



4214-38  
AD/1399  
4218-36  
CVD/135

OTTAWA, October 25, 2013

## STATEMENT OF REASONS

**Concerning the making of final determinations with respect to the dumping and subsidizing of**

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

## DECISION

Pursuant to subsection 41(1)(a) of the *Special Import Measures Act*, on October 10, 2013, the President of the Canada Border Services Agency made final determinations respecting: the 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.

## TABLE OF CONTENTS

SUMMARY OF EVENTS .....	1
PERIOD OF INVESTIGATION .....	2
INTERESTED PARTIES .....	3
Complainants.....	3
Importers .....	4
Exporters .....	4
Government of China.....	5
PRODUCT INFORMATION .....	5
Definition .....	5
Additional Product Information .....	5
Production Process .....	7
Classification of Imports .....	8
CLASS OF GOODS.....	9
LIKE GOODS.....	9
THE CANADIAN INDUSTRY .....	10
IMPORTS INTO CANADA .....	10
INVESTIGATION PROCESS.....	10
DUMPING INVESTIGATION .....	12
Importer Responses .....	12
Exporter Responses .....	12
Normal Values .....	12
Export Prices .....	13
Amount for Profit for Purposes of Section 25 of SIMA .....	13
Results of the Dumping Investigation.....	13
Dumping Results by Exporter .....	14
Summary of Results - Dumping.....	17
SUBSIDY INVESTIGATION.....	18
Results of the Subsidy Investigation .....	20
All other Exporters - Amount of Subsidy .....	27
Summary of Results – Subsidy .....	28
DECISIONS.....	29
FUTURE ACTION .....	29
RETROACTIVE DUTY ON MASSIVE IMPORTATIONS .....	30
PUBLICATION.....	31
INFORMATION.....	31
APPENDIX 1 – SUMMARY OF MARGINS OF DUMPING AND AMOUNTS OF SUBSIDY	32
APPENDIX 2 – SUMMARY OF FINDINGS FOR NAMED SUBSIDY PROGRAMS.....	33
APPENDIX 3 – DUMPING AND SUBSIDY REPRESENTATIONS .....	66

## **SUMMARY OF EVENTS**

[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 Services Agency (CBSA).

[2] Investigations respecting certain unitized wall modules from the People’s Republic of China (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. The complaint received on January 14, 2013 concerned the same goods that were subject to these investigations.

[3] In the 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 disclosed a reasonable indication that the dumping and subsidizing has caused injury and is 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 invited for consultations prior to the initiation of the investigations, pursuant to Article 13.1 of the *Agreement on Subsidies and Countervailing Measures*, no such consultations took place. However, on March 4, 2013, the GOC provided representations opposing the initiation of dumping and subsidizing investigations on certain unitized wall modules originating in or exported from China.

[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.

[7] Upon receiving notice of the initiation of the investigations, the Tribunal commenced a preliminary injury inquiry, pursuant to subsection 34(2) of SIMA, into whether the evidence discloses a reasonable indication that the dumping and subsidizing of certain unitized wall modules has caused injury or is threatening to cause injury to the Canadian industry producing the goods.

[8] On May 3, 2013, pursuant to subsection 37.1(1) of SIMA, the Tribunal made a preliminary determination that there is evidence that discloses a reasonable indication that the dumping and subsidizing of certain unitized wall modules from China has caused injury or is threatening to cause injury.

[9] On May 17, 2013, pursuant to paragraph 39(1)(a) of SIMA, the President extended the time period for making preliminary decisions with respect to the investigations into the dumping and subsidizing of certain unitized wall modules from 90 days to 132 days due to the complexity and novelty of the issues presented by the investigations.

[10] On July 15, 2013, as a result of the CBSA's preliminary investigation and pursuant to subsection 38(1) of SIMA, the President made preliminary determinations of dumping and subsidizing with respect to certain unitized wall modules originating in or exported from China, and began imposing provisional duties on imports of the subject goods pursuant to subsection 8(1) of SIMA.

[11] On July 16, 2013, the Tribunal initiated a full inquiry pursuant to section 42 of SIMA to determine whether the dumping and subsidizing of the above-mentioned goods had caused injury or were threatening to cause injury to the Canadian industry.

[12] The CBSA continued its investigation and, on the basis of the results, the President was satisfied that certain unitized wall modules originating in or exported from China had been dumped and subsidized and that the margin of dumping and amount of subsidy were not insignificant. Consequently, on October 10, 2013, the President made final determinations of dumping and subsidizing pursuant to paragraph 41(1)(a) of SIMA.

[13] The Tribunal's inquiry into the question of injury to the Canadian industry is continuing. Provisional duties will continue to be imposed on the subject goods from China until the Tribunal renders its decision. The Tribunal has announced that it will issue its finding by November 12, 2013.

### **PERIOD OF INVESTIGATION**

[14] The period of investigation (POI) with respect to dumping and subsidizing covered all subject goods released into Canada from January 1, 2011 to December 31, 2012.

## **INTERESTED PARTIES**

### **Complainants**

[15] 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.

[16] 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 Rainside 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

[17] Other producers of like goods in Canada include: Aluminum Window Design Ltd., Applewood Glass & Mirror Inc., Basic Industries, Epsilon Concept Inc., Ferguson Glass Corporation, Gamma Windows and Walls International Inc., Lessard Group Inc., Merit Glass Ltd., Noram Enterprises Inc., OVG Inc., Phoenix Glass Inc., Primeline Window and Doors Inc., Quest Window Systems Inc., Transit Glass Inc., Verval Ltd. and Zimmcor. All of these domestic producers supported the complaint with the exception of Aluminum Window Design Ltd., Basic Industries, Ferguson Glass Corporation, Gamma Windows and Walls International Inc., Merit Glass Ltd. and Zimmcor<sup>1</sup>. These six producers were contacted by the CBSA regarding support of the complaint but no responses were received.

### **Importers**

[18] At the initiation of the investigations, the CBSA identified 11 potential importers of the subject goods from information provided by the Complainants and CBSA import entry documentation over the period of January 1, 2011 to December 31, 2012.

[19] The CBSA sent an importer Request for Information (RFI) to all potential importers of the goods. The CBSA received two responses to the importer RFI.

### **Exporters**

[20] At the initiation of the investigations, 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. Each of these potential exporters were sent an exporter dumping RFI and an exporter subsidy RFI.

[21] The CBSA received three responses to the exporter dumping RFI and the exporter subsidy RFI. Of these, only two responses to the exporter dumping RFI and the exporter subsidy RFI were considered complete and timely.

---

<sup>1</sup> Dumping/Subsidy Exhibits 3 (NC), 4 (NC), 5 (NC), 6 (NC), 7 (NC), 8 (NC), 9 (NC), 10 (NC), 11 (NC), 12 (NC), 28 (PRO), 29 (PRO), 30 (PRO)

## **Government of China**

[22] 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.

[23] The CBSA sent a government subsidy RFI to the GOC at the initiation of the subsidy investigation. The GOC did not provide a response to the subsidy RFI.

## **PRODUCT INFORMATION**

### **Definition**

[24] For the purpose of these investigations, 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**

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

[26] 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.

[27] 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.

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

- air infiltration/exfiltration to a minimum  $0.10 \text{ L/s/m}^2$  (litres/second/square meter) when tested in accordance with American Society of Testing and Materials ("ASTM") Standard E283 at 0.3kPa (kilopascals) negative and positive pressure differential or equivalent proprietary or other internationally accepted standard;
- no water infiltration when tested under static wind load in accordance with ASTM Standard E331 using 205 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  $3.0 \text{ W/m}^2\text{C}$  (watt/square meter/Celsius) for vision glass areas and  $1.5 \text{ W/m}^2\text{C}$  for opaque areas (including framing) or equivalent proprietary or other internationally accepted standard.

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

[30] 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.

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

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

[33] 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**

[34] 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.

[35] 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.

[36] 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.

[37] 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.

[38] 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.

[39] 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**

[40] 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

[41] 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

[42] The subject goods may also be imported under the following HS classification numbers:

Prior to January 1, 2012	As of January 1, 2012
7008.00.00.00	7008.00.00.00
7308.30.00.21	7308.30.00.21
7604.29.20.30	7610.10.00.10
7610.10.00.10	7610.90.90.30

[43] The HS classification numbers identified are for convenience of reference only. The HS classification numbers may 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.

### **CLASS OF GOODS**

[44] The dumping and subsidy investigations were initiated on a single class of goods. However, as a result of the Tribunal's preliminary injury inquiry<sup>2</sup>, the Tribunal was of the opinion that the question of whether there are multiple classes of goods merited further consideration. As such, the Tribunal requested the CBSA to collect, in addition to the single class of subject goods as defined at initiation, separate information on the dumping and subsidizing of (1) unitized curtain wall modules (2) unitized window wall modules. The CBSA sought further details from the Tribunal regarding how these two potential classes should be defined and the Tribunal provided further clarification in a letter received on June 6, 2013.

[45] The CBSA requested information on the two potential classes of goods from the exporters who have provided information to the CBSA. The requested information was received from these exporters. However, on August 14, 2013, the Tribunal determined that unitized curtain wall modules and unitized window wall modules constitute a single class of goods. The Tribunal informed the CBSA that as a result of this determination, the CBSA would no longer be required to collect information on the dumping and subsidizing of unitized curtain wall modules and unitized window wall modules separately.

### **LIKE GOODS**

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

[47] Unitized wall modules produced by the domestic industry in Canada 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 imported from China. Therefore, the CBSA has concluded that unitized wall modules produced by the Canadian industry constitute like goods to the unitized wall modules imported from China.

[48] However, unitized wall modules are custom designed for specific building projects, and can only be used for the projects for which they are designed. Therefore, for the purpose of determining normal values, the CBSA concluded that the unitized wall modules sold in China are not identical to and do not closely resemble the subject goods sold to the importer in Canada. As such, there are no domestic sales of like goods by Chinese producers.

---

<sup>2</sup> Preliminary Injury Inquiry No. PI-2012-006 Unitized Wall Modules, issued on May 3, 2013. Reasons available online at [http://www.citt.gc.ca/dumping/preinq/determin/pi2m006\\_e.asp](http://www.citt.gc.ca/dumping/preinq/determin/pi2m006_e.asp)

## **THE CANADIAN INDUSTRY**

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

## **IMPORTS INTO CANADA**

[50] During the investigations, the CBSA refined the value of imports based on information received from exporters and importers.

[51] The additional information indicated that certain unitized wall modules were only imported from China and the Republic of Korea during the POI.

[52] The following table presents the CBSA's analysis of imports of certain unitized wall modules for the final determinations.

**Imports of Certain Unitized Wall Modules  
(January 1, 2011 – December 31, 2012)  
As a percentage of total import volume in Canadian Dollars (\$) <sup>3</sup>**

<b>Imports into Canada</b>	<b>% of Total Import Volume</b>
China	96%
Republic of Korea	4%
<b>Total</b>	<b>100%</b>

## **INVESTIGATION PROCESS**

[53] Regarding the dumping investigation, information was requested from known and potential exporters, producers, vendors and importers, concerning shipments of certain unitized wall modules released into Canada during the POI of January 1, 2011 to December 31, 2012.

[54] Regarding the subsidy investigation, information related to potential actionable subsidies was requested from known and potential exporters and the GOC concerning financial contributions made to exporters or producers of certain unitized wall modules released into Canada during the POI of January 1, 2011 to December 31, 2012. Exporters and producers were also requested to forward a subsidy RFI to their suppliers of aluminum extrusions, in the context of the investigation of upstream subsidies from the suppliers of these raw materials since aluminum extrusions were found to be subsidized in a prior investigation.<sup>4</sup>

---

<sup>3</sup> The CBSA's import documentation was used to determine the imports of certain unitized wall modules during the POI. Since import volume information on the customs documentation was reported in various units of measure (i.e. m<sup>2</sup>, number of modules, kg, etc.), it was not feasible to determine the imports of certain unitized wall modules by volume. As a result, import value was used as the unit of measure for determining imports of certain unitized wall modules.

<sup>4</sup> Certain Aluminum Extrusions originating in or exported from the People's Republic of China, *Certain Aluminum Extrusions – Final Determination*. This document is available at: <http://www.cbsa-asfc.gc.ca/sima-lmsi/i-e/ad1379/ad1379-i08-fd-eng.html>

[55] After reviewing the responses to the RFIs, supplemental RFIs were sent to each of the responding parties to clarify information provided in the submissions. In addition, on-site verifications were conducted at the premises of both responding exporters and their related importers during the course of the investigations.

[56] Details pertaining to the information submitted by the exporters in response to the exporter dumping RFI as well as the results of the CBSA's dumping investigation can be found in the "Dumping Investigation" section below. Details pertaining to the information submitted by the exporters in response to the subsidy RFI as well as the results of the CBSA's subsidy investigation can be found in the "Subsidy Investigation" section below.

[57] As part of the final stage of the investigations, case briefs and reply submissions were provided by counsel representing the Complainants and exporters. Details of all representations can be found in **Appendix 3** of this document.

[58] Under Article 15 of the World Trade Organization (WTO) *Anti-dumping Agreement*, developed countries are to give regard to the special situation of developing country members when considering the application of anti-dumping measures under the Agreement. Possible constructive remedies provided for under the Agreement are to be explored before applying anti-dumping duty where they would affect the essential interests of developing country members. As China is listed on the *Development Assistance Committee (DAC) List of Official Development Assistance (ODA) Recipients* maintained by the *Organization for Economic Co-operation and Development (OECD)*<sup>5</sup>, the President recognizes China as a developing country for purposes of actions taken pursuant to SIMA.

[59] Accordingly, the obligation under Article 15 of the WTO *Anti-dumping Agreement* was met by providing the opportunity for exporters to submit price undertakings. In these investigations, the CBSA did not receive any proposals for undertakings from any of the exporters in China.

---

<sup>5</sup> The Organization for Economic Co-operation and Development, DAC List of ODA Recipients as at January 1, 2012, the document is available at: [www.oecd.org/dac/stats/49483614.pdf](http://www.oecd.org/dac/stats/49483614.pdf)

## **DUMPING INVESTIGATION**

### ***Importer Responses***

[60] The CBSA received two responses to the importer RFI. Both submissions are substantially complete.

#### ***Jangho Curtain Wall Canada Co., Ltd.***<sup>6</sup>

[61] Jangho Curtain Wall Canada Co., Ltd. (Jangho Canada) is an importer and seller of unitized wall modules. During the POI, Jangho Canada imported unitized wall modules from a related exporter, Guangzhou Jangho Curtain Wall System Engineering Co., Ltd. (Guangzhou Jangho). The submission provided by Jangho Canada is substantially complete and was verified on-site prior to the preliminary determination.

#### ***Yuanda Canada Enterprises Ltd.***<sup>7</sup>

[62] Yuanda Canada Enterprises Ltd. (Yuanda Canada) is an importer and seller of unitized wall modules. During the POI, Yuanda Canada imported unitized wall modules from a related exporter, Shenyang Yuanda Aluminum Industry Engineering Co., Ltd. (Shenyang Yuanda). The submission provided by Yuanda Canada is substantially complete and was verified on-site after the preliminary determination.

### ***Exporter Responses***

[63] The CBSA received responses to the exporter dumping RFI from the following companies:

- Guangzhou Jangho and associated companies<sup>8</sup>
- Shenyang Yuanda and associated companies<sup>9</sup>
- Shanghai Henry Yijian Curtain Wall Manufacturing Co., Ltd. and an associated company<sup>10</sup>

### ***Normal Values***

[64] The normal value of goods sold to importers in Canada is generally based on the domestic selling prices of like goods in the country of export pursuant to section 15 of SIMA, or on the aggregate of the cost of production of the goods, a reasonable amount for administrative, selling and all other costs, and a reasonable amount for profits, pursuant to paragraph 19(b) of SIMA.

---

<sup>6</sup> Dumping exhibit 68 (NC)

<sup>7</sup> Dumping exhibit 66 (NC)

<sup>8</sup> Dumping exhibit 71 (NC)

<sup>9</sup> Dumping exhibit 77 (NC)

<sup>10</sup> Dumping exhibit 80 (NC) and Dumping exhibit 83 (NC)

[65] Where, in the opinion of the President, sufficient information has not been furnished or is not available, normal values are determined pursuant to a ministerial specification in accordance with subsection 29(1) of SIMA.

### ***Export Prices***

[66] The export price of goods sold to importers in Canada is generally based on the lesser of the adjusted exporter's sale price for the goods or the adjusted importer's purchase price, pursuant to section 24 of SIMA. These prices are adjusted, where necessary, by deducting the costs, charges, expenses, duties and taxes resulting from the exportation of the goods as provided for in subparagraphs 24(a)(i) to 24(a)(iii) of SIMA.

[67] Where there are sales between associated persons or a compensatory arrangement exists, the export price may be determined based on the importer's resale price of the imported goods in Canada to non-associated purchasers, less deductions for all costs incurred in preparing, shipping and exporting the goods to Canada that are additional to those incurred on the sales of like goods for use in the country of export, all costs that are incurred in reselling the goods (including duties and taxes) or associated with the assembly of the goods in Canada and an amount representative of the industry profit in Canada, pursuant to paragraphs 25(1)(c) and 25(1)(d) of SIMA. Where, in any cases not provided for under paragraphs 25(1)(c) and 25(1)(d) of SIMA, the export price is determined in such manner as the Minister specifies, pursuant to paragraph (25)(1)(e) of SIMA.

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

### ***Amount for Profit for Purposes of Section 25 of SIMA***

[69] An amount for profit was determined pursuant to paragraph 22(b) of the *Special Import Measures Regulations* (SIMR) by calculating the weighted-average of the profit margins of each complainant, other producer and importer for which financial information was provided, and that reported a profit during the POI. For the purposes of determining this amount for profit, all other known producers were contacted by the CBSA and were requested to provide financial information.

[70] The amount for profit determined was 10.53%.

### ***Results of the Dumping Investigation***

[71] With respect to the exporters that provided complete responses to the RFI, the CBSA determined a margin of dumping by comparing the total normal value with the total export price of the goods. When the total export price is less than the total normal value, the difference is the margin of dumping for that specific exporter.

[72] The determination of the volume of dumped goods was calculated by taking into consideration each exporter's net aggregate dumping results. Where a given exporter has been determined to be dumping on an overall or net basis, the total quantity of exports attributable to that exporter (i.e., 100%) is considered dumped. Similarly, where a given exporter's net aggregate dumping results are zero, then the total quantity of exports considered to be dumped by that exporter is zero.

[73] For those exporters that did not submit a response to the RFI, or that submitted an incomplete response, the normal value of the goods was determined by advancing the export price by the highest amount by which the total normal value of the goods exceeded the total export price relating to an individual project for an exporter that provided a substantially complete response to the RFI, excluding anomalies.

[74] In determining a margin of dumping for China, the margins of dumping found in respect of each exporter were weighted according to each exporter's value of certain unitized wall modules released into Canada during the POI.

### ***Dumping Results by Exporter***

[75] The margins of dumping were determined on the basis of the information provided by the exporters.

[76] Margin of dumping details relating to the exporters that provided a complete response to the RFI are presented in a margin of dumping summary table at the end of this section as well as in **Appendix 1**.

### ***Guangzhou Jangho Curtain Wall System Engineering Co., Ltd.***

[77] Guangzhou Jangho was established in June 2007 by its parent company Beijing Jangho Curtain Wall Co., Ltd. (Beijing Jangho). Guangzhou Jangho is wholly owned by Beijing Jangho. The parent company is publicly traded on the Shanghai Stock Exchange. Beijing Jangho has a complex corporate structure with many subsidiaries in China and internationally, including a related importer in Canada, Jangho Canada (see above). Guangzhou Jangho is a manufacturer of certain unitized wall modules which are sold domestically and to export markets including Canada.

[78] Guangzhou Jangho had domestic sales of certain unitized wall modules during the POI. However, due to the uniqueness of the unitized wall modules for each individual building project, the CBSA is of the opinion that these domestic sales are not like goods in relation to the subject goods exported to Canada. Therefore, normal values could not be determined using section 15 of SIMA.

[79] Normal values for Guangzhou Jangho have been determined pursuant to paragraph 19(b) of SIMA. A reasonable amount for administrative, selling and all other costs was determined pursuant to subparagraph 11(1)(c)(ii) of SIMR based on the costs that are reasonably attributable to the subject goods. An amount of profits, which was determined in accordance with subparagraph 11(1)(b)(ii) of SIMR, was based on the profits earned on sales of goods of the same general category by the exporter in the country of export, which met the conditions described in paragraph 13(a) of SIMR.

[80] Guangzhou Jangho exported subject goods during the POI to its related importer, Jangho Canada. A related vendor, Jangho Curtain Wall (Hong Kong) Co., Ltd., was used to facilitate the export sales to Canada. As the exporter and importer were related a reliability test was performed to determine whether the section 24 export prices were reliable as envisaged by SIMA. This test was conducted by comparing the section 24 export prices with the section 25 “deductive” export prices based on the importer’s resale prices of the imported goods in Canada to non-associated purchasers, less deductions for all additional costs incurred in preparing, shipping and exporting the goods to Canada, all costs included in the resale prices that were incurred in reselling the goods in Canada (including duties and taxes) and an amount representative of the industry profit in Canada. The test revealed that the export prices determined in accordance with section 24 of SIMA were unreliable and therefore, export prices were determined pursuant to paragraph 25(1)(c) of SIMA. The amount for profit was determined pursuant to paragraph 22(b) of SIMR, based on sales of goods of the same general category by vendors in Canada who are at the same or substantially the same trade level as Jangho Canada.

[81] On-site verifications were held at Guangzhou Jangho, Jangho Hong Kong and Beijing Jangho from July 22, 2013 to August 8, 2013.

[82] The total normal value was compared with the total export price for all subject goods released into Canada during the POI from Guangzhou Jangho. The margin of dumping for Guangzhou Jangho is 15.7%, expressed as a percentage of the export price.

*Shenyang Yuanda Aluminum Industry Engineering Co., Ltd.*

[83] Shenyang Yuanda was established in 1993 and is a producer and exporter of unitized wall module products and other building facade products. Shenyang Yuanda is wholly-owned by Yuanda (Hong Kong) Holdings Ltd., who is in turn a wholly-owned subsidiary of Yuanda China Holdings Ltd. (Yuanda China). Yuanda China is a publically traded company on the Hong Kong Stock Exchange and was first listed in 2011. Yuanda China has many subsidiaries in China and internationally, including a related importer in Canada, Yuanda Canada.

[84] Shenyang Yuanda had domestic sales of certain unitized modules during the POI. However, due to the uniqueness of the unitized wall modules for each individual building project, the CBSA is of the opinion that these domestic sales are not like goods, in relation to the subject goods exported to Canada. Therefore, for the purposes of the final determination, normal values could not be determined using section 15 of SIMA.

[85] For the purposes of the final determination, normal values for Shenyang Yuanda have been determined pursuant to paragraph 19(b) of SIMA. A reasonable amount for administrative, selling and all other costs was determined pursuant to subparagraph 11(1)(c)(ii) of SIMR based on the costs that are reasonably attributable to the subject goods. An amount of profits, which was determined in accordance with subparagraph 11(1)(b)(ii) of SIMR, was based on the profits earned on sales of goods of the same general category by the exporter in the country of export, which met the conditions described in paragraph 13(a) of SIMR.

[86] Shenyang Yuanda exported subject goods during the POI to its related importer, Yuanda Canada. As the exporter and importer were related a reliability test was performed to determine whether the section 24 export prices were reliable as envisaged by SIMA. This test was conducted by comparing the section 24 export prices with the section 25 “deductive” export prices based on the importer’s resale prices of the imported goods in Canada to non-associated purchasers, less deductions for all additional costs incurred in preparing, shipping and exporting the goods to Canada, all costs included in the resale prices that were incurred in reselling the goods in Canada (including duties and taxes) or associated with the assembly of the goods in Canada and an amount representative of the industry profit in Canada. The test revealed that the export prices determined in accordance with section 24 of SIMA were unreliable and therefore, export prices were determined pursuant to paragraph 25(1)(d) of SIMA. The amount for profit was determined in accordance with paragraph 22(b) of SIMR, based on sales of goods of the same general category by vendors in Canada who are at substantially the same trade level as Yuanda Canada.

[87] On-site verifications were held at Shenyang Yuanda and its related suppliers from June 17, 2013 to June 25, 2013.

[88] The total normal value was compared with the total export price for all subject goods released into Canada during the POI from Shenyang Yuanda. The margin of dumping for Shenyang Yuanda is 49.3%, expressed as a percentage of the export price.

*Shanghai Henry Yijian Curtain Wall Manufacturing Co., Ltd.*

[89] Shanghai Henry Yijian Curtain Wall Manufacturing Co., Ltd. (Henry Yijian) provided a response to the exporter dumping RFI. However, the response is incomplete.

[90] Henry Yijian was requested to provide the missing information and no response was received.

[91] Sufficient information was not provided to the CBSA in order to determine margins of dumping for Henry Yijian using Henry Yijian’s own information. Therefore, Henry Yijian’s normal values and export prices were determined based on a ministerial specification pursuant to subsection 29(1) of SIMA using the same methodology as all other exporters who did not provide a response to the CBSA.

*All Other Exporters - Margin of Dumping*

[92] For all other exporters, the normal values of the goods were determined pursuant to subsection 29(1) of SIMA by advancing the export price by 120%. The advance is based on the highest amount by which the total normal value of the goods exceeded the total export price of the goods for an individual project for an exporter that provided a substantially complete response to the RFI, excluding anomalies.

[93] Export prices for these other exporters were determined pursuant to subsection 29(1) of SIMA based on CBSA import documentation for the subject goods released into Canada during the POI.

[94] The total normal value was compared with the total export price of all subject goods released into Canada during the POI from all other exporters. The margin of dumping for all other exporters is 120%, expressed as a percentage of the export price.

***Summary of Results - Dumping***

[95] The following table summarizes the results of the dumping investigation respecting all subject goods released into Canada during the dumping POI.

**Margin of Dumping and Volume of Dumped Goods  
January 1, 2011 to December 31, 2012<sup>11</sup>**

<b>Country</b>	<b>Volume of Dumped Goods as Percentage of Country Imports</b>	<b>Margin of Dumping*</b>	<b>Volume of Country Imports as Percentage of Total Imports</b>	<b>Volume of Dumped Goods as Percentage of Total Imports</b>
China	100%	83%	96%	96%

\*expressed as a percentage of the export price

[96] Under paragraph 41(1)(a) of SIMA, the President shall make a final determination of dumping when he is satisfied that the goods have been dumped and that the margin of dumping of the goods of a country is not insignificant. Pursuant to subsection 2(1) of SIMA, a margin of dumping of less than 2% of the export price of the goods is defined as insignificant. As the preceding table illustrates, the margin of dumping found during this investigation is not insignificant.

---

<sup>11</sup> The CBSA's import documentation was used to determine the imports of certain unitized wall modules during the POI. Since import volume information on the customs documentation was reported in various units of measure (i.e. m<sup>2</sup>, number of modules, kg, etc.), it was not feasible to determine the imports of certain unitized wall modules by volume. As a result, import value was used as the unit of measure for determining imports of certain unitized wall modules.

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

### *Representations Concerning the Dumping Investigation*

[98] Following the August 30, 2013 close of the record, three case briefs and three reply submissions were received from counsel representing the Complainants, Guangzhou Jangho and Shenyang Yuanda.

[99] Issues raised by participants through case briefs and reply submissions pertaining to the dumping investigation and the CBSA's response to these issues are provided in **Appendix 3**.

### **SUBSIDY INVESTIGATION**

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

[101] Pursuant to subsection 2(1.6) of SIMA, there is a financial contribution by a government of a country other than Canada where:

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

[102] Where subsidies exist they may be subject to countervailing measures if they are specific in nature. According to subsection 2(7.2) of SIMA, a subsidy is considered to be specific when it is limited, in a legislative, regulatory or administrative instrument, or other public document, to a particular enterprise within the jurisdiction of the authority that is granting the subsidy; or is a prohibited subsidy.

[103] The following terms are defined in section 2 of SIMA. A “prohibited subsidy” is either an export subsidy or a subsidy or portion of subsidy that is contingent, in whole or in part, on the use of goods that are produced or that originate in the country of export. An “export subsidy” is a subsidy or portion of a subsidy contingent, in whole or in part, on export performance. An “enterprise” is defined as including a group of enterprises, an industry and a group of industries.

[104] Notwithstanding that a subsidy is not specific in law, under subsection 2(7.3) of SIMA a subsidy may also be considered specific having regard as to whether:

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

[105] For purposes of a subsidy investigation, the CBSA refers to a subsidy that has been found to be specific as an “actionable subsidy”, meaning that it is subject to countervailing measures if the persons engaged in the production, manufacture, growth, processing, purchase, distribution, transportation, sale, export or import of goods under investigation have benefited from the subsidy.

[106] Financial contributions provided by state-owned enterprises (SOEs) may also be considered to be provided by the GOC for purposes of this investigation. An 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.

[107] At the time of initiation of the investigation, the CBSA had identified 180 subsidy programs to be investigated. These programs can be classified under one of the following nine categories:

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; and
9. Subsidy Pass-through (i.e. upstream subsidies).

[108] Details regarding these potential subsidies were provided in the *Statement of Reasons* issued for the initiation of this investigation. This document is available through the CBSA Web site at the following address: [www.cbsa-asfc.gc.ca/sima-lmsi](http://www.cbsa-asfc.gc.ca/sima-lmsi).

### ***Results of the Subsidy Investigation***

[109] In conducting its investigation, the CBSA sent a subsidy RFI to the GOC, as well as to the potential exporters and producers located in China that had been identified in the complaint and through internal CBSA documentation. Information was requested in order to establish whether there had been financial contributions made by any level of government, including SOEs possessing, exercising or vested with government authority, and, if so, to establish if a benefit has been conferred on persons engaged in the production, manufacture, growth, processing, purchase, distribution, transportation, sale, export or import of certain unitized wall modules; and whether any resulting subsidy was specific in nature. The exporters were requested to forward a portion of the RFI to their input suppliers of aluminum extrusions, glass products and steel products, who were asked to respond to questions pertaining to their legal characterization as SOEs. The exporters were also requested to forward a subsidy RFI to their aluminum extrusion suppliers, in the context of the investigation of upstream subsidies from the suppliers of these raw materials since aluminum extrusions were found to be subsidized in prior investigations. On May 22, 2013, the CBSA also sent RFIs to sixteen producers of aluminum extrusions in four countries, namely, Chinese Taipei, Malaysia, Mexico and India. These RFIs were seeking domestic pricing and costing information for the purposes of finding a non-subsidized benchmark price for aluminum extrusions in the context of the analysis of possible upstream subsidies from aluminum extrusion suppliers.

[110] The CBSA received responses to the exporter subsidy RFI from the following companies:

- Guangzhou Jangho and Associated Companies<sup>12</sup>
- Shenyang Yuanda and Associated Companies<sup>13</sup>
- Henry Yijian<sup>14</sup>

[111] The GOC did not provide a response to the subsidy RFI. Due to the lack of response from the GOC, subsidy amounts for all exporters have been determined under a ministerial specification pursuant to subsection 30.4(2) of SIMA. However, in consideration of the level of cooperation received from the exporters who provided complete responses to the subsidy RFI, individual amounts of subsidy have been determined for those exporters where sufficient information had been furnished to enable the necessary calculations.

[112] For the final determination, the CBSA determined an amount of subsidy for each of the two exporters in China who provided complete responses to the subsidy RFI, Guangzhou Jangho and Shenyang Yuanda, based on the information provided in their responses to the subsidy RFI. The CBSA was unable to determine a company-specific amount of subsidy for the remaining exporters as there was insufficient information on the record to do so.

[113] A summary of the findings for the named subsidy programs can be found in **Appendix 2**.

*Guangzhou Jangho Curtain Wall System Engineering Co., Ltd.*

[114] A substantially complete response to the Subsidy RFI was received from the exporter Guangzhou Jangho and from its parent company Beijing Jangho. Both Guangzhou Jangho and Beijing Jangho also responded to two supplemental RFIs. An on-site verification of both companies was conducted during the months of July and August 2013.

[115] For the purposes of the preliminary determination, the CBSA estimated, for Guangzhou Jangho, an amount of subsidy equal to 3.1% of the export price on the basis of the financial benefits received under the following 19 programs:

- Program 38: Technical Renovation Loan Interest Discount Fund;
- Program 42: Innovative Small and Medium-Sized Enterprise Grants;
- Program 54: Grant - Special Supporting Fund for Commercialization of Technological Innovation and Research Findings;
- Program 58: International market fund for small and medium sized export companies;
- Program 68: Awards for the Contributions to Local Economy and Industry Development;
- Program 82: Award for Excellent Enterprise;
- Program 91: Medium Size and Small Size Enterprises Development Special Fund;
- Program 96: Special Development Fund for Beijing Cultural Innovation Industry;

---

<sup>12</sup> Subsidy exhibit 81 (NC)

<sup>13</sup> Subsidy exhibit 79 (NC)

<sup>14</sup> Subsidy exhibit 88 (NC)

- Program 97: Supporting Fund for Becoming Publicly Listed Company;
- Program 102: Brand Development Fund by Shunyi District Local Governments;
- 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 121: Export Assistance Grant;
- Program 122: Research & Development (R&D) Assistance Grant;
- Program 136: Supporting fund provided to Service Outsourcing Enterprises for the Establishment of their Brands and the Acquisition of their International Qualification Accreditations;
- 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 166: Corporate Income Tax Reduction for New High-Technology Enterprises;
- Program 170: Tax Offset for R&D Expenses in Guangdong Province; and
- Program 180: Subsidy Pass-Through from the Purchase of Aluminum Extrusions.

[116] During the final phase of the investigation the CBSA found that Beijing Jangho had also received benefits under the following six subsidy programs during the POI:

- Program 39: National Innovation Fund for Technology Based Firms;
- Program 48: Grant - Patent Application Assistance;
- Program 61: Grant - Special Fund for Fostering Stable Growth of Foreign Trade;
- Program 65: Special Fund for the Key Projects in the Cultural Innovation Industry by Shunyi District Local Government;
- Program 67: Subsidy for the Technology Development; and
- Program 107: Loan Subsidy for the Curtain Wall Technology Renovation Projects by Beijing Governments.

[117] During the final phase of the investigation the CBSA was provided with the income tax legislation and regulations in reference to the tax offset for research and development expenses which, supported by the CBSA's own research, indicated that the program was generally available to all companies throughout China. This resulted in the removal of the following program from the investigation:

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

[118] For the purposes of the final determination, the CBSA determined that Guangzhou Jangho had received benefits from the following 10 programs during the POI:

- Program 38: Technical Renovation Loan Interest Discount Fund;
- Program 42: Innovative Small and Medium-Sized Enterprise Grants;
- Program 82: Award for Excellent Enterprise;
- Program 91: Medium Size and Small Size Enterprises Development Special Fund;
- 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 136: Supporting fund provided to Service Outsourcing Enterprises for the Establishment of their Brands and the Acquisition of their International Qualification Accreditations;
- 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 166: Corporate Income Tax Reduction for New High-Technology Enterprises; and
- Program 180: Subsidy Pass-Through from the Purchase of Aluminum Extrusions.

[119] For the purposes of the final determination, the CBSA determined that Beijing Jangho had received benefits from the following 16 programs during the POI:

- Program 39: National Innovation Fund for Technology Based Firms;
- Program 48: Grant - Patent Application Assistance;
- Program 54: Grant - Special Supporting Fund for Commercialization of Technological Innovation and Research Findings;
- Program 58: International market fund for small and medium sized export companies;
- Program 61: Grant - Special Fund for Fostering Stable Growth of Foreign Trade;
- Program 65: Special Fund for the Key Projects in the Cultural Innovation Industry by Shunyi District Local Government;
- Program 67: Subsidy for the Technology Development;
- Program 68: Awards for the Contributions to Local Economy and Industry Development;
- Program 82: Award for Excellent Enterprise;
- Program 96: Special Development Fund for Beijing Cultural Innovation Industry;
- Program 97: Supporting Fund for Becoming Publicly Listed Company;
- Program 102: Brand Development Fund by Shunyi District Local Governments;
- Program 107: Loan Subsidy for the Curtain Wall Technology Renovation Projects by Beijing Governments;

- Program 121: Export Assistance Grant;
- Program 122: Research & Development (R&D) Assistance Grant; and
- Program 166: Corporate Income Tax Reduction for New High-Technology Enterprises.

[120] For the purposes of the final determination, the CBSA attributed, based on consolidated sales, the subsidies received by Beijing Jangho to Guangzhou Jangho since Guangzhou Jangho, despite its status as a distinct legal entity, operates as a de-facto division of Beijing Jangho within the overall corporate structure.

[121] Accordingly, for the purposes of the final determination, the CBSA determined an amount of subsidy on the basis of the financial benefits received under the following 24 programs:

- Program 38: Technical Renovation Loan Interest Discount Fund;
- Program 39: National Innovation Fund for Technology Based Firms;
- Program 42: Innovative Small and Medium-Sized Enterprise Grants;
- Program 48: Grant - Patent Application Assistance;
- Program 54: Grant - Special Supporting Fund for Commercialization of Technological Innovation and Research Findings;
- Program 58: International market fund for small and medium sized export companies;
- Program 61: Grant - Special Fund for Fostering Stable Growth of Foreign Trade;
- Program 65: Special Fund for the Key Projects in the Cultural Innovation Industry by Shunyi District Local Government;
- Program 67: Subsidy for the Technology Development;
- Program 68: Awards for the Contributions to Local Economy and Industry Development;
- Program 82: Award for Excellent Enterprise;
- Program 91: Medium Size and Small Size Enterprises Development Special Fund;
- Program 96: Special Development Fund for Beijing Cultural Innovation Industry;
- Program 97: Supporting Fund for Becoming Publicly Listed Company;
- Program 102: Brand Development Fund by Shunyi District Local Governments;
- Program 107: Loan Subsidy for the Curtain Wall Technology Renovation Projects by Beijing Governments;
- 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 121: Export Assistance Grant;
- Program 122: Research & Development (R&D) Assistance Grant;
- Program 136: Supporting fund provided to Service Outsourcing Enterprises for the Establishment of their Brands and the Acquisition of their International Qualification Accreditations;

- 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 166: Corporate Income Tax Reduction for New High-Technology Enterprises; and
- Program 180: Subsidy Pass-Through from the Purchase of Aluminum Extrusions.

[122] On the basis of the information provided by Guangzhou Jangho and Beijing Jangho, the CBSA determined an amount of subsidy for Guangzhou Jangho equal to 3.8% of the export price or 32.01 Renminbi (RMB) per square meter. All subject goods exported by Guangzhou Jangho were found to be subsidized.

*Shenyang Yuanda Aluminum Industry Engineering Co., Ltd.*

[123] A substantially complete response to the Subsidy RFI was received from Shenyang Yuanda. Shenyang Yuanda also responded to three Supplementary RFI's sent by the CBSA, in addition to a few additional requests for clarification. An on-site verification was conducted in June 2013.

[124] For the purposes of the preliminary determination, the CBSA estimated an amount of subsidy equal to 4.6% of the export price on the basis of the financial benefits received under the following 14 programs:

- 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 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 28: Export Seller's Credit for High –and New Technology Products by China EXIM Bank ;
- Program 35: Awards to Enterprises whose Products Qualify for "Well-Known; Trademarks of China" or "Famous Brands of China";
- Program 48: Grant – Patent Application Assistance;
- Program 53: Grant – Provincial Foreign Economy and Trade Development Special Fund;
- Program 82: Award for Excellent Enterprise;
- Program 97: Supporting Fund for Becoming Publicly Listed Company;
- Program 141: Supporting Fund Provided by Shenyang Municipal Government to Enterprises to Maintain the Employment Level;
- Program 156: Liaoning High-tech Products & Equipment Export Interest Assistance;
- Program 164: Income Tax Refund for Re-Investment of FIE Profits by Foreign Investors;

- Program 174: Exemption of Tariff and Import VAT for the Imported Technologies and Equipment;
- Program 176: Reduction, Exemption or Refund of Land Use Fees, Land Rental Rates and Land Purchase/Transfer Prices; and
- Program 180: Subsidy Pass-Through from the Purchase of Aluminum Extrusions.

[125] During the final phase of the investigation, the CBSA continued to analyse and verify Shenyang Yuanda's response. For the purposes of the final determination, the amount of subsidy that was thought to have been provided under Program 24 at the preliminary determination was found to have been provided under Program 122: Research & Development (R&D) Assistance Grant. Further, the CBSA determined that the amount of benefits previously estimated under Program 82 was not allocable to the subject goods. Accordingly, Programs 24 and 82 were removed from the list of programs used by Shenyang Yuanda, while Program 122 was added to the list of programs.

[126] During the final phase of the investigation, the CBSA also found that Shenyang Yuanda received financial benefits under Program 166: Corporate Income Tax Reduction for New High-Technology Enterprises. Accordingly, this program was added to the list of programs used by Shenyang Yuanda.

[127] Accordingly, for the purposes of the final determination, the CBSA determined an amount of subsidy on the basis of the financial benefits received under the following 14 programs:

- 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 28: Export Seller's Credit for High –and New Technology Products by China EXIM Bank (this basically consists of preferential loans from the EXIM Bank) ;
- Program 35: Awards to Enterprises whose Products Qualify for "Well-Known; Trademarks of China" or "Famous Brands of China";
- Program 48: Grant – Patent Application Assistance;
- Program 53: Grant – Provincial Foreign Economy and Trade Development Special Fund;
- Program 97: Supporting Fund for Becoming Publicly Listed Company;
- Program 122: Research & Development (R&D) Assistance Grant
- Program 141: Supporting Fund Provided by Shenyang Municipal Government to Enterprises to Maintain the Employment Level;
- Program 156: Liaoning High-tech Products & Equipment Export Interest Assistance;
- Program 164: Income Tax Refund for Re-Investment of FIE Profits by Foreign Investors;
- Program 166: Corporate Income Tax Reduction for New High-Technology Enterprises;

- Program 174: Exemption of Tariff and Import VAT for the Imported Technologies and Equipment;
- Program 176: Reduction, exemption or refund of Land Use Fees, Land Rental Rates and Land Purchase/Transfer Prices;
- Program 180: Subsidy Pass-Through from the Purchase of Aluminum Extrusions.

[128] On the basis of the information provided by Shenyang Yuanda, the CBSA determined an amount of subsidy of 5.3% of the export price or 64.83 RMB per square metre. All subject goods exported by Shenyang Yuanda were found to be subsidized.

*Shanghai Henry Yijian Curtain Wall Manufacturing Co., Ltd.*

[129] Henry Yijian provided a response to the exporter subsidy RFI. However, the response is incomplete.

[130] Henry Yijian was requested to provide the missing information and no response was received.

[131] Sufficient information has not been provided to the CBSA in order to determine an amount of subsidy for Henry Yijian using Henry Yijian's own information. Therefore, Henry Yijian's amount of subsidy was determined based on a ministerial specification pursuant to subsection 30.4(2) of SIMA using the same methodology as all other exporters who did not provide a response to the CBSA.

*All other Exporters - Amount of Subsidy*

[132] For all other exporters, the amount of subsidy has been determined under a ministerial specification, pursuant to subsection 30.4(2) of SIMA, based on:

- 1) the highest amount of subsidy for each of the 33 programs, as found at the final determination, for the cooperative exporters located in China, plus;
- 2) the average of the highest amounts of subsidy for the 33 programs in (1), applied to each of the remaining 146 potentially actionable subsidy programs for which information is not available or has not been provided at the final determination.

[133] Using the above methodology for all other exporters, the result is an amount of subsidy of 41.6%, expressed as a percentage of the export price, or 458.31 RMB per square metre.

[134] In summary, 100% of the subject goods from China are subsidized and the amount of subsidy is 25.8%, expressed as a percentage of the export price.

## Summary of Results – Subsidy

### Amount of Subsidy and Volume of Subsidized Goods Period of Investigation - January 1, 2011 to December 31, 2012<sup>15</sup>

Country	Volume of Subsidized Goods as Percentage of Country Imports	Amount of Subsidy*	Volume of Country Imports as Percentage of Total Imports	Volume of Subsidized Goods as Percentage of Total Imports
China	100%	25.8%	96%	96%

\* as a percentage of export price

[135] A summary regarding the amounts of subsidy for this investigation is provided in **Appendix 1**.

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

[137] 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 product from 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.

[138] 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.<sup>16</sup> As China is included in the listing, the CBSA will extend developing country status to China for purposes of this investigation. As the preceding table illustrates, the amount of subsidy found during this investigation is not insignificant.

---

<sup>15</sup> The CBSA’s import documentation was used to determine the imports of certain unitized wall modules during the POI. Since import volume information on the customs documentation was reported in various units of measure (i.e. m<sup>2</sup>, number of modules, kg, etc.), it was not feasible to determine the imports of certain unitized wall modules by volume. As a result, import value was used as the unit of measure for determining imports of certain unitized wall modules.

<sup>16</sup> The Organization for Economic Co-operation and Development, DAC List of ODA Recipients from 2011 to 2013, the document is available at: [www.oecd.org/dac/stats/DAC%20List%20used%20for%202012%20and%202013%20flows.pdf](http://www.oecd.org/dac/stats/DAC%20List%20used%20for%202012%20and%202013%20flows.pdf)

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

#### *Representations Concerning the Subsidy Investigation*

[140] Following the August 30, 2013 close of the record, three case briefs and three reply submissions were received from counsel representing the Complainants, Guangzhou Jangho and Shenyang Yuanda.

[141] Issues raised by participants through case briefs and reply submissions pertaining to the subsidy investigation and the CBSA's response to these issues are provided in **Appendix 3**.

#### **DECISIONS**

[142] On the basis of the results of the dumping investigation, the President is satisfied that certain unitized wall modules originating in or exported from China, have been dumped and that the margin of dumping is not insignificant. Consequently, on October 10, 2013, the President made a final determination of dumping pursuant to paragraph 41(1)(a) of SIMA.

[143] On the basis of the results of the subsidy investigation, the President is satisfied that certain unitized wall modules originating in or exported from China have been subsidized and that the amount of subsidy is not insignificant. Consequently, on October 10, 2013, the President made a final determination of subsidizing pursuant to paragraph 41(1)(a) of SIMA.

[144] **Appendix 1** contains a summary of the margins of dumping and amounts of subsidy relating to the final determinations.

#### **FUTURE ACTION**

[145] The provisional period began on July 15, 2013, and will end on the date the Tribunal issues its finding. The Tribunal is expected to issue its decision by November 12, 2013. Subject goods imported during the provisional period will continue to be assessed provisional duties as determined at the time of the preliminary determinations. For further details on the application of provisional duties, refer to the *Statement of Reasons* issued for the preliminary determinations, which is available on the CBSA's Web site at [www.cbsa-asfc.gc.ca/sima-lmsi](http://www.cbsa-asfc.gc.ca/sima-lmsi).

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

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

[148] The importer in Canada shall pay all applicable duties. If the importers of such goods do not indicate the required SIMA code or do not correctly describe the goods in the customs documents, an administrative monetary penalty could be imposed. The provisions of the *Customs Act*<sup>17</sup> apply with respect to the payment, collection or refund of any duty collected under SIMA. As a result, failure to pay duty within the prescribed time will result in the application of interest.

[149] In the event of an injury finding by the Tribunal, normal values and amounts of subsidy have been provided to the co-operating exporters for future shipments to Canada and these normal values and amounts of subsidy would come into effect the day after an injury finding. Information regarding normal values of the subject goods should be obtained from the exporter.

[150] Exporters of subject goods who did not provide sufficient information in the dumping investigation will have normal values established by advancing the export price by 120% based on a ministerial specification pursuant to section 29 of SIMA. Anti-dumping duty will apply based on the amount by which the normal value exceeds the export price of the subject goods. Similarly, exporters of subject goods who did not provide sufficient information in the subsidy investigation will be subject to a countervailing duty amount of 458.31 RMB per square metre, based on a ministerial specification pursuant to subsection 30.4(2) of SIMA.

### **RETROACTIVE DUTY ON MASSIVE IMPORTATIONS**

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

[152] In respect of importations of subsidized goods that have caused injury, this provision is only applicable where the CBSA has determined that the whole or any part of the subsidy on the goods is a prohibited subsidy. In such a case, the amount of countervailing duty applied on a retroactive basis will equal the amount of subsidy on the goods that is a prohibited subsidy. An export subsidy is a prohibited subsidy according to subsection 2(1) of SIMA.

---

<sup>17</sup> *Customs Act* R.S.C. 1985

## PUBLICATION

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

## INFORMATION

[154] 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, 11<sup>th</sup> floor  
Ottawa, Ontario K1A 0L8  
Canada

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

**Fax:** 613-948-4844

**E-mail:** [simaregistry@cbsa-asfc.gc.ca](mailto:simaregistry@cbsa-asfc.gc.ca)

**Web site:** [www.cbsa-asfc.gc.ca/sima-lmsi](http://www.cbsa-asfc.gc.ca/sima-lmsi)



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

Attachments

**APPENDIX 1 – SUMMARY OF MARGINS OF DUMPING AND AMOUNTS OF SUBSIDY**

<b>Exporters</b>	<b>Margin of Dumping*</b>	<b>Amount of Subsidy (RMB per m<sup>2</sup>)</b>	<b>Amount of Subsidy*</b>
Guangzhou Jangho Curtain Wall System Engineering Co., Ltd.	15.7%	32.01	3.8%
Shenyang Yuanda Aluminum Industry Engineering Co., Ltd.	49.3%	64.83	5.3%
All Other Exporters	120%	458.31	41.6%

\* as a percentage of export price

## **APPENDIX 2 – SUMMARY OF FINDINGS FOR NAMED SUBSIDY PROGRAMS**

As noted in the body of this document, the Government of China (GOC) did not submit a response to the subsidy RFI, and therefore did not provide the required information relating to financial contribution, benefit and specificity. This significantly impeded the CBSA's investigation as all information has not been furnished to enable the determination of the amount of subsidy in the prescribed manner. Due to this lack of information, subsidy amounts for all exporters have been determined under a ministerial specification pursuant to subsection 30.4(2) of SIMA based on the best information available to the CBSA. In consideration of the level of cooperation received from Guangzhou Jangho and Shenyang Yuanda, individual amounts of subsidy have been determined for those exporters where sufficient information had been furnished to enable the necessary calculations.

At the time of initiation, the CBSA identified 180 programs for review. The CBSA removed *Program 170: Tax Offset for R&D Expenses in Guangdong Province* from the investigation as it was determined that the program was not specific.

This appendix contains descriptions of the 33 subsidy programs used by the cooperative exporters, followed by a listing of the 146 potentially actionable subsidy programs identified by the CBSA.

### **SUBSIDY PROGRAMS USED BY COOPERATIVE EXPORTERS**

The CBSA has used the best information available to describe the subsidy programs used by the cooperative exporters in the investigation. This includes using information obtained from CBSA research on potential subsidy programs in China, information provided by the responding exporters and descriptions of programs that the CBSA has previously publicly published in recent *Statements of Reasons* relating to subsidy investigations involving China. Since the GOC did not submit a response to the Subsidy RFI, the information available to identify the legal instruments pertaining to the programs is limited and such references may be inaccurate or incomplete.

#### **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**

During the POI, one of the exporters received benefits under this program, or a similar program refunding VAT for domestically purchased machinery. The exporter provided very limited information with respect to the program and the GOC provided no information.

The granting authority responsible for this program is the State Administration of Taxation and the program is administered by local tax authorities. The program is contingent on using domestically made machinery used for certain encouraged projects (as per a published list of encouraged projects) by foreign-invested enterprises (FIE).

The program may no longer be effective as of January 1, 2009, as per the *Notification from Ministry of Finance and State Administration of Taxation on Certain Issues of National Implementation of VAT Reform; Ref [2008]170*. Nevertheless, since such benefits are allocated over the useful life of the machinery (i.e. usually over a 10-year lifespan), benefits under this program are still applicable to the POI.

On the basis of the limited available information, this program constitutes a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA; i.e. a practice of government that involves a direct transfer of funds. This grant confers a direct benefit to the recipient in the form of a grant, and the benefit is equal to the amount of the grant provided.

Due to the lack of a response by the GOC, and the lack of details provided by the exporter, there is not sufficient information on the record to determine whether the grant is specific pursuant to subsection 2(7.2) or subsection 2(7.3) of SIMA; nor is there sufficient information to indicate that the subsidy is not specific pursuant to the criteria set out in subsection 2(7.1). On the basis of the available information, this program does not appear to be generally available to all enterprises in China and thus appears to be specific. In fact, the benefit appears to be limited to investment in machinery used in projects that belong to encouraged programs by FIEs.

The amount of subsidy was calculated under ministerial specification pursuant to subsection 30.4(2) of SIMA, by distributing the benefit amount received by the exporter over the total quantity of goods to which the benefit was attributable.

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

During the POI, one of the exporters benefited from preferential loans from the Export-Import Bank of China (EXIM) Bank.

Financial institutions may be considered to constitute “government” if they possess, exercise or are vested with government authority, which may be indicated by the following factors:

- where a statute or other legal instrument expressly vests government authority in the entity concerned;
- evidence that an entity is, in fact, exercising governmental functions; or
- evidence that a government exercises meaningful control over an entity.

For the purposes of the investigation, the CBSA is considering the EXIM Bank of China, a Policy Bank, as government. Export Seller's Credit refers to loans provided to an exporter to finance its export of manufactured or purchased mechanical and electronic products, complete sets of equipment, and high-tech and new-tech products as well as the provision of labour service. The EXIM Bank of China website specifically refers to "Chinese government concessional loan and preferential export buyer's credit"<sup>18</sup>. It also states that the capital of the Bank comes from fiscal allocation of the Chinese government. It further states that "the credit is provided for the purpose of lending strong government support in line with relevant national industrial, foreign trade, financial and fiscal policies". It thus appears that the China EXIM Bank, is "government" for the purposes of SIMA. In order to assess whether or not there was a financial contribution, the CBSA established a benchmark to which it could compare the loan interest rates submitted by the exporter. For the purposes of the investigation, the CBSA used the People's Bank of China (PBC) benchmark rates that were in effect when the loans were provided, which was available on the record<sup>19</sup>.

The CBSA considered the difference between the exporters' loan interest rates that are below the PBC rates to constitute a financial contribution pursuant to paragraph 2(1.6)(b) of SIMA; i.e., amounts that would otherwise be owing and due to the government are exempted or deducted or amounts that are owing and due to the government are forgiven or not collected. The above confers a benefit to the exporter by way of reducing its financial costs upon obtaining loans from a financial institution, and the benefit is equal to the amount of the exemption/deduction.

Due to the lack of a response by the GOC, and the lack of details provided by the exporter, there is not sufficient information on the record to determine whether the grant is specific pursuant to subsection 2(7.2) or subsection 2(7.3) of SIMA; nor is there sufficient information to indicate that the subsidy is not specific pursuant to the criteria set out in subsection 2(7.1). On the basis of the available information, this program does not appear to be generally available to all enterprises in China as it seems to target high-tech and new-tech producers and thus appears to be specific.

The amount of subsidy was calculated under ministerial specification pursuant to subsection 30.4(2) of SIMA, by distributing the benefit amount received by the exporter over the total quantity of goods to which the benefit was attributable.

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

During the POI, one of the exporters received benefits under this program. The exporter provided very limited information with respect to this program and the GOC provided no information.

The program appears to be contingent on receiving the "Well-Known Trademarks of China" or "Famous Brands of China" status. It appears to be jointly administered at both the local government level in Shenyang and at the provincial level in the Liaoning province.

---

<sup>18</sup> CBSA Exhibits S154 (NC).; [http://english.eximbank.gov.cn/businessarticle/activities/export/200905/9395\\_1.html](http://english.eximbank.gov.cn/businessarticle/activities/export/200905/9395_1.html)

<sup>19</sup> CBSA Exhibits S153 (NC).

On the basis of the limited available information, this program constitutes a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA; i.e., a practice of government that involves a direct transfer of funds. This grant confers a direct benefit to the recipient in the form of a grant, and the benefit is equal to the amount of the grant provided.

Due to the lack of a response by the GOC and the lack of details provided by the exporter, there is not sufficient information on the record to determine whether the grant is specific pursuant to subsection 2(7.2) or subsection 2(7.3) of SIMA; nor is there sufficient information to indicate that the subsidy is not specific pursuant to the criteria set out in subsection 2(7.1). On the basis of the available information, this program does not appear to be generally available to all enterprises in China as it seems to target enterprises whose products qualify for “well-known trademarks of China” or “famous brands of China” and thus appears to be specific.

The amount of subsidy was calculated under ministerial specification pursuant to subsection 30.4(2) of SIMA, by distributing the benefit amount received by the exporter over the total quantity of goods to which the benefit was attributable.

### **Program 38: Technical Renovation Loan Interest Discount Fund**

During the POI, one of the exporters received benefits under this program. The exporter provided very limited information with respect to this program and the GOC provided no information.

Based on information provided by the exporter, the granting authority responsible for this program is the Guangdong Department of Finance and the program is administered by the Guangdong Economic and Information Commission. This program was established to support technology improvement and innovation projects and industrial transformation and upgrading projects.

On the basis of the limited available information, this program constitutes a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA; i.e., a practice of government that involves a direct transfer of funds. This grant confers a direct benefit to the recipient in the form of a grant, and the benefit is equal to the amount of the grant provided.

Due to the lack of a response by the GOC and the lack of details provided by the exporter, there is not sufficient information on the record to determine whether the grant is specific pursuant to subsection 2(7.2) or subsection 2(7.3) of SIMA; nor is there sufficient information to indicate that the subsidy is not specific pursuant to the criteria set out in subsection 2(7.1). On the basis of the available information this program does not appear to be generally available to all enterprises in China.

The amount of subsidy was calculated under ministerial specification pursuant to subsection 30.4(2) of SIMA, by distributing the benefit amount received by the exporter over the total quantity of goods to which the benefit was attributable.

### **Program 39: National Innovation Fund for Technology Based Firms**

During the POI, one of the exporters received benefits under this program. The exporter provided very limited information with respect to this program and the GOC provided no information.

Based on information provided by the exporter this program was administered by the Beijing Municipal Commission of Development and Reform. This program was established to support innovations in the Beijing manufacturing industry. The grant was received during the fiscal year 2007 and is amortized based on the useful life of the assets.

On the basis of the limited available information, this program constitutes a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA; i.e., a practice of government that involves a direct transfer of funds. This grant confers a direct benefit to the recipient in the form of a grant, and the benefit is equal to the amount of the grant provided.

Due to the lack of a response by the GOC and the lack of details provided by the exporter, there is not sufficient information on the record to determine whether the grant is specific pursuant to sub-section 2(7.2) or subsection 2(7.3) of SIMA. On the basis of the available information this program does not appear to be generally available to all enterprises in China.

The amount of subsidy was calculated under ministerial specification pursuant to subsection 30.4(2) of SIMA, by distributing the benefit amount received by the exporter over the total quantity of goods to which the benefit was attributable.

### **Program 42: Innovative Small and Medium-Sized Enterprise Grants**

During the POI, one of the exporters received benefits under this program. The exporter provided very limited information with respect to this program and the GOC provided no information.

Based on information provided by the exporter the granting authority responsible for this program is the Guangdong Department of Finance and the program is administered by the Guangdong Small and Medium-sized Enterprise Bureau. This program was established to encourage small and medium-sized enterprises to perform technical innovations and product innovations and to increase employment.

On the basis of the limited available information, this program constitutes a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA; i.e., a practice of government that involves a direct transfer of funds. This grant confers a direct benefit to the recipient in the form of a grant, and the benefit is equal to the amount of the grant provided.

Due to the lack of a response by the GOC and the lack of details provided by the exporter, there is not sufficient information on the record to determine whether the grant is specific pursuant to subsection 2(7.2) or subsection 2(7.3) of SIMA; nor is there sufficient information to indicate that the subsidy is not specific pursuant to the criteria set out in subsection 2(7.1). On the basis of the available information this program does not appear to be generally available to all enterprises in China.

The amount of subsidy was calculated under ministerial specification pursuant to subsection 30.4(2) of SIMA, by distributing the benefit amount received by the exporter over the total quantity of goods to which the benefit was attributable.

#### **Program 48: Grant - Patent Application Assistance**

During the POI, two of the exporters received benefits under this program. The exporters provided very limited information with respect to this program and the GOC provided no information.

Based on information provided by one of the exporters this program was administered by the Shenyang Science and Technology Bureau. Similarly, such a program was also found to be administered by the Beijing Intellectual Property Bureau.

On the basis of the limited available information, this program constitutes a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA; i.e., a practice of government that involves a direct transfer of funds. This grant confers a direct benefit to the recipient in the form of a grant, and the benefit is equal to the amount of the grant provided.

Due to the lack of a response by the GOC and the lack of details provided by the exporters, there is not sufficient information on the record to determine whether the grant is specific pursuant to subsection 2(7.2) or subsection 2(7.3) of SIMA; nor is there sufficient information to indicate that the subsidy is not specific pursuant to the criteria set out in subsection 2(7.1). On the basis of the available information this program does not appear to be generally available to all enterprises in China.

The amount of subsidy was calculated under ministerial specification pursuant to subsection 30.4(2) of SIMA, by distributing the benefit amount received by the exporter over the total quantity of goods to which the benefit was attributable.

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

During the POI, one of the exporters received benefits under this program. The exporter provided very limited information with respect to this program and the GOC provided no information.

On the basis of the information provided by the exporter, the program appears to be administered by the Shenyang Finance Bureau. The grants appear to be provided as Development Funds for International Service Outsourcing Industry or as Funds for Foreign Trade.

On the basis of the limited available information, this program constitutes a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA; i.e., a practice of government that involves a direct transfer of funds. This grant confers a direct benefit to the recipient in the form of a grant, and the benefit is equal to the amount of the grant provided.

Due to the lack of a response by the GOC and the lack of details provided by the exporter, there is not sufficient information on the record to determine whether the grant is specific pursuant to subsection 2(7.2) or subsection 2(7.3) of SIMA; nor is there sufficient information to indicate that the subsidy is not specific pursuant to the criteria set out in subsection 2(7.1). On the basis of the available information this program does not appear to be generally available to all enterprises in China.

The amount of subsidy was calculated under ministerial specification pursuant to subsection 30.4(2) of SIMA, by distributing the benefit amount received by the exporter over the total quantity of goods to which the benefit was attributable.

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

During the POI, one of the exporters received benefits under this program. The exporter provided very limited information with respect to this program and the GOC provided no information.

Based on information provided by the exporter, this program was administered by the Science and Technology Commission of Shunyi District. This program was established to encourage technological innovations and to promote scientific and technological results.

On the basis of the limited available information, this program constitutes a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA; i.e., a practice of government that involves a direct transfer of funds. This grant confers a direct benefit to the recipient in the form of a grant, and the benefit is equal to the amount of the grant provided.

Due to the lack of a response by the GOC and the lack of details provided by the exporter, there is not sufficient information on the record to determine whether the grant is specific pursuant to subsection 2(7.2) or subsection 2(7.3) of SIMA; nor is there sufficient information to indicate that the subsidy is not specific pursuant to the criteria set out in subsection 2(7.1). On the basis of the available information this program does not appear to be generally available to all enterprises in China.

The amount of subsidy was calculated under ministerial specification pursuant to subsection 30.4(2) of SIMA, by distributing the benefit amount received by the exporter over the total quantity of goods to which the benefit was attributable.

### **Program 58: International Market Fund for Small and Medium Sized Export Companies**

During the POI, one of the exporters received benefits under this program. The exporter provided very limited information with respect to this program and the GOC provided no information.

As per information available to the CBSA, this program was established in a document titled 'Measure CaiQi [2010] No. 87' in order to provide support for export companies identified as small and medium-sized enterprises. The funds are provided for developing international markets including overseas exhibitions, certification of enterprise management systems, various product certifications, foreign patent applications, promotional activities in international markets, electronic business, foreign advertisement and trademark registration, international investigation, bids (negotiations) abroad, enterprise training, foreign technology and brand acquisition, etc. Benefits granted to an enterprise under this program shall not exceed 50% of the total expenditure paid by the enterprise. This program is administered jointly by the Ministry of Finance and the Ministry of Commerce.

On the basis of the limited available information, this program constitutes a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA; i.e., a practice of government that involves a direct transfer of funds. This grant confers a direct benefit to the recipient in the form of a grant, and the benefit is equal to the amount of the grant provided.

Due to the lack of a response by the GOC and the lack of details provided by the exporter, there is not sufficient information on the record to determine whether the grant is specific pursuant to subsection 2(7.2) or subsection 2(7.3) of SIMA; nor is there sufficient information to indicate that the subsidy is not specific pursuant to the criteria set out in subsection 2(7.1). On the basis of the available information this program does not appear to be generally available to all enterprises in China.

The amount of subsidy was calculated under ministerial specification pursuant to subsection 30.4(2) of SIMA, by distributing the benefit amount received by the exporter over the total quantity of goods to which the benefit was attributable.

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

During the POI, one of the exporters received benefits under this program. The exporter provided very limited information with respect to this program, while the GOC provided none. Based on information provided by the exporter this program was administered by the Beijing Commerce Commission. This program was established to support export sales.

On the basis of the limited available information, this program constitutes a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA; i.e., a practice of government that involves a direct transfer of funds. This grant confers a direct benefit to the recipient in the form of a grant, and the benefit is equal to the amount of the grant provided.

Due to the lack of a response by the GOC and the lack of details provided by the exporter, there is not sufficient information on the record to determine whether the grant is specific pursuant to subsection 2(7.2) or subsection 2(7.3) of SIMA; nor is there sufficient information to indicate that the subsidy is not specific pursuant to the criteria set out in subsection 2(7.1). On the basis of the available information this program does not appear to be generally available to all enterprises in China.

The amount of subsidy was calculated under ministerial specification pursuant to subsection 30.4(2) of SIMA, by distributing the benefit amount received by the exporter over the total quantity of goods to which the benefit was attributable.

#### **Program 65: Special Fund for the Key Projects in the Cultural Innovation Industry by Shunyi District Local Government**

During the POI, one of the exporters received benefits under this program. The exporter provided very limited information with respect to this program and the GOC provided no information.

Based on information provided by the exporter this program is administered by the Niulanshan Town People's Government, Shunyi District. This program was established to provide financial assistance to Beijing enterprises during the financial crisis. The grant was received during the fiscal year 2009 and is amortized based on the useful life of the assets.

On the basis of the limited available information, this program constitutes a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA; i.e., a practice of government that involves a direct transfer of funds. This grant confers a direct benefit to the recipient in the form of a grant, and the benefit is equal to the amount of the grant provided.

Due to the lack of a response by the GOC and the lack of details provided by the exporter, there is not sufficient information on the record to determine whether the grant is specific pursuant to subsection 2(7.2) or subsection 2(7.3) of SIMA; nor is there sufficient information to indicate that the subsidy is not specific pursuant to the criteria set out in subsection 2(7.1). On the basis of the available information this program does not appear to be generally available to all enterprises in China.

The amount of subsidy was calculated under ministerial specification pursuant to subsection 30.4(2) of SIMA, by distributing the benefit amount received by the exporter over the total quantity of goods to which the benefit was attributable.

#### **Program 67: Subsidy for the Technology Development**

During the POI, one of the exporters received benefits under this program. The exporter provided very limited information with respect to this program and the GOC provided no information.

Based on information provided by the exporter this program is administered by the Beijing Municipal Science and Technology Commission. The grant was received during the fiscal year 2012 and is amortized based on the useful life of the assets.

On the basis of the limited available information, this program constitutes a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA; i.e., a practice of government that involves a direct transfer of funds. This grant confers a direct benefit to the recipient in the form of a grant, and the benefit is equal to the amount of the grant provided.

Due to the lack of a response by the GOC and the lack of details provided by the exporter, there is not sufficient information on the record to determine whether the grant is specific pursuant to subsection 2(7.2) or subsection 2(7.3) of SIMA; nor is there sufficient information to indicate that the subsidy is not specific pursuant to the criteria set out in subsection 2(7.1). On the basis of the available information this program does not appear to be generally available to all enterprises in China.

The amount of subsidy was calculated under ministerial specification pursuant to subsection 30.4(2) of SIMA, by distributing the benefit amount received by the exporter over the total quantity of goods to which the benefit was attributable.

#### **Program 68: Awards for the Contributions to Local Economy and Industry Development**

During the POI, one of the exporters received benefits under this program. The exporter provided very limited information with respect to this program and the GOC provided no information.

Based on information provided by the exporter this program was administered by the Beijing Economic and Information Commission, the Beijing Finance Bureau and the Beijing Statistic Bureau. This program was established to support enterprises which support the local economy and the industry development.

On the basis of the limited available information, this program constitutes a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA; i.e., a practice of government that involves a direct transfer of funds. This grant confers a direct benefit to the recipient in the form of a grant, and the benefit is equal to the amount of the grant provided.

Due to the lack of a response by the GOC and the lack of details provided by the exporter, there is not sufficient information on the record to determine whether the grant is specific pursuant to subsection 2(7.2) or subsection 2(7.3) of SIMA; nor is there sufficient information to indicate that the subsidy is not specific pursuant to the criteria set out in subsection 2(7.1). On the basis of the available information this program does not appear to be generally available to all enterprises in China.

The amount of subsidy was calculated under ministerial specification pursuant to subsection 30.4(2) of SIMA, by distributing the benefit amount received by the exporter over the total quantity of goods to which the benefit was attributable.

## **Program 82: Award for Excellent Enterprise**

During the POI, one of the exporters received benefits under this program. The exporter provided very limited information with respect to this program and the GOC provided no information.

Based on information provided by the exporter this program was administered at the municipal level. This program appears to have been established to improve labor relations.

On the basis of the limited available information, this program constitutes a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA; i.e., a practice of government that involves a direct transfer of funds. This grant confers a direct benefit to the recipient in the form of a grant, and the benefit is equal to the amount of the grant provided.

Due to the lack of a response by the GOC and the lack of details provided by the exporter, there is not sufficient information on the record to determine whether the grant is specific pursuant to subsection 2(7.2) or subsection 2(7.3) of SIMA; nor is there sufficient information to indicate that the subsidy is not specific pursuant to the criteria set out in subsection 2(7.1). On the basis of the available information this program does not appear to be generally available to all enterprises in China.

The amount of subsidy was calculated under ministerial specification pursuant to subsection 30.4(2) of SIMA, by distributing the benefit amount received by the exporter over the total quantity of goods to which the benefit was attributable.

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

During the POI, one of the exporters received benefits under this program. The exporter provided very limited information with respect to this program and the GOC provided no information.

Based on information provided by the exporter this program was administered by the Guangzhou Economic and Trade Commission and the Guangzhou Finance Bureau. This program was established to support small and medium-sized enterprises to perform technology reforms and innovations.

On the basis of the limited available information, this program constitutes a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA; i.e., a practice of government that involves a direct transfer of funds. This grant confers a direct benefit to the recipient in the form of a grant, and the benefit is equal to the amount of the grant provided.

Due to the lack of a response by the GOC and the lack of details provided by the exporter, there is not sufficient information on the record to determine whether the grant is specific pursuant to subsection 2(7.2) or subsection 2(7.3) of SIMA; nor is there sufficient information to indicate that the subsidy is not specific pursuant to the criteria set out in subsection 2(7.1). On the basis of the available information this program does not appear to be generally available to all enterprises in China.

The amount of subsidy was calculated under ministerial specification pursuant to subsection 30.4(2) of SIMA, by distributing the benefit amount received by the exporter over the total quantity of goods to which the benefit was attributable.

### **Program 96: Special Development Fund for Beijing Cultural Innovation Industry**

During the POI, one of the exporters received benefits under this program. The exporter provided very limited information with respect to this program and the GOC provided no information.

Based on information provided by the exporter this program was administered by the Beijing Shunyi District Culture Creative Industry Improvement Office. This program was established to support the cultural creative industry projects.

On the basis of the limited available information, this program constitutes a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA; i.e., a practice of government that involves a direct transfer of funds. This grant confers a direct benefit to the recipient in the form of a grant, and the benefit is equal to the amount of the grant provided.

Due to the lack of a response by the GOC and the lack of details provided by the exporter, there is not sufficient information on the record to determine whether the grant is specific pursuant to subsection 2(7.2) or subsection 2(7.3) of SIMA; nor is there sufficient information to indicate that the subsidy is not specific pursuant to the criteria set out in subsection 2(7.1). On the basis of the available information this program does not appear to be generally available to all enterprises in China.

The amount of subsidy was calculated under ministerial specification pursuant to subsection 30.4(2) of SIMA, by distributing the benefit amount received by the exporter over the total quantity of goods to which the benefit was attributable.

### **Program 97: Supporting Fund for Becoming Publicly Listed Company**

During the POI, the two cooperative exporters received benefits under this program. The exporters provided very limited information with respect to this program and the GOC provided no information.

Based on information provided by one of the exporters this program was administered by the Beijing Shunyi District Financial Service Office. This program was established to support companies located in the Shunyi district that intend to become publicly listed companies. Similarly, such a program was also found to be administered by the Shenyang Economic & Technological Development District Finance Bureau and the Shenyang Finance Bureau.

On the basis of the limited available information, this program constitutes a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA; i.e., a practice of government that involves a direct transfer of funds. This grant confers a direct benefit to the recipient in the form of a grant, and the benefit is equal to the amount of the grant provided.

Due to the lack of a response by the GOC and the lack of details provided by the exporters, there is not sufficient information on the record to determine whether the grant is specific pursuant to subsection 2(7.2) or subsection 2(7.3) of SIMA; nor is there sufficient information to indicate that the subsidy is not specific pursuant to the criteria set out in subsection 2(7.1). On the basis of the available information, this program does not appear to be generally available to all enterprises in China and thus appears to be specific. This program appears to be contingent on the recipient being a publicly listed company.

The amount of subsidy was calculated under ministerial specification pursuant to subsection 30.4(2) of SIMA, by distributing the benefit amount received by the exporter over the total quantity of goods to which the benefit was attributable.

### **Program 102: Brand Development Fund by Shunyi District Local Governments**

During the POI, one of the exporters received benefits under this program. The exporter provided very limited information with respect to this program and the GOC provided no information.

Based on information provided by the exporter this program was administered by the Beijing Industry and Commerce Administrative Bureau. This program was established to support enterprises that own a famous brand.

On the basis of the limited available information, this program constitutes a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA; i.e., a practice of government that involves a direct transfer of funds. This grant confers a direct benefit to the recipient in the form of a grant, and the benefit is equal to the amount of the grant provided.

Due to the lack of a response by the GOC and the lack of details provided by the exporter, there is not sufficient information on the record to determine whether the grant is specific pursuant to subsection 2(7.2) or subsection 2(7.3) of SIMA; nor is there sufficient information to indicate that the subsidy is not specific pursuant to the criteria set out in subsection 2(7.1). On the basis of the available information this program does not appear to be generally available to all enterprises in China.

The amount of subsidy was calculated under ministerial specification pursuant to subsection 30.4(2) of SIMA, by distributing the benefit amount received by the exporter over the total quantity of goods to which the benefit was attributable.

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

During the POI, one of the exporters received benefits under this program. The exporter provided very limited information with respect to this program and the GOC provided no information.

Based on information provided by the exporter this program was administered by the Beijing Municipal Commission of Development and Reform. This program was established to support technological transformation projects. The grant was received during the fiscal year 2010 and is amortized based on the useful life of the assets.

On the basis of the limited available information, this program constitutes a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA; i.e., a practice of government that involves a direct transfer of funds. This grant confers a direct benefit to the recipient in the form of a grant, and the benefit is equal to the amount of the grant provided.

Due to the lack of a response by the GOC and the lack of details provided by the exporter, there is not sufficient information on the record to determine whether the grant is specific pursuant to subsection 2(7.2) or subsection 2(7.3) of SIMA; nor is there sufficient information to indicate that the subsidy is not specific pursuant to the criteria set out in subsection 2(7.1). On the basis of the available information this program does not appear to be generally available to all enterprises in China.

The amount of subsidy was calculated under ministerial specification pursuant to subsection 30.4(2) of SIMA, by distributing the benefit amount received by the exporter over the total quantity of goods to which the benefit was attributable.

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

During the POI, one of the exporters received benefits under this program. The exporter provided very limited information with respect to this program and the GOC provided no information.

Based on information provided by the exporter this program was administered by the Zengcheng Science and Technology Economic Trade and Information Bureau and the Guangzhou Science and Technology and Information Bureau. This program was established to support innovative companies.

On the basis of the limited available information, this program constitutes a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA; i.e., a practice of government that involves a direct transfer of funds. This grant confers a direct benefit to the recipient in the form of a grant, and the benefit is equal to the amount of the grant provided.

Due to the lack of a response by the GOC and the lack of details provided by the exporter, there is not sufficient information on the record to determine whether the grant is specific pursuant to subsection 2(7.2) or subsection 2(7.3) of SIMA; nor is there sufficient information to indicate that the subsidy is not specific pursuant to the criteria set out in subsection 2(7.1). On the basis of the available information this program does not appear to be generally available to all enterprises in China.

The amount of subsidy was calculated under ministerial specification pursuant to subsection 30.4(2) of SIMA, by distributing the benefit amount received by the exporter over the total quantity of goods to which the benefit was attributable.

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

During the POI, one of the exporters received benefits under this program. The exporter provided very limited information with respect to this program and the GOC provided no information.

Based on information provided by the exporter this program was administered by the Guangdong Department of Finance and the Guangzhou Finance Bureau. This program was established to encourage and support enterprises to establish proprietary brands and to own intellectual property.

On the basis of the limited available information, this program constitutes a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA; i.e., a practice of government that involves a direct transfer of funds. This grant confers a direct benefit to the recipient in the form of a grant, and the benefit is equal to the amount of the grant provided.

Due to the lack of a response by the GOC and the lack of details provided by the exporter, there is not sufficient information on the record to determine whether the grant is specific pursuant to subsection 2(7.2) or subsection 2(7.3) of SIMA; nor is there sufficient information to indicate that the subsidy is not specific pursuant to the criteria set out in subsection 2(7.1). On the basis of the available information this program does not appear to be generally available to all enterprises in China.

The amount of subsidy was calculated under ministerial specification pursuant to subsection 30.4(2) of SIMA, by distributing the benefit amount received by the exporter over the total quantity of goods to which the benefit was attributable.

### **Program 121: Export Assistance Grant**

During the POI, one of the exporters received benefits under this program. The exporter provided very limited information with respect to this program and the GOC provided no information.

As per information available to the CBSA, this program was established in the *Circular of the Trial Measures of the Administration of International Market Development Funds for Small and Medium-sized Enterprises Cai Qi No. 467, 2000*, which was promulgated and came into force on October 24, 2000. This program was established to support the development of Small and Medium-sized Enterprises (SMEs), to encourage SMEs to join in the competition of international markets, to reduce the business risks of the enterprises, and to promote the development of the national economy. The granting authority responsible for this program is the Foreign Trade and Economic Department and the program is administered at local levels.

On the basis of the limited available information, this program constitutes a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA; i.e., a practice of government that involves a direct transfer of funds. This grant confers a direct benefit to the recipient in the form of a grant, and the benefit is equal to the amount of the grant provided.

Due to the lack of a response by the GOC and the lack of details provided by the exporter, there is not sufficient information on the record to determine whether the grant is specific pursuant to subsection 2(7.2) or subsection 2(7.3) of SIMA; nor is there sufficient information to indicate that the subsidy is not specific pursuant to the criteria set out in subsection 2(7.1). On the basis of the available information this program does not appear to be generally available to all enterprises in China.

The amount of subsidy was calculated under ministerial specification pursuant to subsection 30.4(2) of SIMA, by distributing the benefit amount received by the exporter over the total quantity of goods to which the benefit was attributable.

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

During the POI, two exporters received benefits under this program. The exporters provided very limited information with respect to this program and the GOC provided no information.

Based on information provided by one of the exporters, this program was administered by the Beijing Municipal Science and Technology Commission. This program appears to have been established to encourage and support enterprises to develop new products and to strengthen support to innovative products with intellectual property rights and high technology content. Based on information provided by a second exporter, the GOC document related to this program may be the *“Implementation Measure to Support the Acquisition of Foreign Science & Technology Type Enterprises and the Employment of Foreign Science & Technology Development Team”*, issued by the Shenyang Economic & Technological Development Area administration. As per the exporter, the grant was provided as Funds for Introduction of Foreign Experts.

On the basis of the limited available information, this program constitutes a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA; i.e., a practice of government that involves a direct transfer of funds. This grant confers a direct benefit to the recipient in the form of a grant, and the benefit is equal to the amount of the grant provided.

Due to the lack of a response by the GOC and the lack of details provided by the exporter, there is not sufficient information on the record to determine whether the grant is specific pursuant to subsection 2(7.2) or subsection 2(7.3) of SIMA; nor is there sufficient information to indicate that the subsidy is not specific pursuant to the criteria set out in subsection 2(7.1). On the basis of the available information this program does not appear to be generally available to all enterprises in China.

The amount of subsidy was calculated under ministerial specification pursuant to subsection 30.4(2) of SIMA, by distributing the benefit amount received by the exporter over the total quantity of goods to which the benefit was attributable.

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

During the POI, one of the exporters received benefits under this program. The exporter provided very limited information with respect to this program and the GOC provided no information.

Based on information provided by the exporter this program was administered by the Guangzhou Foreign Trade and Economic Cooperation Bureau and the Guangzhou Finance Bureau. This program was established to support service outsourcing enterprises.

On the basis of the limited available information, this program constitutes a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA; i.e., a practice of government that involves a direct transfer of funds. This grant confers a direct benefit to the recipient in the form of a grant, and the benefit is equal to the amount of the grant provided.

Due to the lack of a response by the GOC and the lack of details provided by the exporter, there is not sufficient information on the record to determine whether the grant is specific pursuant to subsection 2(7.2) or subsection 2(7.3) of SIMA; nor is there sufficient information to indicate that the subsidy is not specific pursuant to the criteria set out in subsection 2(7.1). On the basis of the available information this program does not appear to be generally available to all enterprises in China.

The amount of subsidy was calculated under ministerial specification pursuant to subsection 30.4(2) of SIMA, by distributing the benefit amount received by the exporter over the total quantity of goods to which the benefit was attributable.

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

During the POI, one of the exporters received benefits under this program. The exporter provided very limited information with respect to this program and the GOC provided no information.

Based on information provided by the exporter this program was administered by Shenyang Human Resources and Social Security Bureau. Similar programs were also found to be administered in other local jurisdictions by the Shanghai City Jiading District Huating Town Finance Affairs Center as well as the Foshan City Shancheng District Social Insurance Fund Management Bureau. Grants were provided to maintain the employment level, train new employees or hire new graduates.

On the basis of the limited available information, this program constitutes a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA; i.e., a practice of government that involves a direct transfer of funds. This grant confers a direct benefit to the recipient in the form of a grant, and the benefit is equal to the amount of the grant provided.

Due to the lack of a response by the GOC and the lack of details provided by the exporter, there is not sufficient information on the record to determine whether the grant is specific pursuant to subsection 2(7.2) or subsection 2(7.3) of SIMA; nor is there sufficient information to indicate that the subsidy is not specific pursuant to the criteria set out in subsection 2(7.1). On the basis of the available information this program does not appear to be generally available to all enterprises in China.

The amount of subsidy was calculated under ministerial specification pursuant to subsection 30.4(2) of SIMA, by distributing the benefit amount received by the exporter over the total quantity of goods to which the benefit was attributable.

### **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**

During the POI, one of the exporters received benefits under this program. The exporter provided very limited information with respect to this program and the GOC provided no information.

Based on information provided by the exporter this program was administered by the Guangzhou Intellectual Property Bureau and the Zengcheng Intellectual Property Bureau. This program was established to support research and development projects.

On the basis of the limited available information, this program constitutes a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA; i.e., a practice of government that involves a direct transfer of funds. This grant confers a direct benefit to the recipient in the form of a grant, and the benefit is equal to the amount of the grant provided.

Due to the lack of a response by the GOC and the lack of details provided by the exporter, there is not sufficient information on the record to determine whether the grant is specific pursuant to subsection 2(7.2) or subsection 2(7.3) of SIMA; nor is there sufficient information to indicate that the subsidy is not specific pursuant to the criteria set out in subsection 2(7.1). On the basis of the available information this program does not appear to be generally available to all enterprises in China.

The amount of subsidy was calculated under ministerial specification pursuant to subsection 30.4(2) of SIMA, by distributing the benefit amount received by the exporter over the total quantity of goods to which the benefit was attributable.

#### **Program 156: Liaoning High-Tech Products & Equipment Exports Interest Assistance**

During the POI, one of the exporters received benefits under this program. The exporter provided very limited information with respect to this program and the GOC provided no information.

Based on information provided by the exporter this program was administered by the Shenyang Finance Bureau. The program provides “Interest Subsidy Fund for Technology Exports”.

On the basis of the limited available information, this program constitutes a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA; i.e., a practice of government that involves a direct transfer of funds. This grant confers a direct benefit to the recipient in the form of a grant, and the benefit is equal to the amount of the grant provided.

Due to the lack of a response by the GOC and the lack of details provided by the exporter, there is not sufficient information on the record to determine whether the grant is specific pursuant to subsection 2(7.2) or subsection 2(7.3) of SIMA; nor is there sufficient information to indicate that the subsidy is not specific pursuant to the criteria set out in subsection 2(7.1). On the basis of the available information this program does not appear to be generally available to all enterprises in China.

The amount of subsidy was calculated under ministerial specification pursuant to subsection 30.4(2) of SIMA, by distributing the benefit amount received by the exporter over the total quantity of goods to which the benefit was attributable.

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

During the POI, one of the exporters received benefits under this program. The exporter provided very limited information with respect to this program and the GOC provided no information.

As per information available to the CBSA, this program was established under a previous version of the *Income Tax Law of the People's Republic of China for Enterprises With Foreign Investment and Foreign Enterprises*, subject to the *Notice of Ministry of Finance and the State Administration of Taxation on Enterprise Income Tax Preferential Policy for Foreign Investment Enterprise's(FIE) Additional Investment(2002)*. The benefit under this program was available for five years, until fiscal year 2011, inclusively. The tax benefit seems to be contingent on an increase in the company's capital account in a specific year.

On the basis of the limited available information, this program constitutes a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA; i.e., a practice of government that involves a direct transfer of funds. This grant confers a direct benefit to the recipient in the form of a grant, and the benefit is equal to the amount of the grant provided.

Due to the lack of a response by the GOC and the lack of details provided by the exporter, there is not sufficient information on the record to determine whether the grant is specific pursuant to subsection 2(7.2) or subsection 2(7.3) of SIMA; nor is there sufficient information to indicate that the subsidy is not specific pursuant to the criteria set out in subsection 2(7.1). On the basis of the available information, this program does not appear to be generally available to all enterprises in China and thus appears to be specific. In fact, the program seems to be limited to certain FIEs.

The amount of subsidy was calculated under ministerial specification pursuant to subsection 30.4(2) of SIMA, by distributing the benefit amount received by the exporter over the total quantity of goods to which the benefit was attributable.

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

During the POI, the two cooperative exporters received benefits under this program. The exporters provided limited information with respect to this program and the GOC provided no information.

As per information available to the CBSA, this program, which came into effect as of January 1, 2008, was established under the *Income Tax Law of the People's Republic of China for Enterprises*. This program was established to provide income tax reduction for new high-technology enterprises and to promote enterprise technology upgrades. The granting authority responsible for this program is the State Administration of Taxation and the program is administered by local tax authorities. Under this program, new high-technology enterprises may apply for and receive an income tax reduction at a reduced rate of 15% for three years.

On the basis of available information, this program constitutes a financial contribution pursuant to paragraph 2(1.6)(b) of SIMA (i.e., amounts that would otherwise be owing and due to the government are exempted or deducted) and confers a benefit to the recipient equal to the amount of the exemption/deduction.

Due to the lack of a response by the GOC and the lack of details provided by the exporter, there is not sufficient information on the record to determine whether the grant is specific pursuant to subsection 2(7.2) or subsection 2(7.3) of SIMA; nor is there sufficient information to indicate that the subsidy is not specific pursuant to the criteria set out in subsection 2(7.1). On the basis of the available information, this program does not appear to be generally available to all enterprises in China and thus appears to be specific. In fact, it appears to be limited to new high-technology enterprises.

The amount of subsidy was calculated under ministerial specification pursuant to subsection 30.4(2) of SIMA, by distributing the benefit amount received by the exporter over the total quantity of goods to which the benefit was attributable.

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

During the POI, one of the exporters received benefits under this program. The exporter provided limited information with respect to the program and the GOC provided no information.

The granting authority responsible for this program is the State Administration of Taxation and the program is administered by local tax authorities.

The legal basis for the exemption seems to be the *Notice for Adjustment of Import Equipment Tax Policy* issued by the State Council, dated December 29, 1997. The benefit appears to be limited to foreign investment projects which meets the “Encouraged” category in the “Foreign Investment Industry Guidance Catalogue”. Further, it appears that pursuant to the subsequent “*Announcement by General Administration of Customs [2008] No. 103*”, dated December 31, 2008, as of January 1, 2009, VAT is now levied on imports, but the imports continue to be exempted from duties.

On the basis of available information, this program constitutes a financial contribution pursuant to paragraph 2(1.6)(b) of SIMA (i.e., amounts that would otherwise be owing and due to the government are exempted or deducted) and confers a benefit to the recipient equal to the amount of the exemption/deduction.

Due to the lack of a response by the GOC and the lack of details provided by the exporter, there is not sufficient information on the record to determine whether the grant is specific pursuant to subsection 2(7.2) or subsection 2(7.3) of SIMA; nor is there sufficient information to indicate that the subsidy is not specific pursuant to the criteria set out in subsection 2(7.1). On the basis of the available information, this program does not appear to be generally available to all enterprises in China and thus appears to be specific. In particular, the benefit appears to be limited to investment in machinery used in projects that belong to encouraged programs.

The amount of subsidy was calculated under ministerial specification pursuant to subsection 30.4(2) of SIMA, by distributing the benefit amount received by the exporter over the total quantity of goods to which the benefit was attributable.

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

During the POI, one of the exporters received benefits under this program. The exporter provided limited information with respect to the program and the GOC provided no information.

The granting authority responsible for this program is the Shenyang Economic and Technological Development District Group.

On the basis of the limited available information, this program constitutes a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA; i.e., a practice of government that involves a direct transfer of funds. This grant confers a direct benefit to the recipient in the form of a grant, and the benefit is equal to the amount of the grant provided.

Due to the lack of a response by the GOC and the lack of details provided by the exporter, there is not sufficient information on the record to determine whether the grant is specific pursuant to subsection 2(7.2) or subsection 2(7.3) of SIMA; nor is there sufficient information to indicate that the subsidy is not specific pursuant to the criteria set out in subsection 2(7.1). On the basis of the available information this program does not appear to be generally available to all enterprises in China.

The amount of subsidy was calculated under ministerial specification pursuant to subsection 30.4(2) of SIMA, by distributing the benefit amount received by the exporter over the total quantity of goods to which the benefit was attributable.

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

Aluminum extrusions are the principal input material in unitized wall modules. On the basis of the CBSA's analysis, the two cooperative exporters received benefits in the form of upstream subsidies from aluminum extrusion suppliers.

An "upstream subsidy" is a subsidy that is initially conferred directly by the government on a recipient who is not the exporter of the goods under investigation and the subsidy is passed-through in some manner to the exporter of the goods under investigation. Since the exporter of the goods under investigation did not directly receive the subsidy from the government, the CBSA regards an "upstream subsidy" as an indirect subsidy.

### *Subsidies to the Aluminum Extrusion Suppliers*

The CBSA investigated subsidies to aluminum extruders in the subsidy investigation with respect to certain aluminum extrusions from the People's Republic of China, concluded in February 2009 and the subsequent re-investigation concluded in February 2012 and found that aluminum extrusions were being subsidized by the GOC. During the 2009 aluminum extrusions investigation the CBSA found the following programs constituted a financial contribution to the aluminum extrusion sector for cooperative exporters, pursuant to one or more of the paragraphs under subsection 2(1.6) of SIMA:

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

These subsidy programs were determined to have conferred benefits to the cooperative exporters of aluminum extrusions<sup>20</sup>. Subsidy programs were still found to benefit exporters of aluminum extrusions during the re-investigation of aluminum extrusions concluded in February 2012<sup>21</sup>.

In light of the information on the record that aluminum extrusions in China are subsidized by the GOC, and given that they are the principal material incorporated into the unitized wall modules, the CBSA sent a Subsidy RFI to the unitized wall modules exporters at the time of initiation, and requested the exporters to forward the questionnaire to their aluminum extrusion suppliers. This RFI was a full Subsidy RFI and was necessary to gather information on the suppliers and the subsidies received from the GOC.

---

<sup>20</sup> For the subsidy analysis, refer to the section "Subsidy Programs used by Cooperative Exporters" of the *Statement of Reasons* issued at the final determination of the dumping and subsidy investigations concerning Certain Aluminum Extrusions from the People's Republic of China, March 3, 2009. The *Statement of Reasons* is available online at <http://www.cbsa-asfc.gc.ca/sima-lmsi/i-e/ad1379/ad1379-i08-fd-eng.html>

<sup>21</sup> *Notice of Conclusion of Re-investigation of Aluminum Extrusions from the People's Republic of China, February 20, 2012*. Available online at <http://www.cbsa-asfc.gc.ca/sima-lmsi/ri-re/ad1379/ad1379-ri11-nc-eng.html>

While the exporters provided evidence that they had requested their suppliers to answer the questionnaires, none of the aluminum extrusion suppliers provided a complete response to the RFI. Accordingly, for the purposes of the investigation, the CBSA is using alternative information to determine the amount of subsidy received by the aluminum extruders.

For the purpose of the investigation, given that the information required to determine an amount of subsidy to the aluminum extruders was not provided and is not otherwise available, it was determined that all aluminum extruders were subsidized by an amount equal to 3.88 RMB per kilogram (kg), representing the highest total amount of subsidy found for a cooperating exporter in the investigation or re-investigation with respect to aluminum extrusions from China<sup>22</sup>.

### *Pass-through Test*

Having determined that the aluminum extrusion suppliers received an amount of subsidy, the CBSA then performed a “pass-through” test to determine whether the subsidies were passed-through to the unitized wall modules.

A “pass-through” analysis will normally require that the selling price of the upstream product or service be compared to a representative, commercial benchmark of an identical or similar unsubsidized product or service that has been sold in an arm’s length transaction and under similar circumstances (e.g. trade level, date of sale, quantity and volume). The commercial benchmark will often be based on actual or offered selling prices in the country of export of the input product that has been produced in the country of export by other suppliers or that has been imported into the country of export.

The nature of the pass-through test in any given investigation will depend very much on the facts of that investigation and the nature of the product or service that may be conveying an upstream subsidy. It may not be possible to use a domestic benchmark price test in all situations. In some countries, it may be very difficult, if not impossible, to identify or locate an appropriate benchmark price since the amount and nature of the upstream subsidization may have severely distorted the market for the subject product or service. As a result, there may be no commercial benchmark in the domestic market and imports of such products or services may be restricted due to their inability to compete against the domestically subsidized products or services.

Further, if this information has been requested by the CBSA and it has not been provided or is otherwise not available, then the “fall-back” methodology is to compare the selling price of the input product to an appropriate commercial unsubsidized benchmark.

---

<sup>22</sup> This amount was found in the course of the original investigation in Certain Aluminum Extrusions from the People’s Republic of China. For more details, the *Statement of Reasons* issued at the conclusion of the investigations concerning Certain Aluminum Extrusions from the People’s Republic of China, on March 3, 2009, may be consulted.

## *Benchmark*

In this case, it was not possible to use a domestic benchmark price due to the amount and nature of the upstream subsidization, particularly the provision of primary aluminum by government which dominates the primary aluminum industry. In addition, the conditions of section 20 of SIMA in the aluminum extrusions sector<sup>23</sup> have severely distorted the market for the aluminum extrusions<sup>24</sup>. Further, there was no information available on importations of aluminum extrusions in China. Accordingly, the CBSA looked for a commercial unsubsidized benchmark from a surrogate country.

For this purpose, on May 22, 2013, the CBSA sent RFIs to 16 producers of aluminum extrusions in four countries, namely, Chinese Taipei, Malaysia, Mexico and India<sup>25</sup>. These RFIs sought domestic pricing and costing information for the purposes of finding a non-subsidized benchmark price for aluminum extrusions. The deadline for a response was July 2, 2013. The CBSA did not receive any responses. The CBSA also did not find published benchmark prices for aluminum extrusions.

Accordingly, for purposes of the investigation, the CBSA used the best information available to determine an unsubsidized benchmark price in a third country.

Despite the lack of pricing data, it is possible to use publically available information to construct a price for aluminum extrusions in a surrogate country. The CBSA's understanding of pricing practices in the aluminum extrusions industry is that extrusions are priced by producers based on the current price of aluminum plus a conversion factor (i.e. all additional costs of production and sale, such as labour, overhead, general, selling and administration expenses, etc.).

For the current price of aluminum, the monthly average settlement price of aluminum is available on an ongoing basis from the London Metal Exchange's (LME) website<sup>26</sup>. To estimate the conversion cost, the CBSA used publically available information from an aluminum extruder in India, given the availability of the information and the fact that India is at a comparable level of development to China.

---

<sup>23</sup> *Notice of Conclusion of Re-investigation with Respect to Aluminum Extrusions from the People's Republic of China, February 20, 2012.* Available online at <http://www.cbsa-asfc.gc.ca/sima-lmsi/ri-re/ad1379/ad1379-ri11-nc-eng.html>

<sup>24</sup> *Statement of Reasons* issued at the final determination of Aluminum Extrusions from the People's Republic of China, March 3, 2009. The *Statement of Reasons* is available online at <http://www.cbsa-asfc.gc.ca/sima-lmsi/i/menu-eng.html>.

<sup>25</sup> CBSA Exhibit S143 (N.C.)

<sup>26</sup> <http://www.lme.com/en-gb/pricing-and-data/historical-data/>

The CBSA has financial information on the record from three companies in India that sell aluminum extrusions primarily in their domestic market; Bhoruka Aluminium Limited (Bhoruka), Century Extrusions Limited (CEL) and Sudal Industries Limited (Sudal). For Bhoruka, the CBSA obtained the company's annual report for the 2010-2011 fiscal-year<sup>27</sup> and an annual report for an 18-month period ending September 30, 2012.<sup>28</sup> For CEL and Sudal, the CBSA obtained the companies' 2011-2012 annual reports.<sup>29</sup> CEL and Sudal's annual reports make references to subsidies<sup>30</sup>. The benchmark to be used for the pass-through test must be an unsubsidized benchmark. For these reasons, the CBSA used only data from Bhoruka.

As mentioned, the information on the record includes Bhoruka's annual report for the 2010-2011 fiscal-year and an annual report for an 18-month period ending September 30, 2012. Despite the fact that the information is less up-to-date, the CBSA used information from the 2010-2011 annual report. In this regard, the other annual report, for the 18-month period ending September 30, 2012, lacks information on aluminum usage. In addition, some notes in the report suggest that the company is in financial distress while much lower production volumes during the period may result in abnormally high unit cost of production.

Using Bhoruka's 2010-2011 financial data, the CBSA determined a conversion cost of 59.67 rupees per kg, and an amount for profit of 1.0%. It is noted that the conversion cost is an average conversion cost for all types of aluminum extrusions produced by the company.

Using the Bank of Canada average monthly currency conversion rate, the CBSA then converted, for each month of the POI, the monthly LME average settlement prices from USD to RMB and the conversion cost of 59.67 rupees to RMB. The final benchmark price for the aluminum extrusions consisted of adding the LME price in RMB per kg for a given month and the conversion cost in RMB per kg for that month, and adding a 1.0% profit.

The next step was to compare the purchase prices of aluminum extrusions, as reported by the exporters, to the appropriate monthly benchmark price. A purchase price lower than the benchmark price would be an indication that the subsidy is being passed-through from the aluminum extrusion suppliers to the unitized wall modules exporters. It is noted, however, that after applying the "pass-through" test, the amount of subsidy cannot exceed the amount of subsidy that was determined to be received by the upstream producer (i.e. 3.88 RMB per kg).

In *Certain Aluminum Extrusions*, the GOC did not provide the required information relating to specificity. This significantly impeded the CBSA's investigation as there was not sufficient information on the record to determine whether these programs were specific to the aluminum extrusions exporters, pursuant to subsection 2(7.2) or subsection 2(7.3) of SIMA.

---

<sup>27</sup> CBSA Exhibit S156 (N.C.)

<sup>28</sup> Ibid

<sup>29</sup> Ibid.

<sup>30</sup> See pages 28, 37 and 44 of CEL's 2011- 2012 Annual Report and page 34 of Sudal's 2011-2012 Annual Report (CBSA exhibit S156 (NC)).

The GOC did not submit a response to the Subsidy RFI in this investigation, and therefore did not provide the required information relating to specificity. This significantly impeded the CBSA's investigation as there was not sufficient information on the record to determine whether this program was specific, pursuant to subsection 2(7.2). On the basis of available information, it was found that such subsidy was only available to users of aluminum extrusions, which the CBSA considers to be a limited number of enterprises. Therefore, this program did not appear to be generally available to all enterprises in China and, using facts available, was determined to be specific.

The amount of subsidy was thus calculated under ministerial specification pursuant to subsection 30.4(2) of SIMA, by distributing the benefit amount received by the exporter over the total quantity of goods to which the benefit was attributable.

### **SUBSIDY PROGRAMS NOT USED BY COOPERATIVE EXPORTERS**

The following 146 programs were also included in the current investigation. Questions concerning these programs were included in the RFI sent to the GOC and to all known exporters of the goods in China. None of the cooperative exporters reported using these programs during the subsidy POI. Without a complete response to the subsidy RFI from the GOC and all known exporters, the CBSA does not have sufficient information to determine that any of these programs do not constitute actionable subsidies. In other words, the CBSA does not have sufficient information to determine that any of the following programs should be removed from the investigation for purposes of the final determination.

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

- Program 1: 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 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 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 Equivalent**

- 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 36: Export Brand Development Fund
- Program 37: Provincial Scientific Development Plan Fund
- 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 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 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 55: Grant - Resources Conservation and Environment Protection Grant
- Program 56: Environment Protection Award (Jiangsu)
- Program 57: Enterprise Technology Centers
- Program 59: Business Development Overseas Support Fund
- Program 60: Refund from Government for Participating in Trade Fair
- 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 66: Special Fund for the Technology Innovation by Niu Lan Shan Township Local Government
- 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 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 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 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 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 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 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 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 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 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

#### **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 165: VAT and Income Tax Exemption/Reduction for Enterprises Adopting Debt-to-Equity Swaps
- 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 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 175: Relief from Duties and Taxes on Imported Material and Other Manufacturing Inputs

#### **VI. 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

#### **VII. Equity Programs**

- Program 179: Debt to Equity Swaps

## **APPENDIX 3 – DUMPING AND SUBSIDY REPRESENTATIONS**

The CBSA received three case briefs by the deadline of September 6, 2013. These case briefs were from counsel for the Complainants, from Guangzhou Jangho and associated companies (Jangho), and from Shenyang Yuanda and associated companies (Yuanda).

Reply briefs were also received from all three parties by the deadline of September 13, 2013.

These submissions and the CBSA's responses are discussed below.

### **Arguments Pertaining to the Dumping Investigation**

#### ***Amount for Profit for Purposes of Section 25 of SIMA***

The Complainants argued that the amount for profit should be based on 2010 information, since the domestic industry was materially injured during the POI. This information was submitted as “supplementary documents”<sup>31</sup>. They argue that this claim is supported by the fact that the Tribunal found, during the preliminary injury inquiry, that there is evidence that discloses a reasonable indication that the domestic industry has been injured or that there was threat of injury.

Jangho responded that using 2010 information is not appropriate since 2010 is outside the POI and the profitability analysis period (PAP), and rejecting the 2011 and 2012 information would be assuming a final determination of injury, which is the jurisdiction of the Tribunal. Jangho also argues that the 2012 information is the most appropriate benchmark as this represents the most recent year under investigation.

Yuanda responded that the CBSA should reject the Complainants' proposal to use the 2010 information. Yuanda states that there has been no determination of material injury to the domestic industry as the preliminary injury inquiry only determines whether or not there is a reasonable indication of injury or threat of injury. Yuanda argues that there is no basis in *SIMA* to suggest that the information during the POI may be ignored.

Jangho argued that the “supplementary documents”<sup>32</sup> submitted by the Complainants should be used to determine importer amount for profit since these documents present updated income statements filed to the Tribunal.

The Complainants responded that they agree with Jangho's position that the updated information should be used to determine an amount for profit. However, they argue that the CBSA can use the 2010 information since section 22 of SIMR grants the CBSA discretion by qualifying the expression “profit” by including only such profit “made in the ordinary course of trade” and which “generally results” from the sale of the goods.

---

<sup>31</sup> Exhibit 213 (pro)

<sup>32</sup> Exhibit 213 (pro)

Yuanda also expressed concerns over how the amount for profit was determined and which companies were included in determining the amount for profit. Yuanda argues that using the domestic producers' financial information to determine an importer amount for profit is not a fair comparison, since Yuanda Canada is at a different trade level than producers of the goods.

The Complainants responded that section 22 of SIMR grants the CBSA discretion in determining an amount for profit due to the "in the ordinary course of trade" and "generally results" qualifications mentioned above.

### **CBSA's Response**

In calculating the amount for profit under section 22 of SIMR, it is the CBSA's policy that a representative profit is best obtained from as broad a data base in Canada as possible. The vendors to be considered will include, where possible, Canadian producers, the importer, other importers and other vendors sourcing goods in Canada. However, only vendors having net overall profits are to be included.

In determining whether these vendors are at the same or substantially the same trade level as the importer, as required in section 22 of SIMR, the CBSA examines the functions performed in the particular industry related to sales and distribution. Companies in Canada are generally considered to be at "substantially the same trade level" when they sell to the same customers and compete directly in the marketplace for the same customers.

Finally, it is the CBSA's policy that the most recent data available should be utilized. This data should cover a reasonable and meaningful period of time to avoid anomalies and to ensure the result is representative.

In accordance with the CBSA's policy, the amount for profit was determined using the 2011 and 2012 financial information from each complainant, producer, and importer that provided sufficient financial information and reported a profit during the POI. This included the updated financial information submitted by the Complainants that related only to goods that met the product definition. It is the CBSA's opinion that this information is the most appropriate as it covers the entire POI and represents the best information available.

With regard to Yuanda's position that the domestic industry is at a different trade level than Yuanda Canada, the CBSA determined that the importers sell to the same customers and compete directly in the marketplace for the same customers as the domestic producers. Therefore, the domestic producers are considered to be at substantially the same trade level as the importer.

### ***Amount for Profit for Purposes of Paragraph 19(b) of SIMA***

Jangho has expressed concern on how the section 19 of *SIMA* amount for profit at PD was calculated. It argue that consideration must be given to section 11 of *SIMR* and the *Anti-Dumping Agreement* of the WTO which provides three profitability tests (“extended period of time”, “substantial quantities”, “recovery of all costs above weighted-average per unit costs”). The Complainants responded that since there are no comparable sales of like goods in the domestic market, there can be no data to perform the additional profit testing.

#### **CBSA’s Response**

The CBSA agrees that section 11 of *SIMR* and the *Anti-Dumping Agreement* of the WTO must be taken into account to determine the amount for profit. As such, the CBSA has conducted the three profitability tests mentioned above to determine the amount of profit.

### ***Representations Regarding the Calculation of the Export Price for One Project***

Shenyang Yuanda argued that certain costs for one project should not be deducted to determine the export price.

The Complainants argued that these items should be deducted to determine the export price.

#### **CBSA’s Response**

The CBSA maintains these items should be deducted to determine the export price pursuant to subparagraph 25(1)(d)(iii) of *SIMA*.

### ***2010 General Selling and Administrative Expenses***

Yuanda argued that the 2010 GS&A expenses incurred before the POI are irrelevant to the proper administration of *SIMA*, and should not be considered by the CBSA.

The Complainants responded that the 2010 GS&A expenses should be included since Yuanda states that they keep project-specific costing.

#### **CBSA’s Response**

The CBSA has removed these expenses as they were incurred prior to the POI.

### ***Adjustments to Total Manufacturing Cost***

Yuanda argued that certain adjustments, based on GAAP and normal accounting practices, should be made to the total manufacturing cost for the POI.

## **CBSA's Response**

The CBSA has taken this representation into account in determining the total manufacturing costs during the POI.

### **Arguments Pertaining to the Subsidy Investigation**

#### ***Subsidy Pass-Through from the Purchase of Aluminum Extrusions***

Yuanda argued that the subsidies to aluminum extruders were the result of benefits made available to producers of primary aluminum and not directly to extruders. Yuanda argued that in the Aluminum Extrusions investigation, the subsidies to aluminum extrusions were upstream subsidies from the primary aluminum industry that the CBSA deemed were passed through to extruders supplying its extrusions. Yuanda suggested that the upstream subsidy estimated by the CBSA at the preliminary determination consists of a double pass-through. Quoting the Appellate Body in *Softwood Lumber IV*, Yuanda argued that it is not sufficient for the CBSA to establish a financial contribution only for the input product, but that it must establish that the benefit resulting from the subsidy has passed-through from the input downstream, so as to benefit indirectly the processed product.

Yuanda further argued that the CBSA's practice is to flow through upstream subsidies only when the upstream and downstream firms are related. Quoting the CBSA in the *Statement of Reasons* for the Aluminum Extrusions final determination, Yuanda argued that in such cases (i.e. where the upstream and downstream firms are related), "...the amount of subsidy that is deemed to have received by the downstream purchaser is the total amount of subsidy that is attributable to the upstream product". Yuanda argued that the company is not related to any of its suppliers of aluminum extrusions. Accordingly, Yuanda claimed that the CBSA ignored its own practice. In its reply submission, the Canadian producers disagreed with this argument, pointing out that the CBSA's passage was case specific, relating to instance where the full amount of subsidy is deemed to be passed-through when the upstream recipient and the downstream purchaser are related, where a pass-through analysis is not required or performed.

Yuanda also argued that, as the CBSA pointed out in the Aluminum Extrusions investigation, the Chinese aluminum extrusion industry is virtually entirely privately owned with no evidence of government controls. The Canadian producers, in their reply submission, argued that the ownership of the aluminum extrusion industry is irrelevant.

Yuanda seemed to argue that the CBSA's methodology, which uses the facts available, is based on an assumption that Yuanda is related to its aluminum extrusions suppliers and that such assumption is based on the lack of cooperation by its suppliers or by the GOC. Yuanda also argued that the use of a ministerial specification is designed to be punitive, and that its use denies to Yuanda natural justice and procedural fairness. Yuanda alleged that the CBSA has used, in other investigations, standardized automatic criteria to establish "facts available" margins of dumping and subsidy. Yuanda suggests that the CBSA should not punish Yuanda for the lack of cooperation by extruders and the GOC. The Canadian producers argued that the arguments presented by Yuanda regarding this matter were incomprehensibly vague and irrelevant.

Jangho was critical of the CBSA for excluding unsubsidized transactions from its calculations of the amount of benefit, claiming that this results in distorting the amount of subsidy. Jangho also argued that the CBSA did not properly indicate the allocation basis at the time of the preliminary determination. Jangho argued that in order to avoid overestimating the subsidy, the benefit should not be allocated over the weight of the delivered extrusions, but should rather be allocated on the basis of the weight of the finished goods, because of the processing by Guangzhou, such as milling, cutting and punching the aluminum into shapes. The Canadian producers argued that there is no question of zeroing, as these are not calculations of the amount of anti-dumping duty payable. The Canadian producers argued that a benefit arising from a subsidy must be countervailed.

Both Jangho and Yuanda argued that the CBSA erred in discretionarily attributing specificity to this program as a result of the subsidy “being available to users of aluminum extrusions.” Jangho argued that the “users of aluminum extrusions” are not an industry or group of enterprise as described under the SIMA or the *Agreement on Subsidies and Countervailing Measures* (ASCM). The Canadian producers disagreed with this argument in a reply brief, arguing that the subsidy is not generally available. Yuanda seemed to allege that the CBSA is assuming that extruders selectively and arbitrarily choose to pass on these benefits only to unitized wall module manufacturers or that the CBSA’s methodology is based on whether Chinese extruders sell to all customers on the same basis. The Canadian producers replied that such an argument is irrelevant.

### **CBSA’s Response**

As the CBSA explained in the *Statement of Reasons* for the preliminary determination, the CBSA investigated subsidies to aluminum extruders in the subsidy investigation with respect to certain aluminum extrusions from the People’s Republic of China, concluded in February 2009 and the subsequent re-investigation concluded in February 2012 and found that aluminum extrusions were being subsidized by the GOC. In fact, the CBSA determined that aluminum extruders received subsidies on the basis of 15 subsidy programs. These programs were determined to have conferred benefits to the cooperative exporters in the aluminum extrusion sector<sup>33</sup>. Subsidy programs were still found to exist in the aluminum extrusions sector during the re-investigation of aluminum extrusions concluded in February 2012<sup>34</sup>.

---

<sup>33</sup> For the subsidy analysis, refer to the section “Subsidy Programs used by Cooperative Exporters” of the *Statement of Reasons* issued at the conclusion of the dumping and subsidy investigations concerning Certain Aluminum Extrusions from the People’s Republic of China, March 3, 2009. The *Statement of Reasons* is available online at <http://www.cbsa-asfc.gc.ca/sima-lmsi/i-e/ad1379/ad1379-i08-fd-eng.html>

<sup>34</sup> *Notice of Conclusion of Re-investigation of Aluminum Extrusions from the People’s Republic of China, February 20, 2012*. Available online at <http://www.cbsa-asfc.gc.ca/sima-lmsi/ri-re/ad1379/ad1379-ri11-nc-eng.html>

The CBSA agrees that the investigative authority must determine that there was a financial contribution and a benefit to the unitized wall modules producers. Contrary to Yuanda's allegations, the CBSA did not simply deem the subsidy to have passed-through. Nor did the CBSA claim or assume that Yuanda is related to any of its suppliers. As Yuanda mentioned, if Yuanda was in fact related to its aluminum extrusions suppliers, or if the suppliers were considered government, the CBSA's policy would be to determine that the full subsidy passed-through. However, since there was no indication of a relationship, and since the CBSA did not find that the extruders were government, the CBSA performed a pass-through test which was explained in detail in the *Statement of Reasons* at the time of the preliminary determination.

Contrary to Yuanda's claim, the CBSA did not determine an amount of subsidy for this program on the basis of a ministerial specification that was designed to be punitive, and its use of information available is not based on an assumption that Yuanda is related to its aluminum extrusion suppliers. The CBSA used the information provided by Yuanda and filled any information gap with the best information available.

When analysing Program 180: *Subsidy Pass-Through from the Purchase of Aluminum Extrusions*, the CBSA performed a "pass-through" test to determine whether the subsidies granted to the aluminum extrusions sector were being passed-through to the unitized wall modules exporters. A "pass-through" analysis requires that the selling price of the upstream product or service be compared to a representative, commercial benchmark of an identical or similar unsubsidized product or service that has been sold in an arm's length transaction and under similar circumstances (e.g. trade level, date of sale, quantity and volume). For this program, the CBSA constructed a benchmark price for aluminum extrusions by adding London Metal Exchange's prices and a monthly conversion cost based on publicly available information from an Indian aluminum extruder, given that India was at a comparable level of development to China.

The next step was to compare the purchase prices of aluminum extrusions, as reported by the unitized wall modules exporters, to the appropriate monthly benchmark price. A purchase price lower than the benchmark price was an indication that the subsidy was being passed-through from the aluminum extrusion suppliers to the unitized wall modules producers. While conducting this comparison, the CBSA identified subsidies at the individual transaction level in the prevailing market conditions and did not determine the amount of subsidy on an aggregate basis where “positive” and “negative” benefits would be offset over the period of investigation. This methodology is supported by *United States – Definitive Anti-Dumping and Countervailing Duties on Certain Products from China* (DS379), which stipulates :

[...] Article 14(d) of the SCM Agreement contains no reference to any notion of offsetting, or "negative benefits" or of averaging across the period of investigation, for a particular good. Indeed, in our view, the language of the provision – especially the statement that "the provision of goods or services or purchase of goods by a government *shall not be considered as conferring a benefit unless* the provision is made for *less than adequate remuneration*" – if anything suggests both a disaggregated analysis and a focus on instances where benefits are found to exist. We note in particular the negative terms in which this sentence is drafted – a benefit "shall not" be conferred "unless" – which could be restated as there being *no* benefit, i.e., a benefit of *zero*, where the remuneration is at least "adequate".

[...] [R]ather than viewing the period of investigation monolithically, an investigating authority should be seeking to match the transactions under examination to contemporaneous benchmarks, and that the existence or absence of a benefit in respect of one transaction or group of transactions is independent of the existence or absence of a benefit in other transactions.

**WTO, Report of the Panel, *United States – Definitive Anti-Dumping and Countervailing Duties on Certain Products from China*, WT/DS379/R, 22 October 2010, para. 11.47-11.48.**

The CBSA also fully disclosed to the exporters its calculations and methodologies, including the allocation basis used to apply its subsidies. In the case of the subsidized aluminum extrusions, the CBSA determined an amount of subsidy per kilogram based on the aluminum extrusions purchased and allocated this amount over the weight of the aluminum included in the subject goods.

With respect to the arguments regarding specificity, in *Certain Aluminum Extrusions*, the GOC did not provide the required information relating to specificity, which significantly impeded the CBSA’s investigation. At the time, in the absence of a complete response from the GOC, the CBSA was unable to conduct specificity analyses, and instead determined amounts of subsidy for the cooperative exporters under ministerial specification on the basis of the information provided by those exporters. It is those subsidies that are determined to have passed-through to the unitized wall unit producers, on the basis of the methodology detailed in this *Statement of Reasons*.

The GOC did not submit a response to the Subsidy RFI, and therefore did not provide the required information relating to specificity. This significantly impeded the CBSA's investigation as there was not sufficient information on the record to determine whether this program was specific to the unitized wall modules sector, pursuant to subsection 2(7.2) of SIMA. On the basis of available information, it was found that such subsidy was only available to users of aluminum extrusions, which the CBSA considers to be a limited number of enterprises. Therefore, this program did not appear to be generally available to all enterprises in China and, using facts available, was determined to be specific.

### ***Subsidies Received by Beijing Jangho Attributed to Guangzhou Jangho***

Jangho argued that the subsidies received by Beijing Jangho should not have been attributed, based on consolidated sales, to Guangzhou Jangho as Guangzhou Jangho conducts business on its own behalf. Jangho further argued that this approach conflicts with section 2 of SIMA as none of the subsidies were received by the producer or exporter of the subject goods. Counsel for the Complainants submitted that it was within the expertise and discretion of the CBSA to acknowledge that the Jangho companies operate as one entity and that Jangho has not provided any evidence to the contrary.

### **CBSA's Response**

The attribution and apportionment of a subsidy in respect of a corporate organization will depend on the functions of the corporate entity that is the recipient of the subsidy. Evidence gathered during the on-site verifications confirmed that Guangzhou Jangho, despite its status as a distinct legal entity, operate as a de-facto division of Beijing Jangho within the overall corporate structure. As such, the CBSA attributed, based on consolidated sales, the subsidies received by Beijing Jangho to Guangzhou Jangho.

### ***Raw Materials Provided by the Government at Less than Fair Market Value***

Jangho argued that if the CBSA were to consider, in a final determination, to seek countervailing duties on upstream subsidies resulting from the purchase of steel materials they were not given all the facts and the opportunity to comment. Similarly, Yuanda argued that the CBSA placed information on the record slightly prior to the close of the record about a possible methodology to determine a benefit on steel products and that as per Article 12.8 of the WTO ASCM the CBSA should, in sufficient time, notify all interested parties of the essential facts to permit a proper defence.

Jangho further argued that steel products purchased by Guangzhou Jangho were in a finished form and that a benchmark based on commodity prices would be distortive.

Jangho also argued that the allocation and specificity objections raised in regard to Program 180 (Subsidy Pass-Through from the Purchase of Aluminum Extrusions) would also apply to any alleged subsidies on steel products. Similarly, Yuanda also argued that their concerns regarding Program 180 were also applicable to the alleged subsidies on steel products.

Jangho argued that for the above reasons, the CBSA must set aside the attempt to countervail alleged upstream subsidies on steel products.

### **CBSA's Response**

The CBSA examined and analyzed the information on steel products it received in RFI responses and conducted research to establish relevant benchmark prices for these products. Further to its analysis, the CBSA concluded that there was insufficient information on the record to determine whether there was a financial contribution that conferred a benefit to the producers/exporters of the subject goods. As a result, no amount of subsidy was determined under this program. Consequently, the CBSA will not address the arguments of Jangho and Yuanda.

### ***Tax Offset for Research and Development Expenses***

Jangho argued that the tax offset for research and development expenses is generally available to all companies throughout China which incur research and development expenses. Jangho further argued that it provided the CBSA, during the verification, with the income tax legislation and regulations pertaining to the tax offset for the research and development expenses which confirmed that the program is not specific and that, therefore, it should not be countervailed.

Counsel for the Complainants submitted that there is no evidence, given the limited details provided and the lack of response of the Government of China, that this program is not specific.

### **CBSA's Response**

The CBSA examined the legislation and regulations provided and agree that the tax offset for research and development expenses is not specific. The program was removed from the investigation.