 84% of the quantity from Vietnam of all waterproof footwear imports into Canada during the POI.

[11] The CBSA sent a Request for Information (RFI) to each of these sampled exporters. Non-sampled exporters were not requested to provide a response to an RFI.

Importers

[12] At the initiation of the investigation, the CBSA identified 1,637 importers potentially importing the subject goods from China and Vietnam during the POI. Of these, 153 imported footwear in quantities with a value of \$200,000³ or more (sampled importers). These importers account for 91% of the quantity of all waterproof footwear imports into Canada during the POI from China and Vietnam.

[13] The CBSA sent an RFI to each of these sampled importers. Non-sampled importers were not requested to provide a response to an RFI.

¹ Exporters includes vendors as well.

² Note that in some cases, this \$200,000 in exports includes non subject goods.

³ Note that in some cases, this \$200,000 in imports includes non subject goods.

PRODUCT DEFINITION

[14] The subject goods originating in or exported from the People's Republic of China are defined as:

“Waterproof footwear and waterproof footwear in nearly finished form, constructed wholly or in part of rubber and/or thermoplastic rubber (TPR), originating in or exported from the People's Republic of China.”

The distinctive feature of waterproof footwear is that both the sole portion and a portion of the upper, sufficient to give waterproof protection to the foot, are incorporated in a waterproof component which may be made of rubber or TPR. The goods subject to this investigation include waterproof footwear worn over the foot constructed to various heights, and waterproof footwear made of waterproof footwear bottoms combined with tops made of textiles or other materials. They may be constructed with or without liners, linings, fasteners or safety features.

Excluded from the definition of subject goods are ski boots; skating boots; and goods covered in the current Tribunal order number RR-2004-008, namely, snowmobile boots; rubber-bottom leather-top boots; all-rubber riding boots for equestrian purposes; and rubber “safety footwear” defined as footwear that meets safety standards established by the Canadian Standards Association.

[15] The subject goods originating in or exported from Vietnam are defined as:

“Waterproof footwear and waterproof footwear in nearly finished form, constructed wholly or in part of rubber, thermoplastic rubber (TPR) and/or plastic, originating in or exported from Vietnam.”

The distinctive feature of waterproof footwear is that both the sole portion and a portion of the upper, sufficient to give waterproof protection to the foot, are incorporated in a waterproof component which may be made of rubber, TPR and/or plastic. The goods subject to this investigation include waterproof footwear worn over the foot constructed to various heights, and waterproof footwear made of waterproof footwear bottoms combined with tops made of leather, textiles or other materials. They may be constructed with or without liners, linings, fasteners or safety features.

Excluded from the definition of subject goods are ski-boots and skating boots.

Additional Product Information⁴

[16] Waterproof footwear described as “waterproof rubber footwear” is produced, wholly or in part of natural rubber and/or synthetic rubber, by vulcanization, injection moulding, cementing or other processes. The term synthetic rubber includes TPR.

⁴ This section is based on the complaint. CBSA Dumping Exhibit #2, non-confidential version of the complaint, pages 8 and 9.

[17] Waterproof footwear described as “waterproof plastic footwear” is constructed wholly or in part of plastic. It is made from plastic resins by injection moulding or other processes. The term “plastic” includes polyvinyl chloride (PVC), polyurethane (PU), ethylene vinyl acetate (EVA) and other plastics. PVC is the plastic most commonly used to date in this type of footwear.

[18] Waterproof bottoms are boat-like components intended for incorporation in finished waterproof footwear. Waterproof bottoms are normally produced through vulcanization, injection-moulding and/or cementing processes. The waterproof bottom can consist of rubber, TPR, plastic or any combination of these materials. Where more than one of these materials is used in the waterproof bottom, the material with the greatest surface area will be considered as the defining material for the waterproof bottom.

[19] “Top” refers to the component which is attached to a waterproof bottom by stitching or other means.

[20] “Waterproof footwear in nearly finished form” includes footwear that can be rendered waterproof by the insertion of a plug, flap, etc., in or near the sole.

[21] Waterproof footwear includes footwear worn over the foot, with or without liners, linings, fasteners or safety features. These include red sole rubber boots, rain boots, hunting and fishing boots. In certain styles, such as duck shoes or winter boots, a boat-like (or shell-like) waterproof bottom may have trimmings, attachments, liners, collars or tops of synthetic or natural fabric, leather or imitation leather, or other materials. In addition, footwear that incorporates decorative stitching near the sole in the moulded or vulcanized boat-like component of the footwear is considered to be subject goods.

[22] For purposes of this complaint, over-the-shoe rubbers or overshoes are not considered to be subject goods.

[23] The product range of subject goods includes footwear manufactured for men, women, youth, and children.

[24] For purposes of this complaint, “*waterproof*” is defined as follows:

If the exterior of the bottom is partially submerged in water for a period of 24 hours, and water is not detected on the inside surface of the footwear, the sample is considered waterproof.

Production Process⁵

[25] Waterproof rubber footwear or a waterproof bottom may be produced by injection moulding or by the traditional method of cutting sheets of rubber and assembling them either by cementing and/or vulcanizing; or a combination of these processes. Waterproof footwear may

⁵ This section is based on the complaint. CBSA Dumping Exhibit #2, non-confidential version of the complaint, pages 7 and 8.

also be produced in combination with the stitched-product process. The combined stitched-product process would produce, for example, a rubber bottom, nylon-top or other synthetic fabric top, or leather top winter boot.

[26] With the injection-moulding process, a granulated chemical compound of TPR or plastic is heated and injected into steel moulds installed in moulding machines. Each mould dictates the size, style and number of colours of a moulded item. The compound is fed from a hopper into a heated barrel and a screw inside the barrel then injects the molten compound into a mould. The resulting product consists of an unfinished waterproof bottom or a waterproof boot. The moulded items are then cooled, extracted and trimmed. Components and markings are then added before the finished footwear is packed for shipping.

[27] The stitched-product process consists of cutting and sewing uppers of various materials, both natural and synthetic, including leather and imitation leather, boot collars, liners and various other components. These pieces are assembled and affixed, as required, to the injected bottoms described earlier.

[28] The vulcanization or lay-up process requires the preparation of a rubber compound that is calendered into sheeting. Footwear parts are then cut from the sheets of rubber, laid up on forms and secured with rubber cement. The laid-up footwear is then vulcanized in an oven so that the rubber is irreversibly cured.

[29] Waterproof rubber footwear or a waterproof bottom produced in a combined process would include such processes as cementing a vulcanized sole to a moulded component to form the waterproof footwear or waterproof bottom.

[30] The way in which production operations are arranged varies from company to company from typical assembly-line operations, where each worker performs a specific task, to work modules consisting of a small team working together on a particular product from start to finish.

Classification of Imports

[31] The waterproof footwear subject to this investigation are normally imported into Canada under the following Harmonized System (HS) classification numbers:

6401.10.11.00	6402.19.90.90	6404.11.99.90
6401.10.19.00	6402.91.10.00	6404.19.90.20
6401.10.20.00	6402.91.90.91	6404.19.90.91
6401.92.11.00	6402.91.90.92	6404.19.90.92
6401.92.12.00	6402.91.90.93	6404.19.90.93
6401.92.91.90	6403.19.90.90	
6401.92.92.90	6403.40.00.10	
6401.99.11.00	6403.91.00.91	
6401.99.12.00	6403.91.00.92	
6401.99.19.00	6403.91.00.93	
6401.99.20.00		

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

CANADIAN INDUSTRY

[33] The Canadian industry for the subject footwear is composed of six producers. The names and addresses of the producers are:

Air Boss Defence
881, rue Landry
Acton Vale QC J0H 1A0

Baffin Inc.
346 Arvin Avenue
Stoney Creek ON L8E 2M5

Chaussures Yéti Inc.
9935, boul. Saint-Vital
Montréal-Nord QC H1H 4S5

Genfoot Inc.
1940, 55^e Avenue
Montréal QC H4T 3H3

Hichaud Inc.
2485, rue Neuviale
Québec QC G1P 3A6

Rallye Footwear Inc.
9777, rue Colbert
Anjou QC H1J 1Z9

IMPORTS INTO CANADA

[34] During the preliminary phase of the investigation, the CBSA further refined the estimated volume of imports based on information from its internal Customs Commercial System (CCS), CBSA accounting documents and other information received from exporters and importers.

[35] The following table presents, for purposes of the preliminary determination, the CBSA's estimates of the volume of goods imported during the POI. The CBSA based its estimates on the volume of goods imported during the POI on CCS data for HS heading number 6401 and on information received from exporters and importers under HS headings 6402, 6403 and 6404.

Imports of Waterproof Footwear (Oct. 1, 2007 to Sept. 30, 2008)

Country	Pairs	% of Total
China	1,425,106	60.8%
Vietnam	466,870	19.9%
Other	451,219	19.3%
Total	2,343,195	100.0%

INVESTIGATION PROCESS

[36] At the initiation of the investigation, the CBSA requested information from 297 sampled exporters and 153 sampled importers. Non-sampled exporters and importers were not requested to respond to an RFI. However, any importer or exporter of subject goods could request an RFI from the CBSA and choose to participate in the investigation.

[37] RFIs were sent to exporters and vendors in China and Vietnam and to vendors who may potentially be shipping subject goods from 15 other countries and the special administrative region of Hong Kong. All of the RFIs included instructions requesting exporters that were not manufacturers of the subject goods to forward a copy of the RFI to the respective manufacturers in China or Vietnam.

[38] The CBSA received ten complete submissions from sampled exporters of subject goods (cooperative exporters). There were five cooperative exporters located in China, four in Vietnam and one (a vendor related to one of the Chinese exporters) in Korea. As well, responses were received from three non-sampled exporters located in China. Information from these companies has not been taken into consideration for purposes of the preliminary determination.

[39] In addition to the exporters listed above, 26 exporters responded that they did not export subject goods and five exporters responded that they would not be participating in this investigation. Two exporters located in the United States, two from Hong Kong, one from China and one from Vietnam provided incomplete responses.

[40] The CBSA received 70 responses to the RFI from importers as follows: 28 provided a response pertaining to this investigation, 38 importers reported that they do not import subject goods and 4 importers declined to participate in the investigation.

DUMPING INVESTIGATION

[41] Normal values are generally based on the domestic selling prices of the goods in the country of export, or on the full cost of the goods including administrative, selling and all other costs plus a reasonable amount for profit.

[42] The export price of goods sold to importers in Canada is generally based on the lesser of the exporter's sale price for the goods or the importer's purchase price. These prices are adjusted where necessary by deducting the costs, charges, expenses, duties and taxes resulting from the exportation of the goods. When the export price is less than the normal value, the difference is the margin of dumping.

[43] Where a given exporter has been determined to be dumping on an overall or net basis, the total quantity of exports attributable to that exporter (i.e. 100%) is considered dumped. Similarly, where a given exporter's net aggregate dumping results are zero, then the total quantity of exports deemed to be dumped by that exporter is zero.

[44] Where information submitted to the CBSA by sampled exporters was found to be complete, such information was used to estimate the margins of dumping.

[45] For sampled exporters that did not provide a complete response, margins of dumping were estimated by using the highest margin of dumping found for an individual transaction by a cooperative exporter of subject goods of the same country.

[46] For non-sampled exporters, margins of dumping were estimated based upon the weighted average margin of dumping for cooperative exporters of goods of the same country, analyzed thus far during the investigation.

[47] In estimating the weighted average margin of dumping for a particular country, the average margins of dumping found in respect of each sampled cooperative exporter and each sampled uncooperative exporter were weighted according to each exporter's volume of subject goods exported to Canada during the POI.

MARGINS OF DUMPING BY EXPORTER (CHINA)

[48] Normal values could not be established on the basis of the domestic selling prices of the goods in China as all sampled exporters that provided a response to the RFI are export oriented firms that do not have domestic sales. As a consequence, all normal values were estimated on the basis of the aggregate of the cost of production of the goods, a reasonable amount for administrative, selling and other costs, and, a reasonable amount for profit.

[49] The full costs of production and reasonable amounts for selling and administrative expenses were based on unverified data provided by the exporters. The amount for profit was based on the weighted average profit earned on Chinese domestic sales of three footwear and sports apparel companies that are listed on the Hong Kong and Singapore stock exchanges. The resulting profit is 25.2% of full costs.

[50] For purposes of the preliminary determination, export prices were estimated using reported export pricing data provided by the exporters of the goods.

[51] Specific margins of dumping for each of the exporters in China that provided a complete and timely response to the CBSA's dumping RFI are as follows:

Chu-Shun Shoes

[52] Chu-Shun Shoe Factory (CSS) is a foreign-owned private enterprise in Dongguan City, Guangdong Province, China. They produce vulcanized shoes, walking shoes and sport shoes.

[53] For export sales to Canada, the unrelated Canadian importer sends a purchase order to a trading company located in Chinese Taipei. CSS confirms the order and arranges for production. Exports to Canada are shipped directly to the unrelated importer in Canada. Export selling price data, including applicable export price adjustments, provided by CSS in its submission was used as the basis for estimating export price for purposes of the preliminary determination

[54] The weighted average normal value was compared with the weighted average export price for all subject goods imported into Canada during the POI. It was found that the goods exported by CSS were dumped by an estimated margin of dumping of 26.1%, expressed as a percentage of export price.

Mudanjiang Baiyue Shoemaking Company

[55] Mudanjiang Baiyue Shoe-making Co., Ltd (Baiyue) is a joint-venture limited liability company (75% share owned by Chinese parties, 25% share owned by Hong Kong based company known as Century Glory Industrial Ltd.). The company is located in Mudanjiang City, Heilongjiang Province, China. Baiyue produces slush molded footwear, nylon boots and waterproof boots.

[56] Exports to Canada are sold and shipped directly to an unrelated importer in Canada. Export selling price data, including applicable export price adjustments, provided by Baiyue in its submission was used as the basis for estimating export price for purposes of the preliminary determination.

[57] The weighted average normal value was compared with the weighted average export price for all subject goods imported into Canada during the POI. It was found that the goods exported by Baiyue were dumped by an estimated margin of dumping of 7.8%, expressed as a percentage of export price.

Suzhou New World Rubber

[58] Suzhou New World Rubber Co., Ltd. (SNW) is a wholly foreign-owned limited liability company in Suzhou City, Jiangsu Province, China. SNW is 100% owned by C&K Trading Co., Ltd. located in South Korea. SNW produces all-over rubber wellies, rubber chukkas, shoes and clogs.

[59] Exports to Canada are sold and shipped directly to an unrelated importer in Canada. Export selling price data, including applicable export price adjustments, provided by SNW in its submission was used as the basis for estimating export price for purposes of the preliminary determination.

[60] The weighted average normal value was compared with the weighted average export price for all subject goods imported into Canada during the POI. It was found that the goods exported by SNW were dumped by an estimated margin of dumping of 8.9%, expressed as a percentage of export price.

Wuhu Fengxue Rubber Co. Ltd.

[61] Wuhu Fengxue Rubber Co., Ltd. is a privately held limited company incorporated and operating in China. The company was established in 2004 and runs two production lines.

[62] Exports to Canada are sold through its sales arm, TW Sports Inc., a privately held limited company operating from Korea. Export selling price data provided by Wuhu Fengxue in its submission was used as the basis for estimating export price for purposes of the preliminary determination

[63] The weighted average normal value was compared with the weighted average export price for all subject goods imported into Canada during the POI. It was found that the goods exported by Wuhu Fengxue were dumped by an estimated weighted average margin of dumping of 33.4%, expressed as a percentage of export price.

Wuhu Hwasong Footwear Company Limited

[64] Wuhu Hwasong Footwear Co. Ltd. is a privately held limited company incorporated and operating in China. The company was established in 2004 and runs eight production lines.

[65] Exports to Canada are sold through its sales arm, TW Sports Inc., a privately held limited company operating from Korea. Export selling price data provided by Wuhu Hwasong in its submission was used as the basis for estimating export price for purposes of the preliminary determination.

[66] The weighted average normal value was compared with the weighted average export price for all subject goods imported into Canada during the POI. It was found that the goods exported by Wuhu Hwasong were dumped by an estimated margin of dumping of 12.1%, expressed as a percentage of export price.

Margins of Dumping - Other exporters

[67] For sampled exporters that did not respond to the RFI, or provided an incomplete submission, the margins of dumping were estimated using the highest transaction margin of dumping for China (52.3%), expressed as a percentage of export price, as determined for cooperative exporters.

[68] For non-sampled exporters, normal values were estimated based upon the weighted average margin of dumping for cooperative Chinese exporters, analyzed thus far during the investigation.

Average Weighted Margin of Dumping - China

[69] The overall results reveal that 100% of the subject waterproof footwear from China was dumped by an estimated weighted average margin of dumping of 43.9%, expressed as a percentage of export price.

MARGINS OF DUMPING BY EXPORTER (VIETNAM)

[70] Normal values could not be established on the basis of the domestic selling prices of the goods in the country of export as all sampled exporters that provided a response to the RFI are export oriented firms that do not have domestic sales. As a consequence, all normal values were estimated on the basis of the aggregate of the cost of production of the goods, a reasonable amount for administrative, selling and other costs, and, a reasonable amount for profits.

[71] The full costs of production and reasonable amounts for selling and administrative expenses were based on unverified data provided by the exporters. Information was not available to estimate a reasonable amount for profits for three of the Vietnamese exporters for purposes of the preliminary determination. In the absence of such information, the CBSA used the profit of China, which was based on the weighted average profit earned on Chinese domestic sales of three footwear and sports apparel companies that are listed on the Hong Kong and Singapore stock exchanges, for these three companies. The resulting profit is 25.2% of full costs.

[72] For purposes of the preliminary determination, export prices were estimated using reported export pricing data provided by the exporters of the goods.

[73] Specific margins of dumping for each of the exporters in Vietnam that provided a complete and timely response to the CBSA's dumping RFI are as follows:

Cong Ty Tnhh Stateway Vietnam

[74] Cong Ty Tnhh Giay Stateway (Stateway) is a privately held limited company. Stateway is owned by Stateway Enterprise Ltd which is 100% owned by Symphony Holdings Limited, a public company listed in Hong Kong but incorporated in Bermuda. The principal activities of the Group are the manufacturing and trading of footwear, property investments and investment holding.

[75] Exports to Canada are sold via Stateway Enterprise Ltd. located in Hong Kong and are shipped directly from Vietnam to customers in Canada. Export selling price data, including applicable export price adjustment, provided by Stateway in its submission was used as the basis for estimating export price for purposes of the preliminary determination.

[76] The weighted average normal value was compared with the weighted average export price for all subject goods imported into Canada during the POI. It was found that the goods exported by Stateway were dumped by an estimated margin of dumping of 5.2%, expressed as a percentage of export price

Fulgent Sun Footwear Co. Ltd.

[77] Fulgent Sun Footwear (Fulgent) is a foreign owned company established by a Chinese Taipei resident under the Law of Foreign Investment in Vietnam. Fulgent Sun Enterprises Ltd. is the parent company that also owns Capital Bright International Trading Co., Ltd. and Fujian Sunshine Footwear Co. Ltd. Fulgent designs and produces footwear.

[78] Exports to Canada are sold via Capital Bright International Trading Co. Ltd. located in Chinese Taipei and are shipped directly from Vietnam to customers in Canada. Export selling data, including applicable export price adjustment, provided by Fulgent in its submission was used as the basis for estimating export price for purposes of the preliminary determination.

[79] The weighted average normal value was compared with the weighted average export price for all subject goods imported into Canada during the POI. It was found that the goods exported by Fulgent were dumped by an estimated margin of dumping of 14.8%, expressed as a percentage of export price.

Pou Yuen

[80] Pou Yuen Vietnam Company Limited is incorporated in Vietnam as a 100% foreign invested enterprise. The principal activities of the company are to produce and sell athletic shoes, tourists' leather and synthetic shoes, waterproof footwear, vacuum cleaner machines, and conveyor belts. Pou Yuen Vietnam Company Limited officially started its operations in Vietnam on November 1, 1997.

[81] Exports to Canada are shipped from Vietnam to unrelated customers in Canada. Export selling price data, including applicable export price adjustments, provided by Pou Yuen Vietnam Company Limited in its submission was used as the basis for estimating export price for purposes of the preliminary determination.

[82] The weighted average normal value was compared with the weighted average export price for all subject goods imported into Canada during the POI. Normal values were estimated using Pou Yuen's profit earned on domestic sales of related products. It was found that the goods exported by Pou Yuen Vietnam Company Limited were dumped by an estimated margin of dumping of 23.9%, expressed as a percentage of export price.

Vinh Long Footwear

[83] Vinh Long Footwear Company Limited (Vinh Long) is a limited liability company incorporated in Vietnam. Vinh Long Footwear is a footwear manufacturer. The principal activities of the company are to produce and sell footwear to the specifications of their customers.

[84] Exports to Canada are sold via Vinh Long's related trading arm, Shiny East Limited, located in Chinese Taipei and are shipped from Vietnam to unrelated customers in Canada. Export selling price data, including applicable export price adjustments, provided by the

company in its submission was used as the basis for estimating export price for purposes of the preliminary determination.

[85] The weighted average normal value was compared with the weighted average export price for all subject goods imported into Canada during the POI. It was found that the goods exported by Vinh Long were dumped by an estimated margin of dumping of 27.4%, expressed as a percentage of export price.

Margins of Dumping - Other exporters

[86] For sampled exporters that did not respond to the RFI, or provided an incomplete submission, the margins of dumping were estimated using the highest transaction margin of dumping for Vietnam (49.0%), expressed as a percentage of export price, as determined for cooperative exporters.

[87] For the non-sampled exporters, normal values were estimated based upon the weighted average margin of dumping for cooperative Vietnamese exporters, analyzed thus far during the investigation.

Average Weighted Margin of Dumping - Vietnam

[88] The overall results reveal that 100% of the subject waterproof footwear from Vietnam was dumped by an estimated weighted average margin of dumping of 22.5%, expressed as a percentage of export price.

[89] A summary of the estimated margins of dumping and provisional duty payable is contained in Appendix 1.

SUMMARY OF RESULTS – DUMPING

Period of Investigation – October 1, 2007 to September 30, 2008

Country	Estimated Weighted Average Margin of Dumping By Country	Imports by Country as Percentage of Total Imports	Volume of Dumped Goods as Percentage of Total Imports
China	43.9%	60.8%	60.8%
Vietnam	22.5%	19.9%	19.9%

[90] Under subsection 35(1) of SIMA, the President is required to terminate an investigation prior to the preliminary determination if he is satisfied that the margin of dumping of the goods of a country is insignificant or that the volume of dumped goods of a country is negligible. Pursuant to subsection 2(1) of SIMA, a margin of dumping of less than 2% is defined as

insignificant, whereas a volume of dumped goods from a country forming less than 3% of total imports is considered negligible.

[91] As shown in the table above, the estimated margins of dumping of subject waterproof footwear from China and Vietnam is above 2% and is, therefore, not insignificant. As well, the volume of dumped goods from China and Vietnam is above 3%, and is, therefore, not negligible.

DECISION

[92] Based on the preliminary results of the investigation, the CBSA on May 28, 2009, made a preliminary determination of dumping respecting certain waterproof footwear originating in or exported from the People's Republic of China and Vietnam, pursuant to subsection 38(1) of SIMA.

PROVISIONAL DUTY

[93] Pursuant to subsection 8(1) of SIMA, provisional duties will be applied to dumped waterproof footwear that are released during the provisional period commencing on the day the preliminary determination is made, and ending on the earlier of the day on which the CBSA causes the investigation to be terminated pursuant to subsection 41(1) or the day on which the Tribunal makes an order or finding under subsection 43(1).

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

FUTURE ACTION

The Canada Border Services Agency

[95] The CBSA will continue its investigation and will make a final decision by August 26, 2009.

[96] If the CBSA is satisfied that the goods were dumped and that the margin of dumping is not insignificant, a final determination will be made. Otherwise, the CBSA will terminate the investigation and any provisional duties paid, or security posted, will be returned to importers.

The Canadian International Trade Tribunal

[97] The Tribunal has begun its full inquiry into the question of injury to the Canadian industry. The Tribunal is expected to issue its finding by September 25, 2009.

[98] If the Tribunal finds that the dumping has not caused injury or is not threatening to cause injury, the proceedings will be terminated and all provisional duties collected, or security posted, will be returned. If the Tribunal makes a finding of injury, anti-dumping duties will be imposed on imports of subject footwear.

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

RETROACTIVE DUTY ON MASSIVE IMPORTATIONS

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

UNDERTAKINGS

[101] After a preliminary determination of dumping, exporters may give a written undertaking to revise selling prices to Canada so that the margin of dumping or the injury caused by the dumping is eliminated.

[102] Acceptable undertakings must account for all, or substantially all, of the exports to Canada of the dumped goods. In the event that an undertaking is accepted, the required payment of provisional duty on the goods would be suspended.

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

[104] SIMA allows all interested parties to make representations concerning any undertaking proposals. The CBSA will maintain a list of interested parties and will notify them should an undertaking proposal be received. Persons wishing to be notified must provide their name, address, telephone, fax, or email address, to one of the officers listed below. Interested parties may also consult the CBSA Web site noted below for information on undertakings offered in this investigation. A notice will be posted on the CBSA Web site when an undertaking proposal is

received. Interested parties have nine days from the date the undertaking offer is received to make representations.

PUBLICATION

[105] A notice of this preliminary determination of dumping will be published in the Canada Gazette pursuant to paragraph 38(3)(a) of SIMA.

INFORMATION

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

Mail	SIMA Registry and Disclosure Unit Anti-dumping and Countervailing Program Trade Programs Directorate Canada Border Services Agency 100 Metcalfe Street, 11th Floor Ottawa ON K1A 0L8 CANADA	
Telephone	Robert Cousineau	613-954-7183
	Véronique Pouliot	613-954-1641
Fax	613-948-4844	
E-mail	SIMARegistry@cbsa-asfc.gc.ca	
Web site	www.cbsa-asfc.gc.ca/sima	



M.R. Jordan
Director General
Trade Programs Directorate

Attachments

APPENDIX 1 – SUMMARY OF ESTIMATED MARGINS OF DUMPING AND PROVISIONAL DUTIES PAYABLE

Exporter – China Origin Goods	Estimated Margin of Dumping	Provisional Duty*
<i>Co-operative Exporters:</i>		
Chu-Shun Shoes	26.1%	26.1%
Suzhou New World Rubber	8.9%	8.9%
Wuhu Hwasong Footwear Company Limited	12.1%	12.1%
Wuhu Fengxue Rubber Co., Ltd.	33.4%	33.4%
Mudanjiang Baiyue Shoemaking Company	7.8%	7.8%
<i>Non-Sampled Exporters:</i>	21.7%	21.7%
<i>Non-cooperative Exporters:</i>	52.3%	52.3%
Exporter – Vietnam Origin Goods	Estimated Margin of Dumping	Provisional Duty*
<i>Co-operative Exporters:</i>		
Vinh Long Footwear	27.4%	27.4%
Pou Yuen	23.9%	23.9%
Fulgent Sun Footwear Co. Ltd.	14.8%	14.8%
Cong Ty Tnhh Stateway Vietnam	5.2%	5.2%
<i>Non-Sampled Exporters:</i>	16%	16%
<i>Non-cooperative Exporters:</i>	49%	49%

* Expressed as a percentage of export price.