



Canada Border
Services Agency

Agence des services
frontaliers du Canada

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CVD/135

OTTAWA, March 19, 2013

STATEMENT OF REASONS

Concerning the initiation of investigations into the dumping and subsidizing of

**CERTAIN UNITIZED WALL MODULES ORIGINATING IN OR EXPORTED FROM
THE PEOPLE'S REPUBLIC OF CHINA**

DECISION

Pursuant to subsection 31(1) of the *Special Import Measures Act*, the President of the Canada Border Services Agency initiated investigations on March 4, 2013, respecting the alleged injurious dumping and subsidizing of 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.

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

Canada

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SUMMARY

[1] On January 14, 2013, Allan Window Technologies, Ferguson Neudorf Glass Inc., Flynn Canada Ltd., Inland Glass & Aluminum Ltd./Aluminum Curtainwall Systems Inc., Oldcastle Building Envelope, Sota Glazing Inc., Starline Architectural Windows Ltd., State Windows Corporation, Toro Aluminum/Toro Glasswall Inc. and Windsor Glass Company (1992) Ltd. operating as Contract Glaziers, (hereafter ‘the Complainants’) filed a complaint with the Canada Border Service Agency’s (CBSA) Anti-dumping and Countervailing Directorate.

[2] Investigations respecting certain unitized wall modules from China were previously initiated on July 16, 2012. On September 14, 2012, the Canadian International Trade Tribunal (Tribunal) terminated the preliminary injury inquiry after finding that the evidence did not disclose a reasonable indication that the dumping and subsidizing of the subject goods had caused injury or retardation or was threatening to cause injury. As a result, on September 17, 2012 the CBSA terminated the investigations of dumping and subsidizing in respect of these goods. This complaint concerns the same goods that were subject to these investigations.

[3] In this new complaint filed on January 14, 2013, the Complainants provided evidence to support the allegations that certain unitized wall modules from China have been dumped and subsidized. The evidence also addressed the injury concerns outlined in the Tribunal’s preliminary injury inquiry *Determination and Reasons* issued on October 1, 2012. The evidence discloses a reasonable indication that the dumping and subsidizing have caused injury and are threatening to cause injury to the Canadian industry producing these goods.

[4] On February 1, 2013, pursuant to paragraph 32(1)(a) of the *Special Import Measures Act* (SIMA), the CBSA informed the Complainants that the complaint was properly documented. The CBSA also notified the Government of China (GOC) that a properly documented complaint had been received and provided the GOC with the non-confidential version of the subsidy portion of the complaint.

[5] Although the GOC was informed that it was entitled to consultations prior to the initiation of the investigations, pursuant to Article 13.1 of the *Agreement on Subsidies and Countervailing Measures*, the GOC did not request any such consultations.

[6] On March 4, 2013, pursuant to subsection 31(1) of SIMA, the President of the CBSA (President) initiated investigations respecting the dumping and subsidizing of certain unitized wall modules from China.

INTERESTED PARTIES

Complainants

[7] The Complainants account for a major proportion of the production of like goods in Canada. The Complainants' goods are produced at manufacturing facilities at various locations in Canada.

The names and addresses of the Complainants are:

Allan Window Technologies
131 Caldari Rd., Unit #1
Concord, ON L4K 3Z9

Ferguson Neudorf Glass Inc.
4275 North Service Road
Beamsville, ON L0R 1B1

Flynn Canada Ltd.
6435 Northwest Drive
Mississauga, ON L4V 1K2

Inland Glass & Aluminum Ltd./Aluminum Curtainwall Systems Inc.
1820 Kryczka Place
Kamloops, B.C. V1S 1S4

Oldcastle Building Envelope
210 Great Gulf Drive
Concord, ON L4K 5W1

Sota Glazing Inc.
443 Railside Drive
Brampton, ON L7A 1E1

Starline Architectural Windows Ltd.
9380 198th Street
Langley, B.C. V1M 3C8

State Window Corporation
20 Corrine Court
Concord, ON L4K 5A4

Toro Aluminum/Toro Glasswall Inc.
330 Applewood Crescent
Concord, ON L4K 4V2

Windsor Glass Company (1992) Ltd.
Operating as Contract Glaziers
620 Sprucewood, PO Box 7177
Windsor, ON N9C 3Z1

[8] Other producers of like goods in Canada include: Aluminum Window Design Ltd., Applewood Glass & Mirror Inc., Basic Structures, Epsilon Concept Inc., Lessard Group Inc., Gamma Industries Gamma Windows and Walls International Inc., Noram Enterprises Inc., OVG Inc., Phoenix Glass Inc., Primeline Window and Doors Inc., Quest Window Systems Inc., Transit Glass Inc., Verval Ltd., and Zimcor. All Canadian producers with the exception of Aluminum Window Design Ltd., Basic Structures, Gamma Industries Gamma Windows and Walls International Inc. and Zimcor provided letters supporting the complaint¹.

Exporters

[9] The CBSA identified 64 potential exporters and producers of certain unitized wall modules from China over the period of January 1, 2011 to December 31, 2012 from information provided by the Complainants and CBSA import documentation.

Importers

[10] The CBSA identified 11 potential importers of certain unitized wall modules from China over the period of January 1, 2011 to December 31, 2012 from information provided by the Complainants and CBSA import documentation.

Government of China

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

¹ Dumping/Subsidy Exhibits 3 (NC), 4 (NC), 5 (NC), 6 (NC), 7 (NC), 8 (NC), 9 (NC), 10 (NC), 11 (NC), 12 (NC), 28 (NC), 29 (NC), 20

PRODUCT INFORMATION

Definition

[12] For the purpose of these investigations, the subject goods 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 Information

[13] Subject and like goods unitized wall modules are an aluminum -framed engineered fenestration product which forms the building envelope or façade for multi-story buildings. The two main styles of unitized wall modules building envelope systems are referred to as “curtain wall” and “window wall”.

[14] 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.

[15] 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.

[16] 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 when tested in accordance with American Society of Testing and Materials ("ASTM") standard E283 at 0.3kPa 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 liters of water per square meter 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 liters of water per square meter 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 W/m^2C for vision glass areas and 1.5 W/m^2C for opaque areas (including framing) or equivalent proprietary or other internationally accepted standard".

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

[18] 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.

[19] The subject goods do not include non-unitized systems such as “stick systems” or “point-fixing systems”. Stick system building envelopes or façades 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 façade 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.

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

[21] 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 complaint. These products cannot be “unitized” and are not subject goods.

Production Process

[22] 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.

[23] 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.

[24] 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.

[25] 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.

[26] 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.

[27] 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

[28] Under the 2011 Customs Tariff, the goods subject to the product definition were normally imported into Canada under the following Harmonized System (HS) classification numbers:

7610.10.00.20
7610.90.00.90

[29] Under the 2012 Customs Tariff, the subject goods are normally imported into Canada under the following HS classification numbers:

7610.10.00.20
7610.90.10.90
7610.90.90.90

[30] Certain importers may also be classifying the subject goods under the following HS classification numbers:

4016.93.99.10	7318.15.90.49
4016.93.99.90	7604.29.20.30
6802.23.00.10	7610.10.00.10
6806.10.90.90	7610.10.00.20
7005.29.00.98	7610.90.00.90
7008.00.00.00	7610.90.90.90
7016.90.00.19	7610.90.90.30
7308.30.00.21	

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

LIKE GOODS

[32] Subsection 2(1) of SIMA defines "like goods", in relation to any other goods, as goods that are identical in all respects to the other goods, or in the absence of identical goods, goods the uses and other characteristics of which closely resemble those of the other goods.

[33] Unitized wall modules produced by the domestic industry compete directly for the same building contracts as the unitized wall modules imported from China. The goods produced in Canada are substitutable with unitized wall modules produced in China. Therefore, the CBSA has concluded that unitized wall modules produced by the Canadian industry constitute like goods to the unitized wall modules produced in China. Unitized wall modules are considered a single class of goods.

THE CANADIAN INDUSTRY

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

Standing

[35] Pursuant to subsection 31(2) of SIMA no investigation may be initiated unless:

- a) the complaint is supported by domestic producers whose production represents more than fifty per cent of the total production of like goods by those domestic producers who express either support for or opposition to the complaint; and
- b) the production of the domestic producers who support the complaint represents twenty-five per cent or more of the total production of like goods by the domestic industry.

[36] Based on an analysis of the information provided in the complaint and letters of support provided by other Canadian producers, the CBSA is satisfied that the complaint is supported by domestic producers, who represent more than 50 percent of the total production of those domestic producers expressing an opinion, and who represent more than 25 percent of unitized wall modules production in Canada.

THE CANADIAN MARKET

[37] The domestic industry and the Chinese exporters sell certain unitized wall modules through the same channels of distribution to both general contractors and owners of building projects in Canada.

[38] The Complainants estimated the import portion of the Canadian market using their commercial intelligence.

[39] The Complainant's commercial intelligence indicated that China, the Federal Republic of Germany and the Republic of Korea are the only countries that export certain unitized wall modules to Canada.

[40] The Complainants provided estimates regarding the Canadian market for certain unitized wall modules. These figures are based on their own domestic sales reports, commercial intelligence and on publicly available import data.

[41] The CBSA conducted its own analysis of imports of goods based on actual import data from CBSA import documentation.

[42] A review of CBSA import data demonstrated a similar pattern to that provided by the Complainants with respect to subject good imports from China. The CBSA also found that other countries may have exported unitized wall modules in addition to China and the Republic of Korea.

[43] Detailed information regarding the volume of subject imports and domestic production cannot be divulged for confidentiality reasons. The CBSA has, however, prepared the following table to show the estimated import share of certain unitized wall modules in Canada.

**CBSA Estimates of Import Share
(By Value²)**

Country of Origin	2010	2011	2012
China	91.1%	99.7%	80.6%
Korea	8.4%	0.1%	6.8%
USA	0%	0.1%	1.5%
Other Countries	0.5%	0.1%	11.1%
Total Imports	100%	100%	100%

EVIDENCE OF DUMPING

[44] The Complainants allege that subject goods from China have been injuriously dumped into Canada. Dumping occurs when the normal value of the goods exceeds the export price to importers in Canada.

² The CBSA's import documentation was used to estimate the imports of subject goods during the POI. Since import volume information on the customs documentation was reported in various units of measure (i.e. m², number of modules, kg, etc.), it was not feasible to estimate the imports of subject goods by volume. As a result, sales value was used as the unit of measure for estimating imports of subject goods.

[45] Normal value is generally based on the domestic selling price of like goods in the country of export where competitive market conditions exist, or on the full cost of the goods plus a reasonable amount for profit.

[46] The complainants alleged that the unitized wall module industry in China may not be operating under competitive market conditions and as such, normal values should be determined under section 20 of the SIMA. The CBSA did not initiate a section 20 inquiry; refer to the “Analysis of Section 20 Allegations” section.

[47] The export price of goods sold to importers in Canada is the lesser of the exporter's selling price and the importer's purchase price, less all costs, charges, and expenses resulting from the exportation of the goods.

[48] The Complainants’ allegations of dumping are based on a comparison of estimated normal values of the allegedly dumped goods with estimated export prices to Canada.

[49] The CBSA's analysis of the alleged dumping is based on a comparison of the CBSA's estimated normal values with the estimated export prices. Estimates of normal value and export price are discussed below.

Normal Value

[50] The Complainants did not have any information on domestic sales of like goods in China. As such, they were unable to estimate normal values using the methodology of section 15 of the SIMA.

[51] Normal values were estimated by the Complainants based on the estimated costs of like goods in China plus an amount for profits, a method similar to paragraph 19(b) of SIMA. There is no reliable public information readily available on the costs in China of the input materials used in the production of certain unitized wall modules. Therefore, the costs for input materials (aluminum extrusions, infill materials, hardware) were estimated using the Complainants’ own costs. The estimated conversion costs (labor cost and general selling and administrative expense) for producing unitized wall modules from the input materials were based on an estimated percentage of the Complainant's conversion costs adjusted to reflect the differences between the costs in China and Canada. The adjustments to the conversion costs were derived from industry reports.³ The Complainants’ estimated an amount for profit using publicly available annual reports for known exporters.⁴

[52] The Complainants’ normal value estimates appear to be conservative and reasonable in nature.

³ Dumping Exhibit 2 (NC) - Complaint Attachment 21, 22

⁴ Dumping Exhibit 3 (NC) – Complaint Attachment 24

[53] The CBSA did not have any information to perform an estimate of normal value based on domestic sales of like goods in China.

[54] The CBSA estimated normal values using a similar methodology as described above. Adjustments to the Complainants' estimates were made to the cost of aluminum extrusions, labour cost, and general selling and administrative expense to reflect the CBSA's research for the differences of the costs in China and Canada.

Export Price

[55] The export price of goods sold to an importer in Canada is generally determined in accordance with section 24 of SIMA as being an amount equal to the lesser of the exporter's selling price for the goods and the price at which the importer has purchased or agreed to purchase the goods adjusted by deducting all costs, charges, expenses, duties and taxes resulting from the exportation of the goods.

[56] The Complainants used a deductive methodology to estimate export prices, beginning with price quotes for specific projects they were able to obtain from various sources. The Complainants provided evidence in their complaint to support these price quotes.⁵

[57] The Complainants calculated the estimated export prices by deducting amounts for customs duty, estimated inland and ocean freight, and brokerage and handling fees to arrive at an estimated FOB China factory price.

[58] The CBSA found the Complainants' estimated export prices to be conservative and reasonable in nature. For that reason, the CBSA used the Complainants' estimated export prices when estimating the margin of dumping. These estimates of export prices were verified with the CBSA's customs documentation where available.

Estimated Margin of Dumping

[59] The CBSA estimated the margin of dumping by deducting the CBSA's estimated total export price from the CBSA's estimated total normal value and expressing the result as a percentage of the export price.

[60] Based on this analysis, the subject goods from China were dumped by an estimated margin of dumping of 28%, expressed as a percentage of the total export price.

MARGIN OF DUMPING AND VOLUME OF DUMPED GOODS

[61] Under section 35 of SIMA, if, at any time before the President makes a preliminary determination, the President is satisfied that the margin of dumping of the goods of a country is insignificant or the actual and potential volume of dumped goods of a country is negligible, the President must terminate the investigation with respect to that country.

⁵ Dumping Exhibit 2 (NC) - Complaint Attachments 105-114

[62] Pursuant to subsection 2 (1) of SIMA, a margin of dumping of less than 2% of the export price is defined as insignificant and a volume of dumped goods is considered negligible if it accounts for less than 3% of the total volume of goods that are released into Canada from all countries and that are of the same description as the dumped goods.

[63] On the basis of the estimated margin of dumping and the import data for the period of January 1, 2011 to December 31, 2012, summarized in the table below, the estimated margin of dumping is not insignificant and the estimated volume of dumped goods is not negligible.

**Estimated Margin of Dumping and Imports of Certain Unitized Wall Modules
January 1, 2011 to December 31, 2012**

Country	Estimated Share of Total Imports by Value ⁶	Estimated Dumped Goods as % of Country Total	Estimated Dumped Goods as a % of Total Imports	Estimated Margin of Dumping as a % of Export Price
China	90%	100%	90%	28%
Korea	3%	N/A*	N/A*	N/A*
US	1%	N/A*	N/A*	N/A*
Other Countries	6%	N/A*	N/A*	N/A*
Total	100%	N/A*	N/A*	N/A*

* N/A indicates Not Applicable.

ANALYSIS OF SECTION 20 ALLEGATIONS

[64] Analysis of Section 20 allegations is a provision under the *Special Import Measures Act* (SIMA) that may be applied to determine the normal value of goods in a dumping investigation where certain conditions prevail in the domestic market of the exporting country. In the case of a prescribed country⁷ under paragraph 20(1)(a) of SIMA, it is applied where, in the opinion of the President, the government of that country substantially determines domestic prices and there is sufficient reason to believe that the domestic prices are not substantially the same as they would be in a competitive market.

[65] The Complainants alleged that the Chinese unitized wall modules industry is not operating under market economy conditions, that the prices of unitized wall modules sold in China are substantially determined by the government of China (GOC), and that prices of unitized wall modules sold in China are lower than they would be in a competitive market.

⁶ The CBSA's import documentation was used to estimate the imports of subject goods and goods that are of the same description during the POI. Since import volume information on the customs documentation was reported in various units of measure (i.e. m², number of modules, kg, etc.), it was not feasible to estimate the imports of subject goods and goods that are of the same description by volume. As a result, sales value was used as the unit of measure for estimating imports of subject goods and goods that are of the same description.

⁷ China is a prescribed country under section 17.1 of the Special Import Measures Regulations.

[66] The Complainants therefore requested that the Canada Border Services Agency (CBSA) initiate a section 20 inquiry into the matter as part of an investigation into the alleged dumping.

Sufficiency of Evidence for Purposes of Initiating a Section 20 Inquiry

[67] The CBSA will initiate a section 20 inquiry if it has sufficient evidence indicating that the conditions of section 20 may exist in the industry under investigation. A section 20 inquiry will usually be conducted in parallel with an investigation or a re-investigation. A "section 20 inquiry" is not a term found in SIMA but is simply used here to refer to a process whereby information is collected from various sources in order to decide whether section 20 applies in a particular case.

[68] When evaluating information which suggests that section 20 conditions may exist in a particular sector in new investigations and in re-investigations, the CBSA will rely on a two-part threshold test to determine whether to proceed with a section 20 inquiry. The first part of the test requires that the evidence presented in support of an allegation be relevant and reasonably reliable. The second part asks whether this evidence, if later found to be accurate, would be capable of reasonably supporting a positive determination as to the applicability of section 20.

[69] It should be noted that a section 20 inquiry may be undertaken in the later stages of an investigation or re-investigation should relevant information become available.

Factors – Section 20 Conditions

[70] The following are factors that the CBSA considers when examining whether domestic prices may be substantially determined by the government of an exporting country under investigation.

[71] These are factors which would suggest that the government directly determines pricing:

- the government or a government body sets minimum and/or maximum (floor or ceiling) price levels in respect of certain goods which permits prices to be established no lower or no higher than the minimum or maximum price levels;
- the government or a government body sets absolute pricing levels for certain goods;
- the government or a government body sets recommended or guidance pricing at which it is expected that sellers will adhere to within a certain range above and/or below that value;
- there are government or regulatory bodies which are responsible for establishing the price levels and for regulating and enforcing these price levels; and/or
- there are government-owned or controlled enterprises that set the price of their goods in consultation with the government or as a result of government-mandated pricing policies and, because of their market share or dominance, become price-leaders in the domestic market.

[72] Governments can also indirectly determine domestic prices through a variety of mechanisms that can involve the supply or price of the inputs (goods and services) used in the production of the subject goods or by influencing the supply of the subject goods in order to affect their price. For example:

- governments can control import and export levels through licensing, quotas, duties or taxes to maintain domestic prices at a certain level;
- governments can subsidize producers by providing direct financial subsidies or low-priced inputs in order to maintain the selling price of the product at a certain level;
- governments can purchase goods in sufficient quantities to raise the domestic price of the goods or they can sell stockpiled goods to put downward pressure on prices;
- through taxation or other policies, governments can regulate the level of profits that a company can earn which will affect selling prices; and/or
- the government can regulate or control production levels or the number of producers or sellers permitted in the market in order to affect domestic prices.

Section 20 Evidence and Arguments Provided in the Complaint

[73] The key evidence in support of the Complainants' section 20 allegations is summarized in the complaint as follows:

- a) Aluminum extrusions are the key input material in the production of unitized wall modules. The CBSA confirmed in February 2012 that section 20 conditions continue to be present in the Chinese industry producing aluminum extrusions.
- b) Glass is the second most used input material in the production of unitized wall modules. The evidence in the complaint demonstrates significant GOC influence on the glass industry in China. This influence extends to Government directions with respect to capacity, with respect to the types of glass being produced and the extent of further processing, minimum production requirements, and government approvals of new glass projects, to name only a few. The GOC also indirectly manipulates the prices of oil, soda ash/ore alkali and utilities and coal, all of which together account for nearly 80% of the cost of glass.
- c) There is significant state ownership within the unitized wall module industry itself. For example, Far East Global Group Limited ("Far East Global" or "Far East") and Sanxin Curtain Wall, two of the largest Chinese producers of unitized wall modules, are majority-owned by state-owned companies.
- d) The GOC imposes price controls on architectural and engineering services, which are a significant cost in the manufacture of subject goods.
- e) There are various laws that regulate the "management" of all curtain wall manufactured in China, including "tendering management" and "project and installation management", among others.

f) The China Building Materials Industry Association has identified the “new building materials industry” and in particular the “wall” industry as one of the investment opportunities in light of the GOC’s 11th Five-year Economic Growth Plan.

g) An analysis of pricing by comparing Far East against complainant estimates for specific projects in China reveals the extent to which Chinese pricing is not based on market conditions.

h) There is also state ownership at the customer level. China State Construction International Holdings Limited (CSCIHL), a state-owned company which is a major customer for subject goods, owns Far East Global and is related to China State Construction Engineering Corp. (CSCEC), the state-owned company that is the “largest construction company and largest international general contractor” in the PRC. CSCEC itself has 116 subsidiaries in China alone, the majority of which are in construction and construction-related industries.

i) The GOC imposes price controls on the pricing of residential apartments, which are a major end-use of the subject goods.

j) The GOC exercises significant influence on the curtain wall and building decoration industries through its Five Year Plans. The GOC’s 12th Five Year Plan (2011-2015) includes expanding the decoration construction industry (which includes the curtain wall industry), pushing standardization in the industry, and transforming the industry into a technology-intensive and innovative industry. Under the 11th Five Year Plan, the curtain wall industry grew by 82.6% from 2005 to 2010, with an annual growth rate of approximately 13%.⁸

The CBSA’s Analysis of the Section 20 Evidence and Arguments Provided in the Complaint

[74] The complaint notes that section 20 conditions were found to exist by the CBSA for the aluminum extrusions industry in China in the last re-investigation of certain aluminum extrusions which was concluded on February 20, 2012. However, the cost structure for producing unitized wall modules is less reliant on any single material input than other products where the CBSA has found a GOC-influenced low-priced input to be a significant factor in a section 20 determination. The CBSA’s findings in the last aluminum extrusions re-investigation would imply only a moderate cost advantage, from a total cost perspective, to producers of unitized wall modules in China as a result of the GOC’s substantial determination of the prices of aluminum extrusions.

⁸ Dumping/Subsidy Exhibit 2 (NC) – Complaint, paragraph 113, pages 30 and 31.

[75] The complaint also presented information that suggests that the price of glass in China is influenced by the GOC. Glass is the most common infill material for unitized wall modules. However, the complaint does not provide any information regarding the degree to which the price of glass in China may be affected by GOC influence. There is no information substantiating a difference between the price of glass available in China and the price of glass available in a comparable competitive market.

[76] The complaint alleges that there is “significant” state ownership within the unitized wall module industry in China. However, the CBSA finds that the degree of state ownership in the Chinese unitized wall modules industry appears to be insignificant, with little possibility that the GOC is able to affect domestic prices through their industry ownership.

[77] The Complainants have also shown that there is state-ownership throughout the broader construction industry in China. The entire construction industry in China encompasses a very broad variety of products and projects, of which unitized wall module sales are only a small part. There is no evidence that the existence of state-owned enterprises in the construction industry in China enables the GOC to control prices of unitized wall modules.

[78] The complaint notes that the GOC imposes price controls over both the inputs into and the end-product of like goods as it imposes "Government Guidance Pricing" on architectural and engineering services and on pricing of residential apartments. However, a report provided in the complaint states that the residential property market comprised 3.4% of the total Chinese unitized wall module market in 2011.⁹ Therefore, any impact of guidance pricing on residential apartments would not affect the vast majority of the unitized wall module sales and prices in China.

[79] The complaint provides information concerning two GOC regulations relating specifically to unitized wall modules. These acts are: *Administration of Curtain Wall Engineering Law*, and *Qualification for Design of Curtain Wall*.¹⁰ The CBSA’s interpretation of these regulations is that their intent is to ensure product specifications and industry standards are being followed. The CBSA did not find anything in these regulations that suggest the price of unitized wall modules in China was being controlled or influenced by the GOC.

⁹ Dumping/Subsidy Exhibit 2 (NC) – Complaint, Attachment 12.

¹⁰ Dumping/Subsidy Exhibit 2 (NC) – Complaint, Attachment 35, 56

[80] The complaint also presents the *China Building Decoration Industry 12th Five-Year Plan Report*¹¹ (Building Decoration Report) as playing a significant role in the GOC's involvement in the unitized wall modules industry. The only link established by the Complainants is to imply that the GOC's plan to promote the use of innovative and energy-saving materials during the 11th five-year plan period led to an average cost per square meter rise in curtain wall costs.¹² The CBSA finds that this higher cost premise does not support the Complainants' position that the prices of unitized wall modules in China are priced lower than they would be priced in or by a market industry.

Evidence that Domestic Prices are Substantially Different than in Competitive Markets

[81] There is very limited information available at this time with respect to Chinese domestic prices of unitized wall modules. Additionally, there is no information currently available regarding domestic prices of unitized wall modules in appropriate competitive markets outside of China for comparative purposes. The complaint attempts two approaches at showing that prices in China are different than they would be if determined in a competitive market.

[82] In their first approach the Complainants rely on pricing for projects listed in the Far East Global prospectus to show that Far East had an average price in China well below its average price for projects in North America. However, the Complainants state in the complaint that "Unitized wall modules are designed and produced in accordance with the requirements of specific projects. Consequently, the relative pricing of subject and like goods must be **assessed on a project specific basis**. The average pricing of subject and like goods may not accurately reflect the relative pricing of comparable subject and like goods."¹³ The CBSA therefore finds that the Complainants' presentation of Far East's average project pricing does not present credible information that the prices of unitized wall modules in China are substantially different than they would be if determined in a competitive market.

[83] In their second approach, the Complainants take the listed contract price for a single Far East project in Shanghai and compare the contract price to their own cost estimates to produce the project with an amount for profits. The estimate compares the Chinese domestic selling price of the project to the theoretical selling price of the good if it were produced by the Complainants in Canada. The provisions of section 20 of SIMA do not permit a section 20 normal value to be based on like goods produced in Canada. The CBSA is therefore forced to conclude that the Complainants' second approach results in a comparison that is not reliable or appropriate for the purposes of determining if the domestic prices of unitized wall modules in China are different than they would be if determined in a competitive market.

¹¹ Dumping/Subsidy Exhibit 2 (NC) – Complaint, Attachment 8

¹² Dumping/Subsidy Exhibit 2 (NC) – Complaint, Attachment 8

¹³ Dumping/Subsidy Exhibit 2 (NC) – Complaint, paragraph 34, page 9

Conclusion

[84] As mentioned earlier, the CBSA relies on a two-part threshold test to determine whether to proceed with a section 20 inquiry. The first part of the test requires that the evidence presented in support of an allegation be relevant and reasonably reliable. The second part asks whether this evidence, if later found to be accurate, would be capable of reasonably supporting a positive determination as to the applicability of section 20.

[85] The Complainants presented many different arguments about the applicability of section 20 in their complaint. The analysis above demonstrates that some of these arguments have questionable relevancy concerning the GOC's substantial determination of prices of unitized wall modules. There is some evidence that the unitized wall modules industry in China is influenced by GOC actions, particularly with respect to the cost of some input materials. However, the weight of evidence as a whole is not sufficiently compelling to form the opinion that the GOC actions substantially determine the prices of unitized wall modules in China. Additionally, there is no relevant and reasonably reliable evidence on the record to suggest that prices of unitized wall modules in China are different than they would be if determined in a competitive market. Therefore, the evidence currently on the record would not reasonably be capable of supporting a positive determination of the applicability of section 20 of SIMA to the Chinese unitized wall module industry.

[86] For the above reasons the CBSA did not initiate a section 20 inquiry when the investigation into the alleged injurious dumping and subsidizing of unitized wall modules from China was initiated.

EVIDENCE OF SUBSIDIZING

[87] In accordance with section 2 of SIMA, a subsidy exists where there is a financial contribution by a government of a country other than Canada that confers a benefit on persons engaged in the production, manufacture, growth, processing, purchase, distribution, transportation, sale, export or import of goods. A subsidy also exists in respect of any form of income or price support within the meaning of Article XVI of the *General Agreement on Tariffs and Trade*, 1994, being part of Annex 1A to the *World Trade Organization (WTO) Agreement*, that confers a benefit.

[88] Pursuant to subsection 2(1.6) of SIMA, a financial contribution exists where:

- a) practices of the government involve the direct transfer of funds or liabilities or the contingent transfer of funds or liabilities;
- b) amounts that would otherwise be owing and due to the government are exempted or deducted or amounts that are owing and due to the government are forgiven or not collected;
- c) the government provides goods or services, other than general governmental infrastructure, or purchases goods; or
- d) the government permits or directs a non-governmental body to do anything referred to in any of paragraphs (a) to (c) above where the right or obligation to do the thing is normally vested in the government and the manner in which the nongovernmental body does the thing does not differ in a meaningful way from the manner in which the government would do it.

[89] If a subsidy is found to exist, it may be subject to countervailing measures if it is specific. A subsidy is considered to be specific when it is limited, in law or in fact, to a particular enterprise or is a prohibited subsidy. An "enterprise" is defined under SIMA as also including a "group of enterprises, an industry and a group of industries." Any subsidy which is contingent, in whole or in part, on export performance or on the use of goods that are produced or that originate in the country of export is considered to be a prohibited subsidy and is, therefore, specific according to subsection 2(7.2) of SIMA for the purposes of a subsidy investigation.

[90] A state-owned enterprise (SOE), may be considered to constitute "government" for the purposes of subsection 2(1.6) of SIMA if it possesses, exercises, or is vested with, governmental authority. Without limiting the generality of the foregoing, the CBSA may consider the following factors as indicative of whether the SOE meets this standard:

- 1) the SOE is granted or vested with authority by statute;
- 2) the SOE is performing a government function;
- 3) the SOE is meaningfully controlled by the government; or some combination thereof.

[91] In accordance with subsection 2(7.3) of SIMA, notwithstanding that a subsidy is not specific in law, a subsidy may also be considered specific in fact, having regard as to whether:

- a) there is exclusive use of the subsidy by a limited number of enterprises;
- b) there is predominant use of the subsidy by a particular enterprise;
- c) disproportionately large amounts of the subsidy are granted to a limited number of enterprises; and
- d) the manner in which discretion is exercised by the granting authority indicates that the subsidy is not generally available.

[92] For purposes of a subsidy investigation, the CBSA refers to a subsidy that has been found to be specific as an "actionable subsidy", meaning that it is countervailable.

[93] The Complainants alleged that the exporters of subject goods originating in China have benefited from actionable subsidies provided by various levels of the GOC, which may include the governments of the respective provinces in which the exporters are located and the governments of the respective municipalities in which the exporters are located. The Complainants relied mainly on the CBSA's previous *Certain Unitized Wall Modules* subsidy investigation to identify the specific subsidy programs. The Complainants also referred to the CBSA's Statement of Reasons for various investigations, including *Certain Seamless Casing*, *Certain Copper Pipe Fittings*, *Certain Laminate Flooring*, *Certain Carbon Steel and Stainless Steel Fasteners*, *Certain Aluminum Extrusions* and *Certain Metal Bar Grating of Carbon, Alloy or Stainless Steel*. Lastly, the Complainants referenced some U.S. Department of Commerce (USDOC) Decision Memorandums on their countervailing investigations involving China, including *Coated Free Sheet Paper*, *Circular Welded Carbon Quality Steel Pipe* and *Aluminum Extrusions*.¹⁴

[94] Due to the scarcity of publicly available detailed information regarding subsidy programs in China, the Complainants were unable to provide exhaustive information regarding all subsidy programs. Instead, the Complainants provided all information that was reasonably available to support the allegations.

Programs Being Investigated

[95] In reviewing the information provided by the Complainants and obtained by the CBSA through its own research, the CBSA has developed the following categories of programs and incentives that may be provided to manufacturers of the subject goods in China:

1. Special Economic Zone (SEZ) and Other Designated Areas Incentives;
2. Preferential Loans and Loan Guarantees;
3. Grants and Grant Equivalents;
4. Preferential Tax Programs;
5. Relief from Duties and Taxes on Inputs, Materials and Machinery;
6. Reduction in Land Use Fees;
7. Goods/Services Provided by the Government at Less than Fair Market Value;
8. Equity Programs;
9. Subsidy Pass-through.

[96] A full listing of all 180 programs to be investigated by the CBSA may be found in **Appendix 1**. As explained in more detail therein, there is sufficient reason to believe that these programs provided by the GOC may constitute actionable subsidies and that the exporters and producers of the subject goods may have benefited from these programs. In fact, most of these programs were identified and/or have been investigated by the CBSA in past subsidy investigations.

¹⁴ Dumping/Subsidy Exhibit 2 (NC) – Complaint, Attachments 28, 33, 37, 58, 68, 69, 70, 75, 79

[97] In the case of programs where an enterprise's eligibility or degree of benefit is contingent upon export performance or the use of goods that are produced or originate in the country of export, such programs may constitute prohibited subsidies under SIMA.

[98] For the programs where incentives are provided to enterprises operating in specified areas such as Special Economic Zones, the CBSA considers that these may constitute actionable subsidies for the reason that eligibility is limited to enterprises operating in such regions or is limited to certain enterprises operating within those regions.

[99] As well, the CBSA is satisfied that there is sufficient evidence indicating that the exporters of subject goods may receive subsidies in the form of grants, preferential loans, relief from duties or taxes, and provision of goods and services, which provide a benefit and that are not generally granted to all companies in China.

[100] The CBSA will investigate whether exporters of subject goods received benefits under these programs, and whether such programs constitute actionable subsidies.

Programs Not Being Investigated

[101] The following eight alleged subsidy programs were identified by the Complainants under the category of "Grants and Grant-Equivalents". These grant programs were found by the CBSA to not be relevant because none of the exporters of subject goods identified for this investigation were located in the regions that would allow them to qualify for these subsidy programs:

- Grant - Changzhou City Key Supporting Industry Upgrading Special Fund
- Grant - Financial Subsidies from Wei Hai City Gao Cun Town Government
- Grant - Wendeng Government (Shandong)
- Jiangdu City Industrial Economy Performance Award (Jiangsu)
- Changzhou Qishuyan District Environmental Protection Fund (Jiangsu)
- Changzhou Technology Plan (Jiangsu)
- Supportive Fund Provided by the Government of Xuyi County, Jiangsu
- Enterprise Innovation Award of Qishuyan District (Jiangsu)

[102] The following 19 alleged subsidy programs were identified by the Complainants under the category of "Grants and Grant-Equivalents". Based on the CBSA's analysis, the following 19 programs are not applicable and will not form part of this investigation, due to lack of information currently available.

- Repaying Foreign Currency Loan by Returned VAT
- Venture Investment Fund of Hi-Tech Industry
- Energy-Saving Technique Special Fund
- Grants to Privately-Owned Export Enterprises
- Grant for Market Promotion and Trade Development
- Refund of Land Transfer Fee
- Grant - Assistance for Exhibition Booth Fees

- Grant - Ecological Garden Enterprise Reward
- Grant - Municipal Construction Reward
- Grant - Cleaning-production Qualified Enterprise Reward
- Grant - Subsidy from Water Saving Office
- Grant - Insurance Expense Compensation
- Grant - Industrial Science and Technology Breakthrough Special Fund
- Grant - Policy on Value-added Tax for Recyclable Resources
- Grant - Large Taxpayer Award
- Allowance to Pay Loan Interest
- Supporting fund for non-refundable export tax loss
- International market fund for export companies
- The State Key Technology Renovation Projects

[103] The following two alleged subsidy programs were identified by the Complainants under the category of "Preferential Tax Programs". Based on the CBSA's analysis, the following two programs are covered in other programs being investigated:

- Preferential tax policies for FIEs
- Local Income Tax Exemption and/or Reduction

[104] The following alleged subsidy program was identified by the Complainants under the category of "Reduction, Exemption or Refund of Land Use Fees, Land Rental Rates and Land Purchase/Transfer Prices". Based on the CBSA's analysis, due to lack of information currently available, the following program will not form part of this investigation:

- Deed Tax Exemptions for Land Transferred through Merger or Restructuring

[105] The following alleged subsidy program was identified by the Complainants under the category of "Goods/Services Provided by the Government at Less than Fair Market Value". Based on the CBSA's analysis, due to lack of information currently available, the following program will not form part of this investigation:

- Acquisition of Government Assets at Less than Fair Market Value

[106] The following alleged subsidy program was identified by the Complainants under the category of "Equity Programs". Based on the CBSA's analysis, due to lack of information currently available, the following program will not form part of this investigation:

- Exemptions for SOEs from Distributing Dividends to the State

[107] The above-mentioned programs will not be investigated by the CBSA unless sufficient information is provided to justify their investigation.

Conclusion

[108] Sufficient evidence is available to support the allegation that the subsidy programs outlined in **Appendix 1** are available to exporters and producers of the subject goods in China. In investigating these programs, the CBSA has requested information from the GOC, exporters and producers to determine whether the exporters and/or producers of subject goods received benefits under these programs, and whether these programs are "actionable subsidies" and, therefore, countervailable under SIMA.

Estimated Amount of Subsidy

[109] The Complainants stated that they were unable to determine the actual amounts of subsidy received by the Chinese exporters under each program. The complaint suggested that the amount of subsidy had to be at least equal to the difference between the estimated export price and the estimated cost of the goods. The Complainants used a deductive methodology to estimate export prices, beginning with price quotes for specific projects obtained from various sources¹⁵ and deducting amounts for estimated inland freight, ocean freight, Canadian freight and brokerage fees. The cost of the goods was estimated using the estimated costs for input materials (aluminum extrusions, infill materials, hardware), which were determined using the Complainants' costs, and the estimated conversion costs (labor cost and general selling and administrative expense) for producing unitized wall modules from the input materials. The estimated conversion costs were based on an estimated percentage of the Complainant's conversion costs adjusted to reflect the differences between the costs in China and Canada. The adjustments to the conversion costs were derived from industry reports¹⁶. The amount of subsidy was estimated by deducting the estimated export price from the estimated cost of the goods.

[110] The CBSA was unable to determine the actual amounts of subsidy received by the Chinese exporters under each program. The CBSA estimated the amount of subsidy as the difference between its estimated export prices and estimated cost of the goods. The CBSA found the Complainants' estimated export prices to be conservative and reasonable in nature. For that reason, the CBSA used the Complainants' estimated export prices when estimating an amount of subsidy. These estimates of export prices were verified with the CBSA's customs documentation where available. The CBSA estimated the cost of the goods using a similar methodology as used by the Complainants to estimate normal values. Adjustments to the Complainants' estimates were made to the cost of aluminum extrusions, labour cost, and general selling and administrative expense to reflect the CBSA's research for the differences of the costs in China and Canada. The amount of subsidy was estimated by deducting the estimated export price from the estimated cost of the goods.

[111] The CBSA's analysis of the information indicates that subject goods imported into Canada during the period of January 1, 2011, to December 31, 2012, were subsidized and that the estimated amount of subsidy is 18% of the export price of the subject goods.

¹⁵ Dumping/Subsidy Exhibit 2 (NC) – Complaint, Attachments 105-114

¹⁶ Dumping/Subsidy Exhibit 2 (NC) – Complaint, Attachments 21-22

AMOUNT OF SUBSIDY AND VOLUME OF SUBSIDIZED GOODS

[112] Under section 35 of SIMA, if, at any time before the President makes a preliminary determination, the President is satisfied that the amount of subsidy on the goods of a country is insignificant or the actual and potential volume of subsidized goods of a country is negligible, the President must terminate the investigation with respect to the goods of that country. Under subsection 2(1) of SIMA, an amount of subsidy of less than 1% of the export price of the goods is defined as insignificant and a volume of subsidized goods is considered negligible if it accounts for less than 3% of the total volume of goods that are released into Canada from all countries and that are of the same description as the subsidized goods, the same threshold for the volume of dumped goods.

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

[114] SIMA does not define or provide any guidance regarding the determination of a "developing country" for purposes of Article 27.10 of the *WTO Agreement on Subsidies and Countervailing Measures*. As an administrative alternative, the CBSA refers to the *Development Assistance Committee List of Official Development Assistance Recipients* (DAC List of ODA Recipients) for guidance.¹⁷ As China is included in the listing, the CBSA extends developing country status to China for purposes of this investigation.

¹⁷ The Organization for Economic Co-operation and Development, DAC List of ODA Recipients as of January 1, 2013, the document is available at <http://www.oecd.org/dac/stats/DAC%20List%20used%20for%202012%20and%202013%20flows.pdf>

[115] The CBSA used actual import data for all countries for the period of January 1, 2011, to December 31, 2012. On the basis of this information, the volume of subsidized goods as a percentage of the volume of total imports is estimated as follows:

**Estimated Amount of Subsidy and Imports of Unitized Wall Modules
January 1, 2011 to December 31, 2012**

Country	Estimated Share of Total Imports by Value¹⁸	Estimated Subsidized Goods as % of Country Total	Estimated Subsidized Goods as % of Total Imports	Estimated Amount of Subsidy as % of Export Price
China	90%	72%	65%	18%
Korea	3%	N/A*	N/A*	N/A*
US	1%	N/A*	N/A*	N/A*
Other Countries	6%	N/A*	N/A*	N/A*
Total	100%	N/A*	N/A*	N/A*

* N/A indicates Not Applicable.

[116] The volume of subsidized goods, estimated to be 65% of total imports from all countries, is greater than the threshold of 4% and is therefore not negligible. The amount of subsidy, estimated to be 18% of the export price, is greater than the threshold of 2% and is therefore not insignificant.

EVIDENCE OF INJURY

[117] The Complainants allege that the subject goods have been dumped and subsidized and that such dumping and subsidizing has caused and is threatening to cause material injury to the production of certain unitized wall modules in Canada. In support of their allegations, the Complainants provided evidence of loss of market share, lost sales, price erosion, price suppression, reduced production and reduced capacity utilization, reduced employment and reduced profitability.

Loss of Market Share

[118] The Complainants provided a table showing the evolution of the Chinese exports and the Canadian market as a whole.¹⁹

¹⁸ The CBSA's import documentation was used to estimate the imports of subject goods and goods that are of the same description during the POI. Since import volume information on the customs documentation was reported in various units of measure (i.e. m², number of modules, kg, etc.), it was not feasible to estimate the imports of subject goods and goods that are of the same description by volume. As a result, sales value was used as the unit of measure for estimating imports of subject goods and goods that are of the same description.

¹⁹ Dumping/Subsidy Exhibit 2 (NC) – Complaint, Attachment 6

[119] The Complainants' information shows a rise in market share for Chinese imports from 2009 to first half of 2012. This rise in market share for Chinese imports coincided with a decrease in market share for the Canadian producers.

[120] The CBSA's analysis of Chinese subject goods imports in the period 2010-2012 supports the Complainant's position that subject goods are taking an increasing share of the Canadian market.

[121] The Complainants maintain that these dumped and subsidized imports have been the direct cause of the Complainants' loss of market share.

[122] The CBSA finds the Complainants' allegations of loss of market share to be reasonable and well supported. The loss of market share has been reasonably linked to the allegedly dumped and subsidized imports.

Lost Sales

[123] The Complainants have provided 21 examples of lost sales.²⁰

[124] As a result of the lost sales, detailed through documentation provided in the complaint, the Complainants allege significant lost revenues.

[125] The Complainants maintain that these dumped and subsidized imports have been the direct cause of the Complainants' suppressed sales volumes.

[126] The CBSA finds the Complainants' allegations of lost sales to be reasonable and well supported. The lost sales have been reasonably linked to the allegedly dumped and subsidized imports.

Price Erosion

[127] The Complainants provided six examples of price erosion as a result of the Chinese subject goods.²¹ Complainants have been forced to drop their prices in order to compete with subject goods. These contracts were awarded to the Complainants at lower values than they normally would have bid. The complaint also contains numerous other examples of Complainants dropping their prices in order to compete with subject goods, but they were ultimately not awarded the contracts.

[128] The CBSA finds the Complainants' allegations of price erosion to be reasonable and well supported. The price erosion has been reasonably linked to the allegedly dumped and subsidized imports.

²⁰ Dumping/Subsidy Exhibit 2 (NC) – Complaint, Attachments 105-114

²¹ Dumping/Subsidy Exhibit 2 (NC) – Complaint, Attachment 105,109, 110, 114

Price Suppression

[129] The Complainants' allege that due to the decrease in shipment volumes combined with increased costs during the period, additional production costs had to be absorbed by the Complainants over fewer units produced/sold, causing increased costs per unit sold. These cost increases have not been recovered through price increases during the period due to price suppression as a result of the subject goods.

[130] The Complainants expect costs to continue to increase, which will continue to increase the Complainants' costs per unit sold.

[131] The Complainants maintain that these dumped and subsidized imports have been the direct cause of the Complainants' suppressed prices.

[132] The CBSA's analysis of the information in the complaint shows that the cost per unit sold of the Complainants has not increased from 2009 to first half of 2012.

[133] The CBSA concludes that the Complainants' claim of price suppression is not adequately supported, as no hard evidence was provided. Furthermore, the CBSA's own analysis suggests that there has not been price suppression in the Canadian market.

Reduced Production and Reduced Capacity Utilization

[134] The Complainants provided a table that contains the production and capacity utilization of all the Complainants for 2009, 2010, 2011 and the first half of 2012²².

[135] The information provided by the Complainants show that their production and capacity utilization has decreased steadily from 2009 to 2011, with a slight increase in the first half of 2012.

[136] The Complainants maintain that these dumped and subsidized imports have been the direct cause of the Complainants' decrease in production and capacity utilization.

[137] The CBSA finds the Complainants' allegations of reduced production and reduced capacity utilization to be reasonable and well supported. The reduced production and reduced capacity utilization have been reasonably linked to the allegedly dumped and subsidized imports.

²² Dumping/Subsidy Exhibit 2 (NC) – Complaint, Attachment 84

Reduced Employment

[138] The Complainants submit that while some of the domestic producers have chosen to accept the loss of business rather than follow pricing down, other domestic producers have chosen to dramatically reduce prices in order to keep their facilities in operation and their employees working. As a result aggregated employment figures do not fully reflect the commercial reality facing the domestic industry.

[139] The information provided by the complaint indicates that only two of the 10 Complainants had a reduction in employment.

[140] None of the other Complainants claimed to have any reduction in employment. Also, there was no information provided on the actual number of employees year by year for each of the Complainants individually, or on an aggregate basis.

[141] The Complainants maintain that these dumped and subsidized imports have been the direct cause of the Complainants' reduction in employment.

[142] The CBSA concluded that there has been a small reduction in employment for two of the 10 Complainants, and that these reductions in employment can be reasonably linked to the importation of the allegedly dumped and subsidized goods. However, due to the lack of information provided, it is not possible to assess if there has been a reduction in the level of employment for the domestic industry as a whole.

Reduced Profitability

[143] The Complainants have provided aggregate and individual income statement highlights containing their revenue, cost of goods sold, gross margin, other costs and net income relating to the sales of certain unitized wall modules for 2009, 2010, 2011 and the first half of 2012.²³

[144] The Complainants' aggregate income statement shows a decline in all indicators of financial performance from 2009 to the first half of 2012.

[145] The Complainants maintain that these dumped and subsidized imports have been the direct cause of the Complainants' reduced profitability.

[146] The CBSA finds the Complainants' allegations of reduced profitability to be reasonable and well supported. The reduced profitability has been reasonably linked to the allegedly dumped and subsidized imports.

²³ Dumping/Subsidy Exhibit 2 (NC) – Complaint, Attachment 7

THREAT OF INJURY

[147] The Complainants submit that the evidence provided in the complaint provides a reasonable indication that the domestic industry is threatened with material injury by the dumping and subsidizing of Chinese unitized wall modules. The Complainants provide evidence of threat of injury from: continuation of current market trends, increased capacity and expansion of Chinese producers, slowing economic growth in China, slowing Chinese commercial real estate and construction industries, slowing demand in other export markets, a strong real estate market in Canada, and Chinese producers' overseas expansion.

Continuation of Current Market Trends

[148] As noted above, net income before tax has steadily declined from 2009 to the first half of 2012. The Complainants submit that if this trend continues, they will begin to suffer net losses. In addition, because of the lag between the time unitized wall modules are sold and the time when payment is received, the sales at discounted price made by the Complainants in 2011 and 2012 will result in decreased revenues in 2013 and 2014.

[149] The CBSA agrees that the trend of declining net income before taxes may result in the Complainants suffering net losses. The reduced profitability and lost sales of the Complainants have been reasonably linked to the allegedly dumped and subsidized goods. The CBSA concludes that there is a reasonable indication that these factors will cause injury to the Complainants.

Increased Capacity and Expansion of Chinese Producers

[150] The information provided in the complaint shows that China's unitized wall module capacity has increased steadily from 2006 to 2011 and is expected to continue to increase until 2015.²⁴

[151] The Complainants also provide evidence that the three major exporters to Canada plan to increase their production capacity.²⁵

[152] The Complainants allege that these expansions in capacity represent a distinct threat to Canadian producers.

[153] The CBSA concludes that the Complainants' claims of threat of injury, due to the expansion and increased capacity of the subject goods in China and due to the expansion and increased capacity of the three major exporters to Canada, are reasonable and well supported. The CBSA agrees that these factors indicate that the continued exportation of subject goods to Canada is likely, and that there is a reasonable indication that domestic producers will suffer injury.

²⁴ Dumping/Subsidy Exhibit 2 (NC) – Complaint, Attachment 12, 13

²⁵ Dumping/Subsidy Exhibit 2 (NC) – Complaint, Attachment 14, 60, 90

Slowing Economic Growth in China

[154] The Complainants submit that growth in the Chinese economy generally and in the commercial real estate and construction sector is slowing, which will cause reduced domestic demand for unitized wall modules in China.

[155] China's economy has slowed in terms of GDP growth from 2010 to 2012 and is expected to show a slight increase in 2013.²⁶

[156] From 2006 to 2010, the growth in the Chinese unitized wall modules industry has greatly outpaced the growth in the Chinese economy overall.²⁷

[157] The Complainants submit that with such a significant increase in the production of curtain wall units in a Chinese real estate market and a construction sector that is experiencing a slowdown, Chinese producers will be forced to increase their exports of subject goods.

[158] The CBSA agrees that the evidence provided in the complaint indicates that the growth in the Chinese curtain wall industry (of which unitized wall modules is a part) is greatly outpacing the growth in the Chinese economy overall. The CBSA also finds the Complainants' claim that these factors could cause an increase in exports by Chinese suppliers to be reasonable, as such, there is an indication that a threat of injury may exist.

Slowing Chinese Commercial Real Estate and Construction Industries

[159] The downstream markets for curtain wall mainly include commercial buildings, public buildings and high-end residential property.²⁸

[160] Despite steady growth in the Chinese building construction industry, the commercial real estate market is expected to slow down.²⁹

[161] The Complainants claim that, although China's construction and real estate industries are gradually recovering, these industries will likely not generate sufficient growth to absorb the expected significant increase in the production of subject goods.

[162] The CBSA concludes that there is a reasonable indication that the above factors are threatening to cause injury to the domestic producers.

²⁶ Dumping/Subsidy Exhibit 2 (NC) – Complaint, Attachment 85, 86, 87

²⁷ Dumping/Subsidy Exhibit 2 (NC) – Complaint, Attachment 13

²⁸ Dumping/Subsidy Exhibit 2 (NC) – Complaint, Attachment 23

²⁹ Dumping/Subsidy Exhibit 2 (NC) – Complaint, Attachment 88

Slowing Demand in Other Export Markets

[163] The information in the complaint shows that the main export market for Chinese unitized wall modules is the Middle East, with the United Arab Emirates being the most significant importer of Chinese unitized wall modules. The Complainants also provided evidence that the unitized wall modules market in the Middle East is experiencing a slowdown.³⁰

[164] The complaint also contains evidence that two other export markets for Chinese unitized wall modules, the United States of America (US) and Europe, are experiencing slowdowns in their construction industries.³¹

[165] The CBSA concludes that the information in the complaint supports the Complainants' claim that the other export markets for Chinese producers are slowing. The slowdown in these markets has affected major exporters (Beijing Jangho Curtain Wall Co. Ltd. and Shenyang Yuanda Aluminum Industry Engineering Co. Ltd.) of subject goods, and there is a reasonable indication that this could cause an increase in subject goods exported to Canada.

A Strong Real Estate Market in Canada

[166] The complaint contains articles from various sources which indicate that Canada's commercial real estate market will grow in 2013 and 2014.³²

[167] The Complainants submit that Canada's commercial real estate market is projected to do better than that of the US in 2012, making Canada the more attractive market for unitized wall module producers looking to expand in North America. The appeal of the Canadian market should be further bolstered by the ongoing economic turmoil in other major world markets.

[168] The CBSA finds that the Complainants' claim, that the Canadian real estate market is strong compared to other markets, to be well supported from a number of sources. There is a reasonable indication that Canada's relatively strong real estate market in comparison with other export markets, along with the North American expansion plans for Chinese producers, will make Canada a target market for exporters of subject goods.

Chinese Producers Overseas Expansion

[169] The Complainants submit that the plan of major producers of the subject goods to expand in overseas markets is causing a threat of injury. Aspirations to expand to export markets are an indication that a company is more likely to sell in export markets.

[170] The complaint contains evidence that three known exporters of subject goods are planning on expanding their overseas sales.³³

³⁰ Dumping/Subsidy Exhibit 2 (NC) – Complaint, Attachment 13

³¹ Dumping/Subsidy Exhibit 2 (NC) – Complaint, Attachment 98

³² Dumping/Subsidy Exhibit 2 (NC) – Complaint, Attachment 99, 100, 101, 102

³³ Dumping/Subsidy Exhibit 2 (NC) – Complaint, Attachment 14, 35, 97, 103, 104

[171] Considering the Canadian commercial real estate market's strength relative to most markets globally, the Complainants submit that there is a reasonable indication that Canada will bear a significant share of these companies' overseas expansion in the coming years.

[172] CBSA finds that the Complainants' claim of the planned overseas expansion of known exporters to be well supported, as evidence has been provided for three known exporters specifically. The CBSA agrees that there is a reasonable indication that the overseas expansion of known exporters will cause an increase of subject good exports to Canada.

CAUSAL LINK – DUMPING/SUBSIDIZING AND INJURY

[173] The CBSA finds that the Complainants have sufficiently linked the injury they have suffered to the dumping and subsidizing of subject goods imported into Canada. The injury the Complainants have suffered in terms of loss of market share, lost sales, price erosion, reduced production and capacity utilization and reduced profitability is related to the price advantage the alleged dumping and subsidizing has created between the subject goods and the Canadian-produced goods. The Complainants also provided sufficient evidence that the continued alleged dumping and subsidizing of subject goods imported into Canada threatens to cause injury to the Canadian industry producing these goods.

[174] In summary, the information provided in the complaint has established a reasonable indication that the alleged dumping and subsidizing has caused injury and is threatening to cause injury to the Canadian production of like goods.

CONCLUSION

[175] Based on information provided in the complaint, other available information, and the CBSA's import documentation, the President is of the opinion that there is evidence that certain unitized wall modules originating in or exported from China have been dumped and subsidized, and there is a reasonable indication that such dumping and subsidizing has caused and is threatening to cause injury to the Canadian industry. As a result, based on the evidence, the President initiated dumping and subsidy investigations on March 4, 2013.

SCOPE OF INVESTIGATION

[176] The CBSA is conducting investigations to determine whether the subject goods have been dumped and/or subsidized.

[177] The CBSA has requested information relating to the subject goods imported into Canada from China during the period of January 1, 2011 to December 31, 2012, the selected period of investigation for the dumping investigation. The information requested from identified exporters and importers will be used to determine normal values and export prices and ultimately to determine whether the subject goods have been dumped.

[178] Information relating to the subject goods imported into Canada from January 1, 2011 to December 31, 2012, the selected period of investigation for the subsidy investigation, has been requested from the GOC and the identified exporters. The information requested will be used to determine whether the subject goods have been subsidized and to determine the amounts of subsidy.

[179] All parties have been clearly advised of the CBSA's information requirements and the time frames for providing their responses.

FUTURE ACTION

[180] The Tribunal will conduct a preliminary inquiry to determine whether the evidence discloses a reasonable indication that the alleged dumping and subsidizing of the goods has caused or is threatening to cause injury to the Canadian industry. The Tribunal must make its decision on or before the 60th day after the date of the initiation of the investigations, by May 3, 2013. If the Tribunal concludes that the evidence does not disclose a reasonable indication of injury to the Canadian industry, the investigations will be terminated.

[181] If the Tribunal finds that the evidence discloses a reasonable indication of injury to the Canadian industry and the CBSA investigations preliminarily reveal that the goods have been dumped and/or subsidized, the CBSA will make a preliminary determination of dumping and/or subsidizing within 90 days after the date of the initiation of the investigations, by June 3, 2013. Where circumstances warrant, this period may be extended to 135 days from the date of the initiation of the investigations.

[182] If the CBSA's investigations reveal that imports of the subject goods have not been dumped or subsidized, that the margin of dumping or amount of subsidy is insignificant or that the actual and potential volume of dumped or subsidized goods is negligible, the investigations will be terminated.

[183] Imports of subject goods released by the CBSA on and after the date of a preliminary determination of dumping and/or subsidizing may be subject to provisional duty in an amount not greater than the estimated margin of dumping or the estimated amount of subsidy determined during the preliminary phase of the investigations.

[184] Should the CBSA make a preliminary determination of dumping and/or subsidizing, the investigations will be continued for the purpose of making a final decision within 90 days after the date of the preliminary determinations.

[185] If a final determination of dumping and/or subsidizing is made, the Tribunal will continue its inquiry and hold public hearings into the question of material injury to the Canadian industry. The Tribunal is required to make a finding with respect to the goods to which the final determination of dumping and/or subsidizing applies, not later than 120 days after the CBSA's preliminary determinations.

[186] In the event of an injury finding by the Tribunal, imports of subject goods released by the CBSA after that date will be subject to anti-dumping duty equal to the applicable margin of dumping and countervailing duty equal to the amount of subsidy on the imported goods. Should both anti-dumping and countervailing duties be applicable to subject goods, the amount of any anti-dumping duty may be reduced by the amount of subsidy that is attributable to an export subsidy.

RETROACTIVE DUTY ON MASSIVE IMPORTATIONS

[187] When the Tribunal conducts an inquiry concerning material injury to the Canadian industry, it may consider if dumped and/or subsidized goods that were imported close to or after the initiation of an investigation constitute massive importations over a relatively short period of time and have caused injury to the Canadian industry.

[188] Should the Tribunal issue such a finding, anti-dumping and countervailing duties may be imposed retroactively on subject goods imported into Canada and released by the CBSA during the period of 90 days preceding the day of the CBSA making a preliminary determination of dumping and/or subsidizing.

[189] In respect of importations of subsidized goods that have caused injury, this provision is only applicable where the CBSA has determined that the whole or any part of the subsidy on the goods is a prohibited subsidy, as explained in the previous section "Evidence of Subsidizing." In such a case, the amount of countervailing duty applied on a retroactive basis will be equal to the amount of subsidy on the goods that is a prohibited subsidy.

UNDERTAKINGS

[190] After a preliminary determination of dumping by the CBSA, an exporter may submit a written undertaking to revise selling prices to Canada so that the margin of dumping or the injury caused by the dumping is eliminated. An acceptable undertaking must account for all or substantially all of the exports to Canada of the dumped goods.

[191] Similarly, after a preliminary determination of subsidizing by the CBSA, a foreign government may submit a written undertaking to eliminate the subsidy on the goods exported or to eliminate the injurious effect of the subsidy, by limiting the amount of the subsidy or the quantity of goods exported to Canada. Alternatively, exporters with the written consent of their government may undertake to revise their selling prices so that the amount of the subsidy or the injurious effect of the subsidy is eliminated.

[192] Interested parties may provide comments regarding the acceptability of undertakings within nine days of the receipt of an undertaking by the CBSA. The CBSA will maintain a list of parties who wish to be notified should an undertaking proposal be received. Those who are interested in being notified should provide their name, telephone and fax numbers, mailing address and e-mail address, if available, to one of the officers identified in the "Information" section of this document.

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

PUBLICATION

[194] Notice of the initiation of these investigations is being published in the Canada Gazette pursuant to subparagraph 34(1)(a)(ii) of SIMA.

INFORMATION

[195] Interested parties are invited to file written submissions presenting facts, arguments, and evidence that they feel are relevant to the alleged dumping and subsidizing. Written submissions should be forwarded to the attention of one of the officers identified below.

[196] To be given consideration in this phase of these investigations, all information should be received by the CBSA by April 11, 2013.

[197] Any information submitted to the CBSA by interested parties concerning these investigations is considered to be public information unless clearly marked "confidential". Where the submission by an interested party is confidential, a non-confidential version of the submission must be provided at the same time. This non-confidential version will be made available to other interested parties upon request.

[198] Confidential information submitted to the President will be disclosed on written request to independent counsel for parties to these proceedings, subject to conditions to protect the confidentiality of the information. Confidential information may also be released to the Tribunal, any court in Canada, or a WTO/NAFTA dispute settlement panel. Additional information respecting the Directorate's policy on the disclosure of information under SIMA may be obtained by contacting one of the officers identified below or by visiting the CBSA's Web site.

[199] The investigation schedules and a complete listing of all exhibits and information are available at <http://www.cbsa-asfc.gc.ca/sima-lmsi/i-e/menu-eng.html>. The exhibits listing will be updated as new exhibits and information are made available.

[200] 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 Directorate
Canada Border Services Agency
100 Metcalfe Street, 11th floor
Ottawa, ON KIA OL8
Canada

Telephone: Dean Pollard 613-954-7410
Robert Wright 613-954-1643

Fax: 613-948-4844

E-mail: simaregistry-depotlmsi@cbsa-asfc.gc.ca

Website: <http://www.cbsa-asfc.gc.ca/sima-lmsi/i-e/menu-eng.html>



Caterina Ardito-Toffolo
Acting Director General
Anti-dumping and Countervailing Directorate

Attachments

APPENDIX 1 – DESCRIPTION OF IDENTIFIED PROGRAMS AND INCENTIVES

Evidence provided by the Complainants or otherwise available to the CBSA suggests that the Government of China may have provided support to manufacturers of subject goods in the following manner. For purposes of this investigation, "Government of China" (GOC) refers to all levels of government, i.e. federal, central, provincial/state, regional municipal, city, township, village, local, legislative, administrative or judicial. Benefits provided by state-owned enterprises, which possess, exercise or have been vested with governmental authority may also be considered to be provided by the GOC for purposes of this investigation.

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

Program 1: Preferential Tax Policies for Enterprises with Foreign Investment (FIEs) Established in Special Economic Zones (SEZs) (excluding Shanghai Pudong Area)

Program 2: Preferential Tax Policies for FIEs Established in the Coastal Economic Open Areas and in the Economic and Technological Development Zones

Program 3: Preferential Tax Policies for FIEs Established in the Pudong Area of Shanghai

Program 4: Preferential Tax Policies in the Western Regions

Program 5: Corporate Income Tax Exemption and/or Reduction in SEZs and other Designated Areas

Program 6: Local Income Tax Exemption and/or Reduction in SEZs and other Designated Areas

Program 7: Exemption/Reduction of Special Land Tax and Land Use Fees in SEZs and Other Designated Areas

Program 8: Tariff and Value-added Tax (VAT) Exemptions on Imported Materials and Equipment in SEZs and other Designated Areas in Guangdong

Program 9: Income Tax Refunds where Profits are Re-invested in SEZs and other Designated Areas

Program 10: Preferential Tax Program for FIEs Recognized as HNTEs (High and New Technology Enterprises)

Program 11: Preferential Tax Policies for FIEs which are Technology Intensive and Knowledge Intensive

Program 12: Services or Goods provided by Government or public bodies at the preferential prices to enterprises located in SEZs and other designated areas

Program 13: VAT Exemptions for the Central Region

Program 14: Tax over-refunds or over-exemptions for the water, electricity and gas consumed in the Export Processing Zone

Program 15: Custom Duty Exemption and VAT Exemption for machinery, equipment, construction materials imported into the Export Processing Zone for the construction of production facilities (such as factory and warehouse) in the Zone

Program 16: Custom Duty Exemption and VAT Exemption for machinery, equipment, moulds/dies and the corresponding repairing parts imported into the Export Processing Zone and used for the production by Enterprises in the Zone

Program 17: Custom Duty over-refund or over-exemption and VAT over-refund or over-exemption for raw materials, parts, packaging materials and consumable materials imported into the Export Processing Zone and used for the production of exported goods in the Zone

Program 18: Export Duty Refund or Exemption for the exported goods produced in the Export Processing Zone and exported from the Zone

Program 19: VAT Refunds or Exemptions for the domestically purchased machinery, equipment and construction materials used for the production of exported goods and the construction of production facilities in the Export Processing Zone

Program 20: Interest Assistance provided by Shenyang Economic & Technological Development Area administration through the Enterprise Development Fund

Program 21: Freight Assistance provided by Shenyang Economic & Technological Development Area administration for the exported products

Program 22: Financial assistance provided by Shenyang Economic & Technological Development Area administration for the construction or the rental of manufacturing premises

Program 23: Special Industry Supporting Fund provided by Shenyang Tiexi District Government to the High Technology Enterprises located in Shenyang Tiexi modern Construction industry Area

Program 24: Supporting Fund provided by Shenyang Economic & Technological Development Area administration to the enterprises to encourage the acquisition of foreign Science & Technology type enterprises and the employment of foreign Science & Technology development experts

Program 25: Exemptions of administration fees by Zengcheng Municipal Government for Private (Min Ying) Enterprises located in the industrial parks approved by municipal level Governments or above

Program 26: Exemption of service fees and administrative fees by Shenyang Economic & Technological Development Area administration

II. Preferential Loans and Loan Guarantees

Program 27: Loans and Interest Subsidies Provided Under the Northeast Revitalization Program

Program 28: Export Seller's Credit for High- and New-Technology Products by China EMIX Bank

Program 29: Preferential Loan for the National/Provincial key Science & Technology Industrialization Projects, High Technology Industrialization Projects, Science & Technology Achievements Commercialization Projects, Modern Equipment Manufacturing Industry and key Information Technology Industrialization Projects by Liaoning Governments

III. Grants and Grant Equivalents

Program 30: Innovation Fund for Medium and Small Business

Program 31: Special fund for developing trade through science and technology of Guangdong Province

Program 32: Special Funds for Foreign Economic and Technical Cooperation

Program 33: Innovative Experimental Enterprise Grant

Program 34: Superstar Enterprise Grant

Program 35: Awards to Enterprises whose Products Qualify for "Well-Known Trademarks of China" or "Famous Brands of China"

Program 36: Export Brand Development Fund

Program 37: Provincial Scientific Development Plan Fund

Program 38: Technical Renovation Loan Interest Discount Fund

Program 39: National Innovation Fund for Technology Based Firms

Program 40: Guangdong - Hong Kong Technology Cooperation Funding Scheme

Program 41: Grants for Encouraging the Establishment of Headquarters and Regional Headquarters with Foreign Investment

Program 42: Innovative Small and Medium-Sized Enterprise Grants

Program 43: Product Quality Grant

Program 44: 2009 Energy-Saving Fund

Program 45: Grants for Export Activities

Program 46: Grants for International Certification

Program 47: Emission Reduction and Energy-Saving Award

Program 48: Grant - Patent Application Assistance

Program 49: Grant - State Service Industry Development Fund

Program 50: Grant - Provisional Industry Promotion Special Fund

Program 51: Grant - Jiangsu Province Finance Supporting Fund

Program 52: Grant - Water Pollution Control Special Fund for Taihu Lake

Program 53: Grant - Provincial Foreign Economy and Trade Development Special Fund

Program 54: Grant - Special Supporting Fund for Commercialization of Technological Innovation and Research Findings

Program 55: Grant - Resources Conservation and Environment Protection Grant

Program 56: Environment Protection Award (Jiangsu)

Program 57: Enterprise Technology Centers

Program 58: International market fund for small and medium sized export companies

Program 59: Business Development Overseas Support Fund

Program 60: Refund from Government for Participating in Trade Fair

Program 61: Grant - Special Fund for Fostering Stable Growth of Foreign Trade

Program 62: Reimbursement of Anti-dumping and/or Countervailing Legal Expenses by the Local Governments

Program 63: Financial Special Fund for Supporting High and New Technology Industry Development Project

Program 64: Subsidy for Promoting Energy-Saving Buildings

- Program 65: Special Fund for the Key Projects in the Cultural Innovation Industry by Shunyi District Local Government
- Program 66: Special Fund for the Technology Innovation by Niu Lan Shan Township Local Government
- Program 67: Subsidy for the Technology Development
- Program 68: Awards for the Contributions to Local Economy and Industry Development
- Program 69: Beijing Industrial Development Fund
- Program 70: Grants, Loans, and Other Incentives for Development of Famous Brands, China Top World Brands or other well-known Brands
- Program 71: Shunde Famous Brands
- Program 72: Guangdong Supporting Fund
- Program 73: “Five Points, One Line” Program of Liaoning Province
- Program 74: State Special Fund for Promoting Key Industries and Innovation Technologies
- Program 75: Fund for SME (small and medium size enterprises) Bank-Enterprise Cooperation Projects by Guangdong Governments
- Program 76: Special Fund for Significant Science and Technology by Guangdong Governments
- Program 77: Fund for Economic, Scientific and Technology Development by the Government of Foshan City
- Program 78: Provincial Fund for Fiscal and Technological Innovation by Guangdong Governments
- Program 79: Provincial Loan Discount Special Fund for SMEs by Guangdong Governments
- Program 80: "Large and Excellent" Enterprises Grant
- Program 81: Advanced Science/Technology Enterprise Grant
- Program 82: Award for Excellent Enterprise
- Program 83: Foshan City Government Technology Renovation and Technology Innovation Special Fund Grants

Program 84: Nanhai District Grants to State and Provincial Enterprise Technology Centers and Engineering Technology R&D Centers

Program 85: Supporting Fund for the Projects Used to Resolve the Important Technological Issues for Enterprises' Production and R&D by Liaoning Governments

Program 86: Technology Innovation Fund for Science & Technology Type SMEs by Liaoning Governments

Program 87: Supporting Fund for the Application Technology Research in the Overseas R&D Institution/Branch by Liaoning Governments

Program 88: Special Supporting Fund and Special Loan Assistance by Chinese Ministry of Science & Technology for revitalizing the Northeast old industrial base

Program 89: Special Supporting Fund for Key Projects of "500 Strong Enterprises in Contemporary Industries" by Guangdong Governments

Program 90: Fund for Supporting Strategic Emerging Industries by Guangdong Governments

Program 91: Medium Size and Small Size Enterprises Development Special Fund

Program 92: Medium Size and Small Size Trading Enterprises Development Special Fund

Program 93: Special Fund for Export Credit Insurance by Guangdong Governments

Program 94: Industrial Development Supporting Fund to Key Projects by Shunyi District Local Governments

Program 95: Supporting Fund for Converting the Industry Technology Achievements/Findings by Beijing Governments

Program 96: Special Development Fund for Beijing Cultural Innovation Industry

Program 97: Supporting Fund for Becoming Publicly Listed Company

Program 98: Supporting Fund for Constructing Energy-Saving Projects by Niu Lan Shan Township Local Governments

Program 99: Supporting Fund for the "Working Capital" Loan Interest

Program 100: Supporting Fund for "Information-Technology Application" Demonstration Enterprises by Niu Lan Shan Township Local Governments

Program 101: Supporting Fund for the Lab by Niu Lan Shan Township Local Governments

Program 102: Brand Development Fund by Shunyi District Local Governments

Program 103: Supporting Fund to Encourage Outwards Development by Niu Lan Shan Township Local Governments

Program 104: Supporting Fund for the Investments on Key Projects by Niu Lan Shan Township Local Governments

Program 105: Award by Niu Lan Shan Township Local Governments

Program 106: Supporting Fund for the Research of the Key Fire-proofing and Sound-proofing Technology for Curtain Wall by Beijing Governments

Program 107: Loan Subsidy for the Curtain Wall Technology Renovation Projects by Beijing Governments

Program 108: Award for Maintaining the Growth by Beijing Governments

Program 109: Award by Beijing Technology Trading Encouraging Centre

Program 110: Award by Shunyi District Science and Technology Committee

Program 111: Supporting Fund for the New Energy-Saving Curtain Wall Technology Renovation Project by Shanghai Songjiang Economic Committee

Program 112: Award by Shanghai Songjiang Economic Committee

Program 113: Supporting Fund for Science and Technology Expenses by Zengcheng Local Governments

Program 114: Supporting Fund for the Development from Guangzhou Local Governments

Program 115: Interest Assistance for Technology Renovation Projects by Liaoning Governments

Program 116: Interest Assistance for the Application of Information Technology by Liaoning Governments

Program 117: Loan Guarantee Fund for Science & Technology Enterprises by Liaoning Governments

Program 118: Fund for Optimizing Import and Export Structure of Mechanical Electronics and High and New Technology Products

Program 119: Special Fund for Pollution Control of Three Rivers, Three Lakes, and the Songhua River

Program 120: Government Export Subsidy and Product Innovation Subsidy in Shandong province

Program 121: Export Assistance Grant

Program 122: Research & Development (R&D) Assistance Grant

Program 123: Industrial Development Special Fund provided by Shenyang Municipal Government

Program 124: Technological Innovation Special Fund provided by Shenyang Municipal Government

Program 125: City Construction Special Fund provided by Shenyang Municipal Government

Program 126: Foreign Economic and Trading Special Fund provided by Shenyang Municipal Government

Program 127: Service Industry Guiding Fund provided by Shenyang Municipal Government

Program 128: Emerging Industry Special Fund provided by Shenyang Municipal Government

Program 129: Grants provided by Shenyang Municipal Government to National Key Projects, National Key Labs and National Research & Development Centers

Program 130: Supporting Fund provided by Shenyang Municipal Government for the acquisitions of the Foreign/Overseas Technology-Type Enterprises

Program 131: Grants by Shenyang Municipal Government to Municipal-level High and New Technology Enterprises for Promoting the Advancement of Technology

Program 132: Grants by Shenyang Municipal Government to New Accredited National-level Engineering Research Centers, Engineering Labs, Key Labs, Engineering Technology Centers and Enterprise Technology Centers

Program 133: Grants/Awards by Shenyang Municipal Government for Promoting the Technology Reformation

Program 134: Grants by Shenyang Municipal Government for Encouraging the Manufacturing and the Usage/Application of Domestically Produced First of its Kind Set of Equipment.

Program 135: Subsidy provided by Shenyang Municipal Government to Service Outsourcing Enterprises with Advanced Technology

Program 136: Supporting fund provided to Service Outsourcing Enterprises for the Establishment of their Brands and the Acquisition of their International Qualification Accreditations.

Program 137: Supporting funds provided by Shenyang Municipal Government to stimulate the Export Growth

Program 138: Subsidy Fund provided by Shenyang Municipal Government to Offset the Export Credit Insurance Fees

Program 139: Subsidy Fund provided by Shenyang Municipal Government to Offset the Registration Fees and Accreditation Fees for International or Overseas Trade Marks

Program 140: Grants provided to the Enterprises for their Interim/Procedural Progress toward becoming Publicly Listed Companies by Shenyang Municipal Government

Program 141: Supporting Fund provided by Shenyang Municipal Government to the Enterprises to Maintain the Employment Level

Program 142: Supporting Fund and Interest Assistance provided by Zengcheng Municipal Government to the Research and Development Projects accredited at Guangzhou Municipal Level, Guangdong Provincial Level and National level

Program 143: Supporting Funds provided by Zengcheng Municipal Government to the Research and Development Institutions Accredited as “National Engineering Research and Development Center”, “National Enterprise Technology Center”, “National Key Lab” or “Provincial Research and Development Institution”

Program 144: Grants and Assistance provided by Zengcheng Municipal Government to Enterprises whose Products are Accredited as “Provincial Famous Trademark”, “Guangzhou Famous Trademark” or who are accredited as “Zengcheng Regional Brand”

Program 145: Grants provided by Zengcheng Municipal Government to Enterprises to Encourage their Business Cooperation/Coordination

Program 146: Grants provided to Enterprises to encourage their Technology Renovations by Zengcheng Municipal Government

Program 147: “Going Out” Supporting Funds provided by Zengcheng Municipal Government

Program 148: Awards provided by Zengcheng Municipal Government to Publicly Listed enterprises that successfully Refinance through Capital Markets and Invest some or all of those Funds to the Projects located in Zengcheng City

Program 149: Supporting Funds provided by Zengcheng Municipal Government to Private (Min Ying) Industrial Enterprises who have the annual sales revenue more than 500M Chinese Yuan and the annual payable/paid tax amount more than 10M Chinese Yuan and follow the directions of industry structure adjustments prescribed by National, Provincial and Municipal Governments

Program 150: Awards provided by Zengcheng Municipal Government to Private (Min Ying) High & New Technology Enterprises who are accredited by Guangzhou Municipal Governments and have the large scale of investments, have the advanced and competitive Science & Technology products and have the significant amounts of profits and paid/payable taxes

Program 151: Awards provided by Zengcheng Municipal Government to Private (Min Ying) Enterprises for their new researched and developed products that are accredited at the national level or provincial level

Program 152: Grant provided by Zengcheng Municipal Government to Private (Min Ying) Enterprises for their patents that are accredited as “National Patent Gold Award” or “National Superior/Excellent Patent Award”

Program 153: Grant provided by Zengcheng Municipal Government to Private (Min Ying) Enterprises for their successful acquisition of national certifications

Program 154: Award provided by Zengcheng Municipal Government to Private (Min Ying) Enterprises who are accredited as “Demonstration Enterprises for Clean Production” by the Governments at Guangzhou municipal level or above

Program 155: Supporting Funds provided by Zengcheng Municipal Government to Private (Min Ying) Enterprises to encourage them to develop the domestic market and the international market

Program 156: Liaoning High-tech Products & Equipment Exports Interest Assistance

IV. Preferential Tax Programs

Program 157: Preferential tax policies for advanced technology enterprises with foreign investment

Program 158: Reduced Tax Rate for Productive FIEs Scheduled to Operate for a Period Not Less Than 10 Years

Program 159: Tax Preference Available to Companies that Operate at a Small Profit

Program 160: Preferential Tax Policies for Foreign Invested Export Enterprises

Program 161: Preferential Tax Policies for the Research and Development of FIEs

Program 162: Preferential Tax Policies for FIEs and Foreign Enterprises Which Have Establishments or Places in China and are Engaged in Production or Business Operations Purchasing Domestically Produced Equipment

Program 163: Preferential Tax Policies for Domestic Enterprises Purchasing Domestically Produced Equipment for Technology Upgrading Purpose

Program 164: Income Tax Refund for Re-investment of FIE Profits by Foreign Investors

Program 165: VAT and Income Tax Exemption/Reduction for Enterprises Adopting Debt-to-Equity Swaps

Program 166: Corporate Income Tax Reduction for New High-Technology Enterprises

Program 167: Income Tax Credits on Purchases of Domestically Produced Equipment

Program 168: Preferential Tax Programs for Encouraged Industries or Projects

Program 169: Exemption from City Maintenance and Construction Taxes and Education Fee Surcharges for FIEs

Program 170: Tax Offset for R&D Expenses in Guangdong Province

Program 171: Accelerated Depreciation on Fixed Assets

Program 172: Preferential Tax Treatment for the Technology Development Expenses by Liaoning Governments

Program 173: Accelerated Depreciation on Intangible Assets for Industrial Enterprises in Northeast Region

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

Program 174: Exemption of Tariff and Import VAT for the Imported Technologies and Equipment

Program 175: Relief from Duties and Taxes on Imported Material and Other Manufacturing Inputs

VI. Reduction in Land Use Fees

Program 176: Reduction, Exemption or Refund of Land Use Fees, Land Rental Rates and Land Purchase/Transfer Prices

VII. Goods/Services provided by the Government at Less Than Fair Market Value

Program 177: Raw Materials Provided by the Government at Less than Fair Market Value

Program 178: Utilities Provided by the Government at Less than Fair Market Value

VIII. Equity Programs

Program 179: Debt to Equity Swaps

IX. Subsidy Pass-through

Program 180: Subsidy Pass-Through from the Purchase of Aluminum Extrusions

Determinations of Subsidy and Specificity

Available information indicates that the programs identified under: *SEZ and Other Designated Areas Incentives; Preferential Loans and Loan Guarantees; Preferential Tax Programs; Relief from Duties and Taxes on Inputs, Materials and Machinery; and Reduction in Land Use Fees*, may constitute a financial contribution pursuant to paragraph 2(1.6)(b) of SIMA, in that amounts that would otherwise be owing and due to the government are reduced and/or exempted, and would confer a benefit to the recipient equal to the amount of the reduction/exemption.

Grants and Grant Equivalentents and Equity Programs may constitute a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA in that they involve the direct transfer of funds or liabilities or the contingent transfer of funds or liabilities; and pursuant to paragraph 2(1.6)(b) of SIMA as amounts owing and due to the government that are forgiven or not collected.

Goods/Services Provided by Government at Less than Fair Market Value and Subsidy Pass-through may constitute a financial contribution pursuant to paragraph 2(1.6)(c) of SIMA as they involve the provision of goods or services, other than general governmental infrastructure.

Benefits provided to certain types of enterprises or limited to enterprises located in certain areas under program categories: *SEZ and Other Designated Areas Incentives; Preferential Loans and Loan Guarantees; Preferential Tax Programs; Relief from Duties and Taxes on Inputs, Materials and Machinery; and Reduction in Land Use Fees*, may be considered specific pursuant to paragraph 2(7.2)(a) of SIMA.

As well, *Grants and Grant Equivalentents, Equity Programs, Goods/Services Provided by Government at Less than Fair Market Value and Subsidy Pass-through* may be considered specific pursuant to subsection 2(7.3) of SIMA in that the manner in which discretion is exercised by the granting authority indicates that the subsidy may not be generally available.