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OTTAWA, June 26, 2020

## **STATEMENT OF REASONS**

**Concerning the initiation of investigations into the dumping and subsidizing of**

**CERTAIN DECORATIVE AND OTHER NON-STRUCTURAL PLYWOOD  
ORIGINATING IN OR EXPORTED**

**FROM CHINA**

## **DECISION**

Pursuant to subsection 31(1) of the *Special Import Measures Act*, the Canada Border Services Agency initiated investigations on June 11, 2020, respecting the alleged injurious dumping and subsidizing of certain decorative and other non-structural plywood originating in or exported from China.

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

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## **SUMMARY**

[1] On April 21, 2020, the Canada Border Services Agency (CBSA) received a written complaint from Columbia Forest Products (CFP), Husky Plywood (Husky), Rockshield Engineered Wood Products, ULC (Rockshield), and the Canadian Hardwood Plywood and Veneer Association (CHPVA) (hereinafter, “the complainants”), alleging that imports of certain decorative and other non-structural plywood (decorative plywood) from the People’s Republic of China (China) are being dumped and subsidized. The complainants alleged that the dumping and subsidizing have caused injury and are threatening to cause injury to the Canadian industry producing like goods.

[2] On May 12, 2020, 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. The GOC was also provided with the non-confidential version of the subsidy complaint and was invited for consultations prior to the initiation of the subsidy investigation, pursuant to Article 13.1 of the *Agreement on Subsidies and Countervailing Measures*. A request for consultations was not received by the CBSA.

[3] The complainants provided evidence to support the allegations that decorative plywood from China has been dumped and subsidized. The evidence also discloses a reasonable indication that the dumping and subsidizing have caused injury and are threatening to cause injury to the Canadian industry producing like goods.

[4] On June 11, 2020, pursuant to subsection 31(1) of SIMA, the CBSA initiated investigations respecting the dumping and subsidizing of decorative plywood from China.

## **INTERESTED PARTIES**

### **Complainants**

[5] The names and addresses of the complainants are as follows:

Columbia Forest Products  
225 Prince Street  
Hearst, ON P0L 1N0

Husky Plywood (a Division of Commonwealth Plywood Co. Ltd.)  
15 Labelle Blvd.  
P.O. Box 90  
Ste-Therese, QC J7E 4H9

Rockshield Engineered Wood Products, ULC  
4 Boisvert Cr.  
Cochrane, ON P0L 1C0

Canadian Hardwood Plywood and Veneer Association  
 89, ave Godfrey  
 St-Sauveur, QC J0R 1R5

[6] CFP is a domestic producer of decorative plywood, headquartered in North Carolina and has operations in both the United States and Canada. CFP operates three production facilities located in Hearst and Kitchener, Ontario, as well as Saint-Casimir, Quebec.<sup>1</sup>

[7] Husky is a division of Commonwealth Plywood Company Limited and operates a production facility in St-Therese, Québec.<sup>2</sup>

[8] Rockshield is a domestic producer of decorative plywood, with its operations based in Cochrane, Ontario.<sup>3</sup>

[9] CHPVA is a national trade association representing both producers of decorative plywood and face veneer. There are a total of seven members of the CHPVA, which includes CFP, Husky and Rockshield.<sup>4</sup>

[10] The other known manufacturers of like goods in Canada are: Precision Veneer Products (Precision), ProPly Custom Plywood Inc. (ProPly), Corporation Internationale Masonite – Megantic (CIM), Panneaux Optimum Inc. (Panneaux), Birchland Plywood Limited, Executive Woodwork, Monarch Custom Plywood, Spécialité MGH, and Rainbow Wood Veneer.<sup>5</sup> Contact information for these manufacturers is as follows:

<b>Company Name</b>	<b>Address</b>
Precision Veneer Products	110 Morton Ave E Brantford, Ontario
ProPly Custom Plywood Inc.	1195 Clark Blvd Brampton, Ontario
Corporation Internationale Masonite – Megantic	4180 Rue Villeneuve Lac-Mégantic, Québec
Panneaux Optimum Inc.	50 Rue Courchesne Saint-Léonard d'Aston, Québec
Birchland Plywood Limited	12564 Hwy 17 Thessalon, Ontario
Executive Woodwork	330 Spinnaker Way Concord, Ontario
Monarch Custom Plywood	8301 Keele St#2 Concord, Ontario
Spécialité MGH	19 Rue des Érables Tring-Jonction, Québec

<sup>1</sup> Exhibit 2 (NC) – Decorative Plywood Complaint – Paragraph 9.

<sup>2</sup> Exhibit 2 (NC) – Decorative Plywood Complaint – Paragraph 11.

<sup>3</sup> Exhibit 2 (NC) – Decorative Plywood Complaint – Paragraph 10.

<sup>4</sup> Exhibit 2 (NC) – Decorative Plywood Complaint – Paragraph 12.

<sup>5</sup> Exhibit 2 (NC) – Decorative Plywood Complaint – Attachment 6.

Rainbow Wood Veneer	115 Caster Ave Woodbridge, Ontario
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[11] Precision, ProPly, CIM, and Panneaux are all members of the CHPVA. The remaining five producers of decorative plywood are not members of the CHPVA. Precision and ProPly both support the complaint. The complainants are not aware of any domestic producers that oppose the complaint.<sup>6</sup>

### **Trade Unions<sup>7</sup>**

[12] The complainants identified the following three trade unions that represent persons employed in the production of decorative plywood in Canada:

- United Steelworkers Union
- UNIFOR
- Association des Salariés du Contre-Plaqué de Ste-Thérèse

### **Exporters**

[13] The CBSA identified 782 potential exporters of the subject goods from CBSA import documentation and from information submitted in the complaint. All of the potential exporters were asked to respond to the CBSA's Dumping Request for Information (RFI) and Subsidy RFI.

### **Importers**

[14] The CBSA identified 175 potential importers of the subject goods from CBSA import documentation and from information submitted in the complaint. All of the potential importers were asked to respond to the CBSA's Importer RFI.

### **Government**

[15] Upon initiation of the investigations, the GOC was sent the CBSA's Government Particular Market Situation RFI and the CBSA's Government Subsidy RFI.

[16] For the purposes of these investigations, the GOC 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 any law passed by, the government of that country or that provincial, state or municipal or other local or regional government.

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<sup>6</sup> Exhibit 2 (NC) – Decorative Plywood Complaint – Paragraph 14.

<sup>7</sup> Exhibit 2 (NC) – Decorative Plywood Complaint – Paragraphs 16-17.

## **PRODUCT INFORMATION**

### **Definition**

[17] For the purpose of these investigations, subject goods are defined as:

*Decorative and other non-structural plywood, whether or not surface coated or covered, and veneer core platforms for the production of decorative and other non-structural plywood, originating in or exported from the People's Republic of China. Decorative and other non-structural plywood is defined as a flat, multilayered plywood or other veneered panel, consisting of two or more layers or plies of wood veneers and a core, with the face and/or back veneer made of wood. The veneers, along with the core are glued or otherwise bonded together. Decorative and other non-structural plywood include products that meet the American National Standard for Hardwood and Decorative Plywood, ANSI/HPVA HP-1-2016 (including any revisions to that standard).*

*Excluding:*

- a) Structural plywood that is manufactured to meet U.S. Products Standard PS 1-09, PS 2-09, or PS 2-10 for Structural Plywood (including any revisions to that standard or any substantially equivalent international standard intended for structural plywood), and which has both a face and a back veneer of coniferous wood;*
- b) Finished plywood products for use as flooring;*
- c) Plywood which has a shape or design other than a flat panel;*
- d) Phenolic Film Faced Plyform (PFF), also known as Phenolic Surface Film Plywood (PSF), defined as a panel with an "Exterior" or "Exposure 1" bond classification as is defined by The Engineered Wood Association, having an opaque phenolic film layer with a weight equal to or greater than 90g/m<sup>3</sup> permanently bonded on both the face and back veneers and an opaque, moisture resistant coating applied to the edges; and*
- e) Laminated veneer lumber door and window components with (1) a maximum width of 44 millimeters, a thickness from 30 millimeters to 72 millimeters, and a length of less than 2413 millimeters, (2) water boiling point exterior adhesive, (3) a modulus of elasticity of 1,500,000 pounds per square inch or higher, (4) finger-jointed or lap-jointed core veneer with all layers oriented so that the grain is running parallel or with no more than 3 dispersed layers of veneer oriented with the grain running perpendicular to the other layers, and (5) top layer machined with a curved edge and one or more profile channels throughout.*

## Additional Product Information<sup>8</sup>

[18] The following is a brief explanation of certain key terms:

(a) Decorative and other non-structural plywood: a flat, multilayered plywood or other veneered panel, consisting of two or more layers or plies of wood veneers and a core, with the face and/or back veneer made of wood.

(b) Veneer: a slice of wood which is cut, sliced or sawed from a log, bolt, or flitch. To be called a “veneer”, the slice of wood would generally be 6mm or less in thickness. The face and back veneers are the outermost veneer of wood on either side of the core irrespective of additional surface coatings or covers as described below.

(c) Cores: The core of decorative plywood consists of the layer or layers of one or more material(s) that are situated between the face and back veneers. The core may be composed of a range of materials, including but not limited to veneer core platforms (consisting of one or more veneers of hardwood or softwood), particleboard, or medium-density fiberboard (MDF).

(d) Veneer core platforms: are cores composed of hardwood or softwood veneers. A veneer core platform would consist of at least two plies of wood. A veneer core platform may also be called a veneer core blank. A veneer core platform is itself covered by the product definition when the veneer core platforms are for the production of decorative and other non-structural plywood, and are themselves included as subject goods. The other types of cores (e.g. particleboard, MDF) on their own are not covered by the product definition. Decorative and other non-structural plywood which are made with those other cores are covered by the product definition.

[19] Other than the products excluded from the product definition, all decorative plywood is included within the scope of these investigations regardless of whether or not the face and/or back veneers are surface coated or covered and whether or not such surface coating(s) or cover(s) obscures the grain, textures, or markings of the wood. Examples of surface coatings and covers include, but are not limited to: ultra-violet light cured polyurethanes; oil or oil-modified or water based polyurethanes; wax; epoxy-ester finishes; moisture-cured urethanes; paints; stains; paper; aluminum; high pressure laminate; MDF; medium density overlay (MDO); and phenolic film. Additionally, the face veneer of non-structural and decorative plywood may be sanded; smoothed or given a “distressed” appearance through such methods as hand-scraping or wire brushing.

[20] Decorative plywood is primarily manufactured as a panel. The most common panel sizes

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<sup>8</sup> Exhibit 2 (NC) – Decorative Plywood Complaint – Paragraphs 19-28.

are 1219 x 1829 mm (48 x 72 inches), 1219 x 2438 mm (48 x 96 inches), and 1219 x 3048 mm (48 x 120 inches). However, these panels are often cut-to-size by the manufacturer in accordance with a customer's requirements. The most common thicknesses of the panels range from 3.2 mm (1/8 inch) to 25.4 mm (1 inch). Regardless of the actual dimensions, all products that meet the production definition are included as subject goods.

[21] For further clarity regarding the cores, particle boards and MDF boards on their own (i.e., a particle board core or an MDF core) are not covered by the product definition. However, decorative plywood that includes a particle board core or MDF core or veneer core, or a combination of veneer, MDF and particleboard as the core, is covered by the product definition. Separately, a veneer core platform on its own is covered by the definition. A veneer core platform consists of a series of wood plies. The key distinction between a veneer core platform and decorative plywood is that decorative plywood generally has, as its outer plies, wood plies which are usually of a higher quality for their appearance.

[22] Decorative plywood is sometimes referred to by other terms, e.g., "hardwood plywood", "plywood" or "engineered wood". Regardless of the particular terminology, all products that meet the product definition are intended for inclusion within the product definition and are Subject Goods.

[23] Finished plywood which is used as flooring is excluded from the product definition. Separately, construction-grade plywood is used in subflooring. Since this is structural plywood, it is not covered by the product definition. However, the underlayment (a thin panel installed above the subflooring) is not structural and is not used as flooring, and therefore falls within the product definition.

[24] PFF, also known as PSF, as described in the product definition exclusion section, is excluded from the product definition. This product is a film-faced plywood for use in concrete forming.

[25] Part (e) of the exclusions excludes laminated veneer lumber door and window components. Conditions associated with this exclusion ensure that only legitimate door and window components are excluded.

[26] In the context of this product definition, "non-structural" plywood refers to plywood which does not meet the requirements of a "structural" plywood, but is also not "decorative" in its application. These products are sometimes referred to as "utility panels" or "industrial panels". Generally, these products would not have a thin face veneer. Non-structural plywood is used in applications such as shelving, garage cabinets, or dog houses. This type of plywood could also be used as "framestock" for the frames of sofas. It could even be possible that some manufacturers could use these for the interiors of cabinets or furniture if the plywood will be painted.

[27] Most decorative plywood is produced on a custom basis. The production process is highly flexible and can produce goods to exact customer specifications. While some distributors may stock inventory for purchase by end-users, the typical purchase of decorative plywood is made in advance of production, on a spot (as opposed to contractual) basis.

[28] Decorative plywood is generally described by the number of plies, overall thickness, width, length, species of face ply, grade of face and back ply, pattern or type of cut of face ply, and type of core.

[29] Decorative plywood is not required to meet a standard or certification. There is a voluntary (not mandatory) standard call the American National Standard for Hardwood and Decorative Plywood, ANSI/HPVA HP-1-2016 (current version). In contrast, structural plywood (which is not subject) must be certified as it is intended to be used for construction applications; it is manufactured to meet U.S. Products Standard PS 1-09, PS 2-09, or PS 2- 10 for Structural Plywood.

[30] Because decorative plywood is typically used for decorative purposes, the appearance of the face ply, and, where exposed, the back ply, is often an important feature of the plywood. For this reason, grades are assigned to the face and back plies which encompass such characteristics as colour streaks or spots, colour variations, burls, and pin knots. Some manufacturers offer proprietary or custom grades. However, the consensus grading standards are set forth in ANSI/HPVA HP-1-2016 (current version).

[31] The face ply is the side of the product that is exposed to view after installation. Face grades are delineated as “AA”, “A”, “B”, “C”, “D” and “E”, where “AA” would have the best looking veneer face and “E” would have the worst looking veneer face (e.g. lots of knots in the wood). A veneer face with a higher grade (e.g. “AA”) would generally entail a higher price compared to a veneer face with a lower grade (e.g. “E”). Wood species commonly used for the face veneer include oak (red and white), birch, maple, ash, pine, walnut, southern pine, cherry, lauan, poplar, alder and numerous tropical hardwood species such as mahogany and Brazilian Cherry (also referred to as Jatoba). Bamboo may also be used for the face ply.

[32] Back grades are delineated as “1”, “2”, “3” or “4” (also listed in descending order of quality of grade).

[33] Decorative plywood is generally made from hardwood trees (i.e. deciduous or nonconiferous trees), but may also be made from softwood trees. Structural or construction plywood is generally made from softwood trees (i.e., coniferous trees).

[34] The manner in which a log is cut determines the appearance of the wood grain in the resulting veneers. This is of particular importance for the face ply, and where exposed, the back ply. The most common cuts for decorative plywood are rotary, quarter sliced, plain-cut (or flat-cut), and rift-cut.

## **Production Process<sup>9</sup>**

[35] As described above, the production of decorative plywood involves laminating a decorative face of veneer to different types of core. The production of the face veneer is done with a process of its own and mainly with different equipment. All decorative plywood producers must source their face veneer from face veneer producers. Some decorative plywood producers also produce the face veneers (so they do not need to source it externally), but the face veneer will always be made either at another location or on a different production line.

[36] There are two types of decorative plywood manufacturers: 1-step producers (CFP at its Hearst facility and Rockshield) and 3-ply producers (Husky, CFP at Kitchener and Saint-Casimir, and the other domestic producers).

[37] Notwithstanding slight variations that might exist from one manufacturer to another, decorative plywood is generally produced through the same basic production process in all countries.

### **3-Ply Producers**

[38] These producers externally source all their cores. The cores may be particle board, MDF or veneer core blanks. These blanks are also called platforms. The platforms are basically panels, which do not yet have an external ply of decorative veneer.

[39] The production process is relatively straightforward. Veneers are peeled or cut from logs into sheets. The core (regardless of whether it is veneer, particle board or MDF) will pass through a glue spreader. The face and the back veneer are then applied to the glue-covered core. This “wood sandwich” is then sent to a press where heat and pressure will laminate the three components together. The laminated panel will then be trimmed, sanded, and inspected.

[40] While this is the only way to produce decorative plywood with particle core or MDF core, there is another way to produce veneer core panels, discussed below.

[41] 3-ply producers may also be referred to as 2-step producers. Chinese producers are generally 3-ply producers.

### **1-Step Producers**

[42] Instead of externally sourcing their veneer core platform, some producers have the equipment to produce each ply of the core directly from logs. These plants are always located close to the log harvesting locations. For example, CFP’s plant is located in Hearst, Ontario, in the heart of the boreal forest.

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<sup>9</sup> Exhibit 2 (NC) – Decorative Plywood Complaint – Paragraphs 29-40.

[43] Producing core ply requires the logs to be rotary peeled on a lathe. The long rolls of thick veneer produced this way are then cut to size and dried in a veneer dryer. When ready, these inner plies of veneer will then pass through a glue spreader, they will be stacked together along with the decorative face and back veneer. This multiple layered “wood sandwich” is then sent to a press where heat and pressure will laminate all these plies together.

[44] The laminated panel will then be trimmed, sanded, and inspected.

[45] Since the inner plies and the face and back plies are laminated at the same time, this process is also called one step production and therefore these producers are called 1-step producers.

### **Product Use<sup>10</sup>**

[46] Decorative plywood has a variety of end uses, including kitchen cabinets, furniture, wall paneling and architectural woodwork, seat backs, table and desk tops, drawer sides, television and stereo cabinets, furniture components, trailer components, and other uses.

[47] However, in all cases, as a result of the type of glue used in its production, it is intended for interior (indoor) uses and is distinguishable from construction plywood, which is used for structural applications and is suitable for outdoor use.

### **Classification of Imports**

[48] The allegedly dumped and subsidized goods are normally classified under the following tariff classification numbers:

4412.10.00.00	4412.31.00.00	4412.33.00.10
4412.33.00.20	4412.33.00.30	4412.33.00.90
4412.34.00.00	4412.39.00.10	4412.39.00.21
4412.39.00.22	4412.39.00.23	4412.39.00.90
4412.94.00.00	4412.99.10.00	4412.99.90.10
4412.99.90.30	4412.99.90.90	

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

### **LIKE GOODS AND CLASS OF GOODS**

[50] 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 any identical goods, goods the uses and other characteristics of which closely resemble those of the other goods.

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<sup>10</sup> Exhibit 2 (NC) – Decorative Plywood Complaint – Paragraphs 41-42.

[51] In considering the issue of like goods, the CITT typically looks at a number of factors, including the physical characteristics of the goods (such as composition and appearance) their market characteristics (such as substitutability, pricing, distribution channels and end uses), and whether the domestic goods fulfill the same customer needs as the subject goods.

[52] With respect to the definition of like goods, the complainants stated that like goods are those goods described in the product definition. That is, domestically produced decorative plywood, which meets the product definition, and does not include domestically produced goods which are specifically excluded from the product definition. The complainants noted CITT decisions in *Hot-Rolled Carbon Steel Plate and Corrosion-resistant Steel Sheet*, to support this position.<sup>11</sup>

[53] The complainants state that like goods and subject goods are sold on a custom basis and therefore the physical characteristics of the goods are the same whether imported or produced domestically. The complainants believe that due to similarities in physical characteristics, market characteristics, production processes, and end uses; like goods and subject goods directly compete with each other in the Canadian market. Further, the complainants state that the goods are fundamentally the same goods and substitutable.<sup>12</sup>

[54] After considering questions of use, physical characteristics and all other relevant factors, the CBSA is of the opinion that domestically produced decorative plywood, that is of the same description as subject goods, is like goods to the subject goods. Further, the CBSA is of the opinion that the subject goods and like goods constitute only one class of goods.

## **THE CANADIAN INDUSTRY**

[55] The complaint includes data on domestic production and on domestic sales of decorative plywood for domestic consumption.<sup>13</sup>

[56] The complaint contains letters of support from Precision and ProPly.<sup>14</sup>

[57] The complainants and the supporting producers account for the vast majority of the domestic production of like goods.

### **Standing**

[58] Subsection 31(2) of SIMA requires that the following conditions for standing be met in order to initiate an investigation:

- a. the complaint is supported by domestic producers whose production represents more than 50% of the total production of like goods by those domestic producers who express either support for or opposition to the complaint; and

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<sup>11</sup> Exhibit 2 (NC) – Decorative Plywood Complaint – Paragraph 83.

<sup>12</sup> Exhibit 2 (NC) – Decorative Plywood Complaint – Paragraph 85.

<sup>13</sup> Exhibit 1 (PRO) – Decorative Plywood Complaint – Paragraphs 14-15.

<sup>14</sup> Exhibit 2 (NC) – Decorative Plywood Complaint – Attachment 1.

- b. the production of the domestic producers who support the complaint represents 25% or more of the total production of like goods by the domestic industry.

[59] As the complainants and the supporting producers represent the vast majority of the total production of like goods in Canada, the CBSA is satisfied that the standing requirements pursuant to subsection 31(2) of SIMA have been met.

### **CANADIAN MARKET**

[60] The complainants, using Statistics Canada data, estimated the total volume of imports of decorative plywood from China and all other countries for 2017 to 2019.<sup>15</sup>

[61] The tariff classification numbers for decorative plywood include both subject and non-subject goods. As such, the complainants made a number of adjustments in an effort to remove non-subject goods.<sup>16</sup>

[62] The CBSA conducted an analysis of imports of decorative plywood based on CBSA's import data and commercial intelligence provided by the complainants. The CBSA notes there are discrepancies in the volumes estimated by the complainants and the CBSA. The adjustments made by the CBSA were made based on information not available to the complainants.

[63] Due to the COVID-19 pandemic, the CBSA has been limiting interactions with stakeholders for import compliance purposes. As a result, the CBSA did not request commercial documentation from importers, limiting the import analysis.

[64] The CBSA's estimate of the apparent Canadian market for like goods, using the CBSA's estimates of imports and the complainants' estimates of domestic production for domestic consumption, is as follows:<sup>17</sup>

**Table 1**  
**CBSA'S ESTIMATE OF CANADIAN MARKET**  
**(BASED ON VOLUME (m<sup>3</sup>))**

	<b>2017</b>	<b>2018</b>	<b>2019</b>
Sales from Canadian Producers	34%	38%	33%
Imports from China	27%	34%	38%
Imports from All Other Countries	38%	28%	29%
Total Apparent Canadian Market	100%	100%	100%

<sup>15</sup> Exhibit 2 (NC) – Decorative Plywood Complaint – Tables 4 & 5.

<sup>16</sup> Exhibit 1 (PRO) – Decorative Plywood Complaint – Attachment 7.

<sup>17</sup> Exhibit 10 (PRO) – Complaint Analysis – Table 3

[65] The CBSA will continue to gather and analyze information on the volume of imports as part of the preliminary phase of the dumping and subsidizing investigations and will refine these estimates.

## **EVIDENCE OF DUMPING**

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

[67] Normal values are generally based on the domestic selling price of like goods in the country of export where competitive market conditions exist or as 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.

[68] The complainants made the allegation that the decorative plywood sector in China may not be operating under competitive market conditions and as such, the domestic market may not be reliable for determining normal values. Accordingly, the complainants submitted that normal values should be determined under section 20 of SIMA.

[69] The complainants also made the allegation that a particular market situation (PMS) may exist in China which does not permit a proper comparison between the sale of like goods with the sale of the goods to the importer in Canada, as described in paragraph 16(2)(c) of SIMA.

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

[71] Estimates of normal values and export prices by both the complainants and the CBSA are discussed below.

### **Normal Values**

#### **Complainants' Estimates**<sup>18</sup>

[72] The complaint did not include estimates of normal values pursuant to section 15 of SIMA. The complainants were unable to locate a source of pricing of like goods in the domestic market of exporters in China, and stated that there is no third-party publication of prices of decorative plywood. As a result, the complainants were unable to estimate normal values on the basis of section 15 of SIMA.<sup>19</sup>

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<sup>18</sup> Exhibit 2 (NC) – Decorative Plywood Complaint – Paragraphs 90-114.

<sup>19</sup> Exhibit 2 (NC) – Decorative Plywood Complaint – Paragraph 90.

[73] Consequently, the complainants estimated normal values using a constructed cost approach based on the methodology in paragraph 19(b) of SIMA, calculated based on the aggregate of estimates of the cost of production of the subject goods, a reasonable amount for administrative selling and other costs and a reasonable amount for profits.

[74] The complainants alleged that, pursuant to section 16(2)(c) of SIMA, a PMS exists in the decorative plywood industry in China due to the distortion of the cost of inputs for the industry and the level of regulation and subsidization of the industry; however, for the purposes of the complaint, the complainants estimated normal values based on their own costs of production adjusted to reflect conditions in China as well as publicly available information on costs and profits in China.

[75] The complainants' estimated normal value based on the methodology in paragraph 19(b) of SIMA was constructed as follows:<sup>20</sup>

- a) Material costs were estimated based on the complainants' material costs.
- b) Labour costs were estimated based on the complainants' own costs associated with the production of like goods and adjusted downward to reflect labour costs in China. This adjustment was applied to the costs based on publically available information reported by TradingEconomics.com.
- c) Overhead costs were based on the complainants' factory overhead costs, with the same labour adjustment described above applied to the portion of overhead relating to indirect labour.
- d) To estimate a reasonable amount for administrative, selling, and other costs and a reasonable amount for profits for the subject goods, the complainants used the average of publicly available financial results for January 1, 2019 to September 30, 2019 from three producers of plywood in China, including decorative plywood: Guangxi Fenglin Wood Industry Group (Guangxi), GuangDong WeiHua Corp. (GuangDong), and Dare Power Dekor Home Co. Ltd. (Dare). Using this information, the complainants estimated an amount of 27.2% of cost of goods sold as a reasonable amount for administrative selling and other costs and 13.7% of cost of goods sold as a reasonable amount for profits.

[76] The complainants submitted that domestic selling prices in China are substantially influenced by government policies and should not be used in the calculation of normal values since the prices are not reflective of competitive market conditions. As a result, the complainants also estimated normal values for exporters in China using the methodology of section 20 based on surrogate country information.

[77] The complainants estimated normal values for subject goods pursuant to the methodology of subparagraph 20(1)(c)(ii) of SIMA based on the aggregate of the estimated cost of production of like goods on the complainants own costs of production and other publically available information, a reasonable amount for administrative, selling and all other costs in a comparable

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<sup>20</sup> Exhibit 2 (NC) – Decorative Plywood Complaint – Paragraphs 92(a)-(d).

market, Thailand, and a reasonable amount for amount for profits using a surrogate company in Finland.<sup>21</sup>

[78] The complainants selected Thailand as a surrogate country under section 20 because “Producers in Thailand pay wages substantially lower than Canada and they are geographically close to China. Further, the United Nations classifies both China and Thailand as developing countries and as having “upper-middle-income”.<sup>22</sup>

[79] The complainants selected Finland as a surrogate country under section 20 because a large producer of decorative plywood in Finland, UPM-Kymmene Corporation (UPM), is a comparable producer to Chinese decorative plywood producers. The complainants stated, “for Decorative Plywood (furniture end uses), UPM uses birch which is a commonly offered wood species by the Chinese producers. UPM is also one of the largest plywood companies in the world.”<sup>23</sup>

[80] The complainants’ estimated normal value based on the methodology in subparagraph 20(1)(c)(ii) of SIMA was constructed as follows:<sup>24</sup>

- a) Material costs were estimated using the complainants’ direct material costs for the production of decorative plywood.
- b) Labour costs were estimated using the complainants’ direct labour costs for the production of decorative plywood, adjusted downward based on a ratio of comparable wage rates in Canada and Thailand from government labour data reported by TradingEconomics.com. The complainants stated that the labour costs data from TradingEconomics.com is “taken from state statistical bureaus (e.g. from Statistics Canada for the Canadian wage data)” and that the data is more current than what is available elsewhere.
- c) Factory overhead costs were estimated using the complainants’ factory overhead costs for the production of decorative plywood, adjusting the portion for indirect labour costs in the same manner as direct labour costs.
- d) To estimate a reasonable amount for administrative selling and other costs for the subject goods, the complainants used publicly available financial results from Vanachai Group Public Company Limited (Vanachai), a producer of decorative and construction plywood in Thailand. Selling, administrative and management expenses of Vanachai were 20.0% of cost of goods sold and financial expenses of Vanachai were 2.8% of cost of goods sold in 2019, and the complainants used the aggregate of these figures, 22.8% of cost of goods sold, in estimating a reasonable amount for administrative selling and other costs for purposes of subparagraph 20(1)(c)(ii) of SIMA.

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<sup>21</sup> Exhibit 2 (NC) – Decorative Plywood Complaint – Paragraph 110.

<sup>22</sup> Exhibit 2 (NC) – Decorative Plywood Complaint – Paragraphs 107-109.

<sup>23</sup> Exhibit 2 (NC) – Decorative Plywood Complaint – Paragraph 110.

<sup>24</sup> Exhibit 2 (NC) – Decorative Plywood Complaint – Paragraph 110.

- e) As Vanachai was unprofitable in 2019, the complainants selected a company in Finland, UPM, that produces decorative and construction plywood, to estimate a reasonable amount for profits. UPM had a profit of 15.3% of cost of goods sold in 2019, and the complainants used that figure in estimating a reasonable amount for profits for purposes of subparagraph 20(1)(c)(ii) of SIMA.

[81] As discussed above, if there is sufficient reason to believe that the conditions described in section 20 of SIMA exist in the sector under investigation, normal values will be determined pursuant to section 20 of SIMA.

[82] As detailed in the “Section 20 Allegations” section of this Statement of Reasons, the CBSA is of the opinion that there is not sufficient evidence to support the initiation of a section 20 inquiry. For this reason, the CBSA did not estimate normal values for China pursuant to the methodology of section 20 of SIMA.

### **CBSA’s Estimates**

[83] In the absence of pricing information specific to decorative plywood in China, the CBSA was unable to estimate normal values following the methodology described in section 15 of SIMA. With respect to the complainants’ allegations of a PMS in China, the CBSA will endeavor to gather additional information from exporters, and other relevant sources in order to enable the CBSA to form an opinion as to whether a PMS exists in the domestic market for decorative plywood in China and whether the domestic sales in China permit a proper comparison with the sale to the importer in Canada. For the purposes of initiation, the CBSA has estimated normal values pursuant to section 19(b) of SIMA.

[84] The CBSA found the estimated cost of production of decorative plywood in China for 2019 as provided by the complainants to be reasonable and representative. The CBSA acknowledges that the specificity of the complainants’ estimated normal values is limited. The complainants provided a single normal value for decorative plywood for 2019. This normal value does not account for differences in characteristics, such as the type of wood used as a raw material, or product dimensions. However, this normal value was calculated using the costs associated with the complainants’ production of all decorative plywood during 2019. As such, this single normal value reflects a mix of various decorative plywood products.

[85] Although the CBSA recognizes that there may be differences in the cost and/or price of the various models of subject decorative plywood, the CBSA also recognizes that this approach was reasonably based on the information available to the complainants. The CBSA finds it reasonable to assume that the subject goods shipped to Canada during the period of January 1, 2019 to December 31, 2019 would reflect a product mix similar to the complainants’ production for that period. As such, the CBSA finds that the cost of production of the subject goods estimated by the complainants reasonably represents the cost of production of the subject goods shipped to Canada during that period.

[86] The CBSA estimated normal values using a constructed cost approach based on the methodology in paragraph 19(b) of SIMA, calculated based on the aggregate of an estimate of the cost of production of the subject goods, a reasonable amount for administrative selling and other costs and a reasonable amount for profits.

[87] The CBSA used the same cost of production of the subject goods in China as estimated by the complainants.

[88] The CBSA estimated a reasonable amount for selling, administrative and all other costs based on the financial information provided in the complaint for two of the three of the Chinese companies used by the complainants to estimate such costs, Guangxi and GuangDong. The CBSA did not use the financial information of Dare, which the complainants included in their estimate of such costs, in part because Dare's core business is not decorative plywood.<sup>25</sup> Using the information from Guangxi and GuangDong, the CBSA estimated a reasonable amount for selling, administrative and all other costs equal to 13.8% of cost of production.

[89] The CBSA estimated a reasonable amount for profits in a similar manner and for the same reasons as detailed above for selling, administrative and all other costs, based on the profits made by two of the three the Chinese companies used by the complainants to estimate such profits, Guangxi and GuangDong. Using the profit information from Guangxi and GuangDong, the CBSA estimated a reasonable amount for profits equal to 8.9% of cost of production.

## Export Price

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

[91] The complainants provided five estimates of the average export price of subject goods from China in 2019:<sup>26</sup>

1. **Estimate #1 - All relevant HS codes:** Total annual value of goods as reported by Statistics Canada originating in China and imported in 2019 under the HS tariff classification codes identified by the complainants as containing subject goods, divided by the reported total quantity of the same population of imports.
2. **Estimate #2 - One selected HS code:** Total annual value of goods as reported by Statistics Canada originating in China and imported in 2019 under the HS tariff classification code 4412.33.00.10 for "plywood, other than bamboo, with at least one outer ply of birch, each ply ≤6mm", divided by the reported total quantity of the same population of imports.
3. **Estimate #3 - Two selected HS codes:** Total annual value of goods as reported by Statistics Canada originating in China and imported in 2019 under the HS tariff

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<sup>25</sup> Exhibit 2 (NC) – Decorative Plywood Complaint – Paragraph 92.

<sup>26</sup> Exhibit 2 (NC) – Decorative Plywood Complaint – Paragraph 89.

classification codes 4412.33.00.10 for “plywood, other than bamboo, with at least one outer ply of birch, each ply ≤6mm” and 4412.33.00.90 for “plywood, with at least one outer ply of non-coniferous wood [other than a list of wood types specified in the schedule], each ply ≤6mm”, divided by the reported total quantity of the same population of imports.

4. **Estimate #4 – import offer for 12mm birch:** the export price was based on an offer for decorative plywood from a Chinese exporter in August 2019. The face and back veneer are white birch with a poplar core. The export price used is for 12 mm thickness.
5. **Estimate #5 – import offer for 18 mm birch:** the export price is based on an offer for decorative plywood from a Chinese exporter in August 2019. The face and back veneer are white birch with a poplar core. The export price used is for 18 mm thickness.

[92] The complainants stated they focused on birch plywood in estimates #2 to #5 above because “birch is the most common Chinese product exported to Canada.”<sup>27</sup>

[93] In estimating export prices for decorative plywood, the CBSA relied on the value for duty as declared on the customs entry documentation and reports generated through the Facility for Information Retrieval Management (FIRM) of imports of the goods classified under the relevant tariff classification codes during the period of January 1, 2019 to December 31, 2019. In the CBSA’s review of commercial entry information for decorative plywood entering Canada, adjustments were made to the FIRM data to correct any errors respecting the quantity and value for duty as necessary.

### **Estimated Margins of Dumping**

[94] The CBSA estimated the margins of dumping for China by comparing the estimated normal values with the estimated export prices. Based on this analysis, it is estimated that decorative plywood imported into Canada from China was dumped by 52%, expressed as a percentage of export price.

### **PARTICULAR MARKET SITUATION**

[95] Paragraph 16(2)(c) is a provision of SIMA that may be applied when the CBSA is of the opinion that domestic sales of like goods in the country of export do not permit a proper comparison with the sales of the goods to the importer in Canada because a particular market situation prevails.

[96] Pursuant to subsection 16(2.1), the CBSA may form the opinion that a PMS exists in respect of any goods of a particular exporter or of a particular country.

[97] In such cases, the CBSA would not estimate normal values using the methodology of section 15 of SIMA, which relies on domestic prices. Accordingly, and where such information is available, the CBSA would look to using the methodology of paragraph 19(a) or 19(b).

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<sup>27</sup> Exhibit 2 (NC) – Decorative Plywood Complaint – Paragraph 89.

[98] Where a constructed normal value methodology of paragraph 19(b) is used and the CBSA is of the opinion that a PMS also distorts significant production input costs, the CBSA will use information in accordance with subsection 11.2(2) of SIMR, that best represents the actual cost of the input to permit a proper comparison.

[99] Where the CBSA finds there is sufficient reason to believe that a PMS may exist, the CBSA may solicit information from exporters and, where applicable, the government of the country of export, and independently gather other relevant information in order to form an opinion as to whether paragraph 16(2)(c) is applicable.

[100] The complainants made the allegation that a particular market situation may exist in China, which does not permit a proper comparison between the like goods with the sale of the goods to the importer in Canada.<sup>28</sup>

[101] The complainants submitted that a PMS exists whenever one, or the combination of several, factors or circumstances renders domestic sales inappropriate for the calculation of dumping margins, regardless of whether or not these sales are in the ordinary course of trade. The complainants also argued that subsection 11.2(2) of the SIMR makes clear that a PMS may exist where the acquisition cost of an input used in the production of a subject good is distorted. The complainants also argued that although the concept of PMS is not limited to government influence, the SIMA Handbook states that a PMS may also exist where a named country's government's actions and policies affect selling prices such that a proper comparison of home market prices do not allow for a proper comparison. Such actions and policies include, according to the complainants, government regulations, taxation policies, and programs that affect domestic pricing and market activities of state-owned enterprises (SOEs).<sup>29</sup>

[102] The complainants submitted that a PMS exists with respect to China for the following reasons<sup>30</sup>:

- A. The acquisition costs of inputs are distorted by illegal supply chains as well as significant state control over domestic timber supplies;
- B. The production costs for the manufacture of decorative plywood are distorted as certification standards are routinely circumvented;
- C. The GOC heavily regulates the industry, affecting pricing, production, imports and exports; and
- D. The GOC heavily subsidizes the decorative plywood industry in China.

[103] The CBSA will further examine whether a PMS exists throughout the dumping investigation.

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<sup>28</sup> Exhibit 2 (NC) – Decorative Plywood Complaint – Paragraphs 111-114.

<sup>29</sup> Exhibit 2 (NC) – Decorative Plywood Complaint – Paragraphs 339-341.

<sup>30</sup> Exhibit 2 (NC) – Decorative Plywood Complaint – Appendix B.

## **SECTION 20 ALLEGATIONS**

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

[105] The provisions of section 20 are applied on a sector basis rather than on the country as a whole. The sector reviewed will normally only include the industry producing and exporting the goods under investigation.

[106] A section 20 inquiry refers to the process whereby the CBSA collects information from various sources in order to form an opinion as to whether the conditions described under subsection 20(1) of SIMA exist with respect to the sector under investigation. Before initiating an inquiry under section 20, the CBSA must first analyze the information submitted in the complaint and the evidence it has gathered independently to determine if it is sufficient to warrant the initiation of an inquiry.

[107] The complainants alleged that the conditions described in section 20 prevail in the decorative plywood sector in China. The complainants alleged that this industry sector in China does not operate under competitive market conditions and consequently, prices established in the Chinese domestic market for decorative plywood are not reliable for determining normal values.<sup>31</sup>

[108] The complainants provided a variety of evidence supporting the claim that the GOC substantially determines prices of decorative plywood sold in China. The complainants noted the CBSA's previous section 20 opinions on various industry sectors. The complainants provided evidence that the GOC places great importance on its forestry industry through various plans, policies and state-owned enterprises, allows a black-market logging supply chain to thrive, and provides a wide variety of government subsidy programs. The complainants did not provide detailed pricing information regarding the decorative plywood sector.<sup>32</sup>

[109] The CBSA reviewed the information submitted in the complaint and conducted research regarding the GOC's macro economic policies and measures in relation to the decorative plywood sector.

[110] Based on the information submitted in the complaint and the research conducted by the CBSA on the decorative plywood sector, it is not apparent that domestic prices are substantially determined by the GOC, in law or in practice. Furthermore, due to the lack of pricing information available, there is no reason to believe that these prices are not substantially the same as they would be if they were determined in a competitive market. Accordingly, at this time

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<sup>31</sup> Exhibit 2 (NC) – Decorative Plywood Complaint – Paragraphs 95-106.

<sup>32</sup> Exhibit 2 (NC) – Decorative Plywood Complaint – Appendix A.

there is not sufficient information to initiate a section 20 inquiry of the decorative plywood sector in China in this investigation.<sup>33</sup>

## **EVIDENCE OF SUBSIDIZING**

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

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

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

[113] A state-owned enterprise (SOE) may be considered to constitute “government” for the purposes of subsection 2(1.6) of SIMA if it possesses, exercises, or is vested with, governmental authority. Without limiting the generality of the foregoing, the CBSA may consider the following factors as indicative of whether the SOE meets this standard: 1) the SOE is granted or vested with authority by statute; 2) the SOE is performing a government function; 3) the SOE is meaningfully controlled by the government; or 4) some combination thereof.

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

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<sup>33</sup> Exhibit 10 (PRO) – Complaint Analysis - Attachment 5

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

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

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

[117] The complainants alleged that subject goods have been subsidized at a significant level and maintained that exporters/producers of subject goods have received countervailable subsidies from various levels of the GOC, including the central government as well as provincial and local government authorities.<sup>34</sup>

[118] The complainants provided information in respect of specific subsidy programs identified in: the United States Department of Commerce’s (USDOC) 2017 Issues and Decisions Memorandum for the Final Affirmative Determination concerning certain hardwood plywood from China; China’s most recent notification of active subsidy programs to the WTO for the years 2017 and 2018; the United States Trade Representative’s February 2019 Report to Congress on China’s WTO Compliance; previous CBSA subsidy decisions concerning products from China; and other publically available information concerning Chinese subsidies.<sup>35</sup>

[119] Of the previous CBSA investigations referenced in the complaint, the complainants primarily referred to the CBSA’s investigations concerning the following products from China: *Aluminum Extrusions, Silicon Metal, Unitized Wall Modules, Copper Tube, Certain Laminate Flooring, Certain Oil Country Tubular Goods, Photovoltaic modules and laminates, Steel Grating, Stainless Steel Sinks, Galvanized Steel Wire, and Rebar.*<sup>36</sup>

[120] The complainants identified 110 Chinese subsidy programs which may have conferred benefits to the producers/exporters of the subject goods in China, and in turn resulted in the actionable subsidizing of exports of subject goods to Canada.

[121] The CBSA reviewed the relevant public reports for the subsidy programs identified in the complaint. The CBSA also reviewed the descriptions of subsidy programs provided in reports for other investigations, in particular for other programs found by the USDOC in its recent hardwood plywood investigation that were not specifically mentioned in the complaint.

[122] As a result, based on the information available, the CBSA identified 23 potentially actionable subsidy programs that may have benefited Chinese decorative plywood

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<sup>34</sup> Exhibit 2 (NC) – Decorative Plywood Complaint – Paragraph 116.

<sup>35</sup> Exhibit 2 (NC) – Decorative Plywood Complaint – Appendix C.

<sup>36</sup> Exhibit 2 (NC) – Decorative Plywood Complaint – Appendix C.

producers/exporters. Many of these are programs that the CBSA has already countervailed in respect of previous subsidy investigations concerning goods from China.

[123] The description of the identified programs are found in the Appendix.

[124] If information becomes available during the investigation process that indicates that some exporters/producers of subject goods may have benefited from any of the alleged programs or any other programs during the Period of Investigation (POI), the CBSA will request complete information from the GOC and exporters/producers of subject goods to pursue the investigation of the program.

### **CBSA's Conclusion**

[125] Sufficient evidence is available to support the allegations that decorative plywood originating in or exported from China have been subsidized. In investigating these programs, the CBSA has requested information from the GOC, exporters and producers to determine whether exporters/producers of subject goods received benefits under these programs and whether these programs, or any other programs, are actionable subsidies and, therefore, countervailable under SIMA.

### **Estimated Amount of Subsidy**

[126] The complainants did not estimate amounts of subsidy on a program-basis due to an absence of information. However, the complainants did estimate an amount of subsidy based on the difference between the estimated export price and the estimated total cost of production of the subject goods. The complainants concluded that this indicates that the subject goods are being sold to Canada substantially below their estimated total cost of production, which indicates a significant amount of subsidy.<sup>37</sup>

[127] The CBSA estimated the amount of subsidy conferred on exporters of the subject goods by comparing the estimated weighted average full costs of the subsidized goods with the estimated weighted average export prices. The CBSA's methodologies to estimate the full costs and the export prices for China are the same as those discussed above in the dumping section.

[128] It is the CBSA's understanding that subsidies have the effect of lowering the cost of production of goods which allows exporters to pass-through the subsidy benefits in reducing the selling price of those goods to Canada. Therefore, the CBSA is satisfied that the exporter's ability to sell subject goods to Canada at prices substantially below their estimated costs supports the complainants' allegations that the imported goods are subsidized.

[129] The CBSA's analysis of the information indicates that subject goods imported into Canada during the period of January 1, 2019 to December 31, 2019, were subsidized and that the estimated amount of subsidy is 39.6% of the estimated export price of the subject goods.

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<sup>37</sup> Exhibit 2 (NC) – Decorative Plywood Complaint – Paragraph 125.

## **EVIDENCE OF INJURY**

[130] The complainants allege that the subject goods have been dumped and subsidized and that such dumping and subsidizing have caused and are threatening to cause injury to the domestic industry producing like goods in Canada.

[131] SIMA refers to material injury caused to the domestic producers of like goods in Canada. The CBSA has concluded that decorative plywood produced by the domestic industry are like goods to the subject goods from China.

[132] In support of their injury allegations, the complainants provided evidence of an increase in the volume of dumped and subsidized imports, price depression and lost sales, price undercutting, lost market share, impacted financial results, underutilization of capacity, and an impact on current/proposed investments.

### **Volume of Dumped and Subsidized Imports<sup>38</sup>**

[133] The complainants state that the volume of subject goods from China have increased significantly over the last three years (2017-2019). The complainants provided a table detailing the volume of the decorative plywood market in Canada. Based on the data provided by the complainants decorative plywood imports from China increased from 697,252 m<sup>3</sup> in 2017 to 849,591 m<sup>3</sup> in 2018 and decreased slightly in 2019 to 782,508 m<sup>3</sup>. The decrease in volume from 2018 to 2019 is posited to be the result of an entire market contraction of 15% from 2018 to 2019. During the contraction, importers from China were still able to maintain 65% of the total imports into Canada.

[134] The CBSA's research of import data does support the allegation of an increase in the volume of subject goods from China. The import data shows that decorative plywood from China increased by 7.6% from 2017 to 2019. The data also supports the allegation that the decorative plywood market in Canada contracted in 2019, with CBSA estimates showing a market contraction of roughly 15%. During the contraction, imports from China still maintained 56% of total imports into Canada. The CBSA finds that the volume of dumped and subsidized goods from China have increased.

[135] Based on the CBSA's analysis of information detailing the market share contained in the complaint as well as the CBSA's estimate of imports and market share, the CBSA finds the complainants' claim of increased volume of imports to be reasonable and well supported.

### **Price Depression and Lost Sales<sup>39</sup>**

[136] The complainants argue that the alleged dumping and subsidizing of decorative plywood imports into Canada from China have resulted in domestic producers losing sales, leading to drastic price reductions for Canadian producers. In the complaint, there are multiple examples of

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<sup>38</sup> Exhibit 2 (NC) – Decorative Plywood Complaint – Paragraphs 138-143.

<sup>39</sup> Exhibit 2 (NC) – Decorative Plywood Complaint – Paragraphs 147-156.

both completely lost sales and sales where domestic producers had to significantly decrease their prices to retain sales.

[137] Based on the CBSA's analysis of information detailing individual lost sales contained in the complaint as well as the CBSA's estimate of imports and market share, the CBSA finds the complainants' claim of lost sales and price depression to be reasonable and well supported. As such, the CBSA finds that this injury factor is sufficiently supported and linked to the allegedly dumped and subsidized goods.

### **Price Undercutting<sup>40</sup>**

[138] The complainants allege price undercutting of decorative plywood from China has led to lost business for Canadian producers, and ultimately a loss of market share. The complainants also suggest that Chinese imports are able to significantly undercut domestic pricing of lower grade products, and that Chinese imports are selling higher grade products in their place.

[139] The complainants provided many examples of lost sales due to price undercutting, which show a significant spread between the complainants' prices and that of the Chinese imports. It is suggested by the complainants that this price undercutting has resulted in material injury.

[140] The CBSA conducted its own analysis into the unit price disparity using import data. The price spread found by the CBSA was much lower than provided by the complainants, but shows a similar trend. It can be seen from the import data that the price spread has been steadily widening for the past three years. This shows a possible indication of increased price undercutting by Chinese producers.

[141] Based on the above and the CBSA's analysis of the information contained in the complaint, the CBSA finds the claim of price undercutting to be supported and sufficiently linked to the allegedly dumped and subsidized goods.

### **Lost Market Share<sup>41</sup>**

[142] The complainants state that imports of the subject goods have resulted in a loss of market share for domestic producers of decorative plywood. The complainants argue that Canadian producers are now minor players in the domestic market, as China has become the dominant player. To support the allegation, the complainants provided a table summarizing the market share of domestic producers and imports. The data was taken from import data processed by Statistics Canada.

[143] According to the data provided by the complainants, the domestic producers' market share has been relatively stable over the past three years fluctuating between 11-13%. During this time, Chinese imports grew significantly from 42% in 2017 to 53% in 2018 to 57% in 2019. The complainants also noted that the bulk of the domestic producers' loss in market share occurred several years ago to Chinese imports rather than the past three years.

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<sup>40</sup> Exhibit 2 (NC) – Decorative Plywood Complaint – Paragraphs 157-173.

<sup>41</sup> Exhibit 2 (NC) – Decorative Plywood Complaint – Paragraphs 174-175.

[144] The CBSA analyzed import data to prepare its own estimate of the market share for the domestic industry and imports. The CBSA's estimates of market share in Canada for decorative plywood show similar results to what the complainants provided. The difference in market share estimates prepared by the complainants and those prepared by the CBSA is mainly due to a majority of HS codes containing engineered flooring which is excluded from the product definition and were removed in the CBSA's estimate. Based on the CBSA's own analysis, the CBSA believes that a loss in market share is apparent and can be considered an injury factor for the complainants.

### **Impacted Financial Results<sup>42</sup>**

[145] The complainants claim that the presence of dumped and subsidized Chinese imports has resulted in lost sales and price reductions, leading to negatively impacted financial performance for the complainants. To support the claim of impacted financial results, consolidated financial results for the complainants were provided, in addition to providing individual financial reports.

[146] Detailed information regarding the revenue and profitability cannot be divulged for confidentiality reasons. However, the CBSA has reviewed the information provided in the complaint and found that there is a clear indication of an impact on financial performance from 2017 to 2019 which supports the link between the allegedly dumped and subsidized goods and financial injury.

### **Underutilization of Production Capacity<sup>43</sup>**

[147] The complainants argue that the alleged dumping and subsidizing of decorative plywood from China have led to an underutilization of production capacity. Data was provided by the complainants, consolidating the production and capacity information.

[148] The CBSA has analyzed the information provided, and notes a decrease in utilization between 2017 and 2019. The decrease in 2019 is primarily due to the price undercutting in the previous years that the complainants attempted to match.

[149] Based on the CBSA's analysis, it is clear that the underutilization of capacity is due to a loss of market share, price undercutting, and the decision to take profitable sales at the cost of less volume. In light of the above analysis, the CBSA finds that there is a reasonable link between the presence of the allegedly dumped and subsidized goods and the complainants' inability to increase capacity utilization with respect to decorative plywood.

### **Impact on Current/Proposed Investments<sup>44</sup>**

[150] The complainants have provided evidence that the presence of allegedly dumped and subsidized goods have impacted their current and proposed investments.

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<sup>42</sup> Exhibit 2 (NC) – Decorative Plywood Complaint – Paragraphs 176-192.

<sup>43</sup> Exhibit 2 (NC) – Decorative Plywood Complaint – Paragraphs 193-198.

<sup>44</sup> Exhibit 1 (PRO) – Decorative Plywood Complaint – Paragraphs 199-203.

[151] Detailed information regarding current and proposed investments cannot be divulged for confidentiality reasons. However, the CBSA has reviewed the information provided by the complainants and finds that there is a reasonable link between the presence of the allegedly dumped and subsidized goods and the complainants' investments.

### **CBSA's Conclusion – Injury**

[152] Overall, based on the evidence provided in the complaint, and supplementary data available to the CBSA through its own research and customs documentation, the CBSA finds that the evidence discloses a reasonable indication that the dumping and subsidizing of the subject goods from China have caused injury to the decorative plywood industry in Canada. The nature of the injury is well documented with respect to an increase in the volume of dumped and subsidized imports, price depression and lost sales, price undercutting, lost market share, impacted financial results, underutilization of capacity, and an impact on current/proposed investments.

### **THREAT OF INJURY**

[153] The complainants state that the import of the allegedly dumped and subsidized goods threaten to cause further material injury to the Canadian domestic industry.

[154] The complainants provided the following information to support the allegation that imports of subject goods threaten to cause further injury to the Canadian industry.

### **Rate of Increase in the Volume of Subject Goods Imports<sup>45</sup>**

[155] The complainants state that since 2017, the volume of subject goods from China has increased significantly. The complainants state that Chinese decorative plywood imports to Canada were 697,252 m<sup>3</sup> in 2017, 849,591 m<sup>3</sup> in 2018, and 783,508 m<sup>3</sup> in 2019. The decrease from 2018-2019 was due to an entire apparent market contraction in Canada for decorative plywood products. The complainants also provide evidence of an even larger increase of subject good imports in 2020. The evidence shows a Chinese exporter having the capacity to export over 200 containers of decorative plywood into Canada at very low prices. The complainants claim that Chinese exporters are still new to the Canadian market, so this number can increase even more. This shows a trend of domestic purchasers moving towards buying larger quantities of decorative plywood from Chinese exporters.

[156] The CBSA's estimates of import data show that imports of subject goods from China have increased from 2017 to 2019 by 7.6%. It is evident that China is the major player in the Canadian market, maintaining roughly 40% of the market share in 2019.

[157] Based on the CBSA's analysis of import data, the CBSA finds the complainants' allegation of threat of injury posed by an increase in the rate of subject good imports to be reasonable and well supported.

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<sup>45</sup> Exhibit 2 (NC) – Decorative Plywood Complaint – Paragraphs 206-210.

## **International Market Conditions<sup>46</sup>**

[158] The complainants have referenced reports from the Food and Agriculture Organization (“FAO”) of the United Nations, who track production and consumption of wood-based products worldwide. In the report, the FAO states that global production and trade of major wood products recorded their highest ever values in 2018, which included wood-based panelling. The data also shows that China was the largest global producer, accounting for 50% of global production of wood-based panelling. Another report by the FAO named the “2017 Forest Product Yearbook”, states that global plywood production in 2017 reached 157 million m<sup>3</sup>, while consumption was 154 million m<sup>3</sup>. The complainants argue that since China is one the largest growing decorative plywood producers, paired with the global excess production – these factors could lead to additional exportation into Canada.

[159] The CBSA recognizes that international market conditions listed above could lead to additional exportation of decorative plywood from China to Canada.

## **Chinese Market Conditions<sup>47</sup>**

[160] The complainants argue that the economic and market conditions in China pose a major threat of materially injuring the Canadian decorative plywood producers. The complainants cited multiple sources, such as the IMF, Financial Times, and various Canadian banks to provide evidence of the slowing economic conditions in China. The complainants state the Chinese economy is facing headwinds due to the ongoing trade war with the US, and now the COVID-19 pandemic. The complainants further stated that with China’s inability to export during the pandemic, Chinese producers will attempt to boost exportation to make up for lost profits during the first quarter of 2020. The complainants also believe that due to the worsening economic conditions, Chinese producers will look for more opportunities to export product.

[161] The complainants also argue that excess Chinese production in plywood poses a threat to the Canadian market. An FAO report cited in the complaint states that Chinese production of plywood was over 117 million m<sup>3</sup> in 2018, making up approximately 72% of world production. The report also shows that China has an excess in production of over 11 million m<sup>3</sup>. The FAO states that China is the world’s largest exporter of manufactured boards, which includes plywood. The complainants believe that since the Chinese plywood industry is large and consistently growing, it has the potential to export more to Canada. The complainants believe this is a significant threat to the Canadian decorative plywood market.

[162] Lastly, the complainants suggest that the Chinese plywood industry is export oriented. As stated above, China is the largest exporter of wood-based panels, with exports of plywood over 11.7 million m<sup>3</sup> in 2018. The complainants cite multiple different plywood exporters from China, showing that a lot of them have similar “export oriented” business objectives. The complainants contend that decorative plywood exporters are actively trying to penetrate international markets at aggressive rates.

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<sup>46</sup> Exhibit 2 (NC) – Decorative Plywood Complaint – Paragraphs 211-213.

<sup>47</sup> Exhibit 2 (NC) – Decorative Plywood Complaint – Paragraphs 214-243.

[163] The CBSA's analysis of the information contained in the complaint revealed market conditions in China which the CBSA recognizes may encourage decorative plywood producers to target certain export markets, including Canada.

#### **Attractiveness of the Canadian Market<sup>48</sup>**

[164] The complainants state another major threat is the general attractiveness of the Canadian market to decorative plywood exporters. Citing reports by RBC and CBC News, in the near future Canada is likely headed towards a recession with negative GDP growth through 2020. RBC's macroeconomic report also states that in the near-term oil prices will continue to plunge. The complainants believe these factors will lead to difficult market conditions for Canadian decorative plywood producers to operate in, leading to further penetration by Chinese companies.

[165] The complainants believe that the decline in the construction industry due to market conditions and COVID-19 will continue to lessen demand for decorative plywood domestically. Reports state housing starts, home renovation spending, and housing construction declined in 2019 and will continue to do so in 2020. The complainants suggest that due to worsening conditions, dumped and subsidized goods may look attractive to companies looking to continue construction operations, further hindering the Canadian producers.

[166] The complainants also note, that due to less demand for domestic decorative plywood, the Canadian veneer industry will also be materially injured. Veneer producers are upstream suppliers to decorative plywood producers. The complaint provided evidence of injury to a domestic producer of veneer.

[167] It is also argued that the pricing in the Canadian market is very attractive to Chinese producers. As noted above in the injury section, subject goods enter the Canadian market at potentially dumped prices which increases their demand. It is also suggested that the large price spread is attractive, as it allows Chinese exporters to take market share away from Canadian producers.

[168] The CBSA recognizes that due to domestic market conditions, Canada remains an attractive and open market to decorative plywood exporters from China, posing a continued threat to domestic producers.

#### **Diversion<sup>49</sup>**

[169] The complainants argue that current trade measures imposed by other countries with respect to Chinese plywood exporters will lead to an increase in diverted dumped and subsidized goods into Canada. The complaint provides 10 current measures in force against the Chinese plywood and flooring industry.

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<sup>48</sup> Exhibit 2 (NC) – Decorative Plywood Complaint – Paragraphs 244-259.

<sup>49</sup> Exhibit 2 (NC) – Decorative Plywood Complaint – Paragraphs 260-272.

[170] The complainants provided evidence that measures imposed by the U.S. in 2017 with respect to Chinese decorative plywood have led to a significant decrease in imports of these goods into the U.S. Chinese plywood imports into the U.S. were 1.8 million m<sup>3</sup> in 2015, 1.81 million m<sup>3</sup> in 2016, and subsequently dropped to 1.3 million m<sup>3</sup> in 2017 after measures were in place. Following final determination, imports into the U.S. of decorative plywood from China further dropped to 0.39 million m<sup>3</sup> in 2018 and 0.16 million m<sup>3</sup> in 2019. The complainants argue that these measures practically closed the market for Chinese imports into the US, and that a lot of these exporters must find a new market, which they believe to be Canada.

[171] Additionally, the complainants provided evidence of a request for a ruling by the USDOC on certain plywood products originating in China and assembled in Vietnam that are believed to be within scope of existing AD/CVD measures. The complainants argue that this demonstrates the export orientation of Chinese producers, and their strong desire to circumvent existing measures in place. The complainants suggest that since Chinese plywood producers are shut out of many of the major international markets, Canada will be a prime target for diverted dumped and/or subsidized goods.

[172] The CBSA acknowledges the presence of trade remedy actions in the United States, which may further increase the volume of exports to Canada from China. Furthermore, the CBSA recognizes that these restrictions may have a significant impact on the Canadian market for decorative plywood.

### **CBSA's Conclusion – Threat of Injury**

[173] The complaint contains evidence that discloses a reasonable indication that there is a threat of injury to the decorative plywood industry in Canada. The information provided by the complainants indicates that the rate of increase in the volume imports of subject goods, the international and Chinese market conditions, the attractiveness of the Canadian market, and potential for diversion are collectively posing a threat to the Canadian industry.

### **CAUSAL LINK – DUMPING/SUBSIDIZING AND INJURY/THREAT OF INJURY**

[174] The CBSA finds that the complainants have sufficiently linked the injury they suffered in terms of loss of market share, price depression and lost sales, price undercutting, impacted financial results, underutilization of capacity, and negative impact on current/proposed investments to the alleged dumping and subsidizing of the subject goods imported into Canada and the price advantage this provides.

[175] Evidence has been provided to establish this link via import data, specific examples of lost sales and financial information, as provided in the complaint and respective attachments, as well as in the injury allegations submitted.

[176] The complainants submitted that the continued dumping and subsidizing of goods from China will cause further injury to the Canadian domestic industry in the future. As discussed above, the CBSA is of the opinion that this allegation of threat of injury is reasonably supported.

[177] In summary, the CBSA is of the opinion that the information provided in the complaint has disclosed a reasonable indication that the alleged dumping and subsidizing have caused injury and are threatening to cause injury to the Canadian domestic industry.

## **CONCLUSION**

[178] Based on information provided in the complaint, other available information, and the CBSA's import documentation, the CBSA is of the opinion that there is evidence that decorative plywood originating in or exported from China has been dumped and subsidized. Further, there is a reasonable indication that such dumping and subsidizing have caused and are threatening to cause injury to the Canadian industry. As a result, pursuant to subsection 31(1) of SIMA, dumping and subsidy investigations were initiated on June 11, 2020.

## **SCOPE OF THE INVESTIGATIONS**

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

[180] The CBSA has requested information from all potential exporters and importers to determine whether or not subject goods imported into Canada during the POI of April 1, 2019 to March 31, 2020, were dumped. The information requested will be used to determine the normal values, export prices and margins of dumping, if any. The CBSA also requested information from the GOC with respect to the possibility of a particular market situation.

[181] The CBSA has also requested information from the GOC and all potential producers/exporters to determine whether or not subject goods imported into Canada during the POI of January 1, 2019 to March 31, 2020, were subsidized. The information requested will be used to determine the amounts of subsidy, if any.

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

## **FUTURE ACTION**

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

[184] If the CITT finds that the evidence discloses a reasonable indication of injury to the Canadian industry and the CBSA's preliminary investigations reveal that the goods have been dumped and/or subsidized, the CBSA will make preliminary determinations of dumping and/or subsidizing within 90 days after the date of the initiation of the investigations, by September 9, 2020. Where circumstances warrant, this period may be extended to 135 days from the date of the initiation of the investigations.

[185] Under section 35 of SIMA, if, at any time before making a preliminary determination, the CBSA is satisfied that the volume of goods of a country is negligible, the investigation will be terminated with respect to goods of that country.

[186] Imports of subject goods released by the CBSA on and after the date of preliminary determinations of dumping and/or subsidizing, other than goods of the same description as goods in respect of which a determination was made that the margin of dumping of the goods is insignificant, may be subject to provisional duty in an amount not greater than the estimated margin of dumping or the estimated amount of subsidy on the imported goods.

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

[188] After the preliminary determinations, if, in respect of goods of a particular exporter, the CBSA's investigations reveal that imports of the subject goods from that exporter have not been dumped or subsidized, or that the margin of dumping or amount of subsidy is insignificant, the investigation(s) will be terminated in respect of those goods.

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

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

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

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

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

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

## **UNDERTAKINGS**

[194] After a preliminary determination of dumping by the CBSA, other than a preliminary determination in which a determination was made that the margin of dumping of the goods is insignificant, an exporter may submit a written undertaking to revise selling prices to Canada so that the margin of dumping or the injury caused by the dumping is eliminated.

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

[196] An acceptable undertaking must account for all or substantially all of the exports to Canada of the dumped goods. Interested parties may provide comments regarding the acceptability of undertakings within nine days of the receipt of an undertaking by the CBSA. The CBSA will maintain a list of parties who wish to be notified should an undertaking proposal be received. Those who are interested in being notified should provide their name, telephone and fax numbers, mailing address and e-mail address to one of the officers identified in the “Information” section of this document.

[197] If undertakings were to be accepted, the investigation and the collection of provisional duties would be suspended. Notwithstanding the acceptance of an undertaking, an exporter may request that the CBSA’s investigation be completed and that the CITT complete its injury inquiry.

## **PUBLICATION**

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

## **INFORMATION**

[199] Interested parties are invited to file written submissions presenting facts, arguments, and evidence that they feel are relevant to the alleged dumping and subsidizing. Written submissions should be forwarded to the attention of the SIMA Registry and Disclosure Unit.

[200] To be given consideration in this phase of the investigations, all information should be received by the CBSA by July 20, 2020.

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

[202] Confidential information submitted to the CBSA will be disclosed on written request to independent counsel for parties to these proceedings, subject to conditions to protect the confidentiality of the information. Confidential information may also be released to the CITT, any court in Canada, or a WTO or North American Free Trade Organization (NAFTA) dispute settlement panel. Additional information respecting the CBSA’s policy on the disclosure of information under SIMA may be obtained by contacting one of the officers identified below or by visiting the CBSA’s website.

[203] The schedule of the investigations and a complete listing of all exhibits and information are available at: [www.cbsa-asfc.gc.ca/sima-lmsi/i-e/menu-eng.html](http://www.cbsa-asfc.gc.ca/sima-lmsi/i-e/menu-eng.html). The exhibit listing will be updated as new exhibits and information are made available.

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

**Mail:** SIMA Registry and Disclosure Unit  
Trade and Anti-dumping Programs Directorate  
Canada Border Services Agency  
100 Metcalfe Street, 11<sup>th</sup> floor  
Ottawa, Ontario K1A 0L8  
Canada

**Telephone:** Jody Grantham 613-954-7405  
Jeffrey Laplante 613-954-7236

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

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



Doug Band  
Director General  
Trade and Anti-dumping Programs Directorate

## **APPENDIX – DESCRIPTION OF IDENTIFIED PROGRAMS**

### **Category 1: Preferential Loans and Loan Guarantees**

#### **Program 1: Loans from State-Owned Banks at Preferential Rates**

This program relates to government loans at a preferential rate of interest. The benefit provided in this case is a lower rate of interest than would otherwise be available if the enterprises had to obtain a non-guaranteed commercial loan (i.e. the benchmark non-guaranteed commercial loan). Financial institutions may be considered to constitute “government” if they possess, exercise or are vested with government authority, which may be indicated by the following factors:

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

The CBSA has previously countervailed this program in investigations including Fabricated Industrial Steel Components (FISC), Carbon and Alloy Steel Line Pipe (Line Pipe), Pup Joints, Oil Country Tubular Goods (OCTG), and Seamless Casing.

This program may constitute a financial contribution pursuant to paragraph 2(1.6)(b) of SIMA, in that amounts that would otherwise be owing and due to the government are reduced or exempted, and would confer a benefit to the recipient equal to the amount of the reduction/exemption. The program may be considered specific pursuant to subsection 2(7.3) of SIMA in that the manner in which discretion is exercised by the granting authority indicates that the subsidy may not be generally available.

#### **Program 2: Loan Guarantee through the Government of China/SOE banks/public bodies**

Under this program, assurance is provided by the GOC, a SOE bank or public body (the guarantor) to assume the debt obligation of a borrower if that borrower defaults. A guarantee can be limited or unlimited, making the guarantor liable for only a portion or all of the debt.

The CBSA has previously countervailed this program in investigations including Large Diameter Carbon and Alloy Steel Line Pipe (Large Line Pipe), FISC, and Line Pipe.

This program may constitute a financial contribution pursuant to paragraph 2(1.6)(b) of SIMA, in that amounts that would otherwise be owing and due to the government are reduced or exempted, and would confer a benefit to the recipient equal to the amount of the reduction/exemption. The program may be considered specific pursuant to subsection 2(7.3) of SIMA in that the manner in which discretion is exercised by the granting authority indicates that the subsidy may not be generally available.

### **Program 3: Debt and Interest Forgiveness on Loans from State-Owned Banks**

To stimulate the economy and support the development of key industries, the state-owned banks write off bad debts or interest owed by state-owned enterprises.

The CBSA has previously countervailed this program in investigations including Seamless Casing.

This program may constitute a financial contribution pursuant to paragraph 2(1.6)(b) of SIMA, in that amounts that would otherwise be owing and due to the government are reduced or exempted, and would confer a benefit to the recipient equal to the amount of the reduction/exemption. The program may be considered specific pursuant to subsection 2(7.3) of SIMA in that the manner in which discretion is exercised by the granting authority indicates that the subsidy may not be generally available.

### **Program 4: Preferential Export Financing and Export Credit Guarantee/Insurance**

The China Export & Credit Insurance Corporation (Sinasure) is a state-funded policy-oriented insurance company that was established to promote China's foreign trade and economic cooperation. The China Exim Bank and Sinasure each provide export credit guarantees which, according to information from the Bank, have "played a key role in supporting Chinese companies to go global" and promoted "the export of new and high-tech products".

This program may 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. The program may be considered specific pursuant to subsection 2(7.3) of SIMA in that the manner in which discretion is exercised by the granting authority indicates that the subsidy may not be generally available.

## **Category 2: Grants and Grant Equivalents**

### **Program 5: Insurance Grants**

This program constitutes local and provincial government reimbursement grants on insurance fees.

The CBSA has previously countervailed this program in investigations including Galvanized Steel Wire, Seamless Casing, OCTG, Pup Joints, Stainless Steel Sinks, Line Pipe, and Large Line Pipe.

The financial contribution by the government is the direct transfer of funds pursuant to section 2(1.6)(a) of SIMA. The program may be considered specific pursuant to subsection 2(7.3) of

SIMA in that the manner in which discretion is exercised by the granting authority indicates that the subsidy may not be generally available.

### **Program 6: Design, Research and Development Grants**

A grant that provides financial aid for enterprises determined to have undertaken expenses in design or research and development.

The CBSA has previously countervailed this program in investigations including Sucker Rods, Copper Tube, Photovoltaic Modules and Laminates, OCTG, Unitized Wall Modules, Seamless Casing, and Pup Joints.

The financial contribution by the government is the direct transfer of funds pursuant to section 2(1.6)(a) of SIMA. The program may be considered specific pursuant to subsection 2(7.3) of SIMA in that the manner in which discretion is exercised by the granting authority indicates that the subsidy may not be generally available.

### **Program 7: Export Development and Performance Grants**

Companies in China receive such grants provided by the GOC to assist in the development of export markets or to recognize export performance.

The CBSA has previously countervailed this program in investigations including Sucker Rods, OCTG, Unitized Wall Modules, Galvanized Steel Wire, Aluminum Extrusions, Carbon Steel Welded Pipe, and Steel Grating.

The financial contribution by the government is the direct transfer of funds pursuant to section 2(1.6)(a) of SIMA. The program may be considered specific pursuant to subsection 2(7.3) of SIMA in that the manner in which discretion is exercised by the granting authority indicates that the subsidy may not be generally available.

### **Program 8: Performance Award Grants**

A grant that provides financial aid for enterprises with excellent performance.

The CBSA has previously countervailed this program in investigations including Seamless Casing, Aluminum Extrusions, OCTG, Pup Joints, Copper Tube, and Line Pipe.

This program is a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA as a direct transfer of funds from the government and confers a benefit to the recipient equal to the amount of the grant. The program may be considered specific pursuant to subsection 2(7.3) of SIMA in that the manner in which discretion is exercised by the granting authority indicates that the subsidy may not be generally available.

### **Program 9: Reductions in Land Use and/or Rental Fees**

This program provides for the reduction in land use fees and rental rates for certain number of years. Examples of this program in action include: a document titled '[2003] No. 8 Preferential Supply of Land', in order to offset costs for industrial companies in the Ninghai Economic Development Zone; or similar initiatives in the Tianjin Binhai New Area and the Tianjin Economic and Technological Development Area.

The CBSA has previously countervailed this program in investigations including Stainless Steel Sinks, Unitized Wall Modules, Photovoltaic Modules and Laminates, Seamless Casing, OCTG, Pup Joints, and Line Pipe.

The financial contribution by the government consists of government revenue that is otherwise due is foregone or not collected, pursuant to section 2(1.6)(b) of SIMA. The program may be considered specific pursuant to subsection 2(7.3) of SIMA in that the manner in which discretion is exercised by the granting authority indicates that the subsidy may not be generally available.

### **Program 10: Grant - Patent Assistance/Award**

This is a grant for patents. Based on the information available to the CBSA, this program was provided in several provinces, such as Guangdong, Shanghai and Jiangsu.

For example, the GOC document associated with this program for Guangdong province may include: “Administrative Measures of Patent Award of Guangdong Province”. In Guangdong province, this program was administered by the Intellectual Property Office of Guangdong, the Bureau of Personnel of Guangdong Province and municipal level authorities. The program was established to support improvement in technology innovation and to promote intellectual property.

In addition, the GOC document associated with this program for Shanghai may include: “The administrative measures regarding the financial support/subsidy for Patents by Shanghai”. In Jiangsu province, this program was administrated by Jiangsu Intellectual Property Office.

This program is a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA as a direct transfer of funds from the government and confers a benefit to the recipient equal to the amount of the grant. The program may be considered specific pursuant to subsection 2(7.3) of SIMA in that the manner in which discretion is exercised by the granting authority indicates that the subsidy may not be generally available.

### **Program 11: Environment Protection Grant**

These are grants provided by the GOC for the purposes of improving environmental performance, for example, monitoring and cleaning pollutants, improving energy efficiency, upgrading facilities to be more environmentally efficient, and waste water treatment.

The CBSA has previously countervailed this program in investigations including Copper Tube. In addition, the USDOC found that Chinese producers of hardwood plywood have benefited from similar programs, namely: Shandong Province's Environmental Protection Industry Research and Development Funds and Waste Water Treatment Subsidies.

This program appears to be a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA as a direct transfer of funds from the government and confers a benefit to the recipient equal to the amount of the grant. The program may be considered specific pursuant to subsection 2(7.3) of SIMA in that the manner in which discretion is exercised by the granting authority indicates that the subsidy may not be generally available.

### **Program 12: Forest Certification Pilot Special Fund**

In United States – *Certain Hardwood Plywood Products from the People's Republic of China*, this program was found to be countervailable. The CBSA was unable to unearth a description of this program, however, this program appears to be specific to the forestry sector and potentially to decorative plywood and has been countervailed in a recent investigation by the U.S. Department of Commerce.

This program appears to be a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA as a direct transfer of funds from the government and confers a benefit to the recipient equal to the amount of the grant. The program may be considered specific pursuant to subsection 2(7.3) of SIMA in that the manner in which discretion is exercised by the granting authority indicates that the subsidy may not be generally available.

### **Program 13: Interest Loan Subsidies for the Forestry Industry**

In United States – *Certain Hardwood Plywood Products from the People's Republic of China*, this program was found to be countervailable. The CBSA was unable to unearth a description of this program, however, this program appears to be specific to the forest sector and potentially to decorative plywood and has been countervailed in a recent investigation by the U.S. Department of Commerce.

This program may constitute a financial contribution pursuant to paragraph 2(1.6)(b) of SIMA, in that amounts that would otherwise be owing and due to the government are reduced or exempted, and would confer a benefit to the recipient equal to the amount of the reduction/exemption. The program may be considered specific pursuant to subsection 2(7.3) of SIMA in that the manner in which discretion is exercised by the granting authority indicates that the subsidy may not be generally available.

### **Category 3: Preferential Tax Programs**

#### **Program 14: Corporate Income Tax Exemption and/or Reduction in Special Economic Zones (SEZs) and Other Designated Areas**

This program was established under the Rules for the Implementation of the Income Tax Law of the People's Republic of China for Enterprises with Foreign Investment and Foreign Enterprises, which came into effect on July 1, 1991. The program was allegedly established to absorb investment in special economic zones (SEZs) and designated areas to take the lead in their economic development. The granting authority responsible for this program is allegedly the State Administration of Taxation and the program is administered by local tax authorities. Under this program, it is alleged that an eligible enterprises may receive a reduced corporate income tax rate of 15%.

The complainants have alleged that several decorative plywood manufacturers are located in SEZs, including the Dalian Free Trade Zone, Jianguyin Economic Development Zone, Anhui Province, Fujian Province, Shenzhen Special Economic Zone, and the Guangzhou Special Economic Zone.

The CBSA has previously countervailed this program in investigations including Aluminum Extrusions, Carbon Steel Welded Pipe, OCTG, Seamless Casing, and Line Pipe.

In a recent investigation by the U.S. Department of Commerce into hardwood plywood from China, it appears that they countervailed this program as the following: Preferential Income Tax Policy for Enterprises in the Northeast Region; Forgiveness of Tax Arrears for Enterprises Located in the Old Industrial Bases of Northeast China; and Income Tax Benefits for Foreign Invested Enterprises Based on Geographic Locations.

The financial contribution by the Government consists of government revenue that is otherwise due is foregone or not collected, pursuant to section 2(1.6)(b) of SIMA. The program may be considered specific pursuant to subsection 2(7.2) of SIMA because it is limited to enterprises in certain geographic areas.

#### **Program 15: Corporate Income Tax Reduction for New High Tech Enterprises**

Under Article 28.2 of the Enterprise Income Tax Law in China, companies designated as high- or new-technology enterprises are entitled to a reduced income tax rate of 10 percent instead of the normal national corporate tax rate of 25 percent. The granting authority responsible for this program is alleged to be the State Administration of Taxation and the program is administered by local tax authorities. In its notification of subsidy programs to the WTO, the GOC listed this program.

The CBSA has previously countervailed this program in investigations including FISC, Line Pipe, Seamless Casing, OCTG, and Pup Joints.

In a recent investigation by the U.S. Department of Commerce into hardwood plywood from China, it appears that they countervailed this program as the following: Income Tax Reductions under Article 28 of the Enterprise Income Tax.

The financial contribution by the Government consists of government revenue that is otherwise due is foregone or not collected, pursuant to section 2(1.6)(b) of SIMA. The program may be considered specific pursuant to subsection 2(7.2) of SIMA because it is limited to enterprises in certain industries.

### **Program 16: Municipal/Local Income or Property Tax Reductions**

The CBSA has previously countervailed this program in investigations including Stainless Steel Sinks, Unitized Wall Modules, Photovoltaic Modules and Laminates, and Line Pipe under titles including “Reduction, Exemption or Refund of Land Use Fees, Land Rental Rates, and Land Purchase/Transfer Prices.”

In a recent investigation by the U.S. Department of Commerce into hardwood plywood from China, it appears that they countervailed this program as the following: Local Income Tax Exemption and Reduction Programs for “Productive” Foreign Invested Enterprises.

The financial contribution by the Government consists of government revenue that is otherwise due is foregone or not collected, pursuant to section 2(1.6)(b) of SIMA. The program may be considered specific pursuant to subsection 2(7.3) of SIMA in that the manner in which discretion is exercised by the granting authority indicates that the subsidy may not be generally available.

### **Program 17: Preferential Tax Policies for Foreign-Invested Enterprises (FIEs)**

Despite the implementation of the new Enterprise Income Tax Law in 2008, which officially superseded the old FIE Tax Law, FIEs have likely continued to benefit from various incentives that were provided under the older Foreign-Invested Enterprise Tax Law (FIE Tax Law). Specifically, Article 9 of the FIE Tax Law delegates to China’s provincial and local governments the authority to provide exemptions and reductions of local income taxes for “productive” FIEs. Eligibility criteria vary by province and the relevant governmental authorities administer the application process.

The CBSA has previously countervailed this program in investigations including Pup Joints and Seamless Casing. Further, the GOC has listed this title in its notification of subsidy programs to the WTO.

In a recent investigation by the U.S. Department of Commerce into hardwood plywood from China, it appears that they countervailed this program as the following: Income Tax Reductions for Export-Oriented Foreign-Invested Enterprises.

The financial contribution by the government consists of government revenue that is otherwise due is foregone or not collected, pursuant to section 2(1.6)(b) of SIMA. The program may be

considered specific pursuant to subsection 2(7.3) of SIMA in that the manner in which discretion is exercised by the granting authority indicates that the subsidy may not be generally available.

### **Program 18: Preferential Tax Policies related to Research and Investment**

Under this program, based on the 2008 corporate tax law, high- or new-technology enterprises may deduct 50 percent of their total R&D expenses from their taxable income. Eligible expenses include design costs, expenses for materials and fuel consumed through R&D activities, wages, salaries, and benefits for personnel engaged in R&D activities, depreciation expenses on instruments and equipment, and many other expenses.

The CBSA has previously countervailed this program in investigations including Photovoltaic Modules and Laminates, Seamless Casing, OCTG, and Pup Joints. Further, the GOC has listed this title in its notification of subsidy programs to the WTO.

In a recent investigation by the U.S. Department of Commerce into hardwood plywood from China, it appears that they countervailed this program as the following: Tax Offsets for Research and Development under the Enterprise Income Tax; and Tax Offsets for Research and Development by Foreign-Invested Enterprises.

The financial contribution by the government consists of government revenue that is otherwise due is foregone or not collected, pursuant to section 2(1.6)(b) of SIMA. The program may be considered specific pursuant to subsection 2(7.3) of SIMA in that the manner in which discretion is exercised by the granting authority indicates that the subsidy may not be generally available.

### **Category 4: Relief from Duties and Taxes**

#### **Program 19: Offsets to Taxable Income Related to Purchases of Domestic Machinery**

Under this program, a tax credit up to 40% of the purchase price of domestic equipment may apply to the incremental increase in tax liability from the previous year. The legal bases of this program are the Provisional measures on enterprise income tax credit for investment in domestically produced equipment for technology renovation projects of July 1, 1999 and the Notice of the State Administration of Taxation on Stopping the Implementation of the Enterprise Income Tax Deduction and Exemption Policy of the Investments of an Enterprise in Purchasing Home-made Equipment, No. 52 [2008] of the State Administration of Taxation, effective January 1, 2008.

The CBSA has previously countervailed this program in investigations including Aluminum Extrusions, Photovoltaic Modules and Laminates, Seamless Casing, OCTG and Pup Joints.

The financial contribution by the government consists of government revenue that is otherwise due is foregone or not collected, pursuant to section 2(1.6)(b) of SIMA. The program may be considered specific pursuant to subsection 2(7.3) of SIMA in that the manner in which discretion is exercised by the granting authority indicates that the subsidy may not be generally available.

## **Program 20: Exemption or Refund of Tariff and Import Value-Added Tax (VAT) for Imported Technologies and Equipment**

The program was established to absorb investment in SEZs and encourage districts to take the lead in development. The granting authority responsible for this program is the General Administration of Customs and this program is administered by local customs authorities. Under this program, machinery and equipment, spare parts, raw and semi-processed materials, means of transportation and other capital goods necessary for production that are imported by enterprises in SEZs shall be exempted from import duties.

The CBSA has previously countervailed this program in investigations including Photovoltaic Modules and Laminates, Unitized Wall Modules, Seamless Casing, Pup Joints, and Line Pipe.

The financial contribution by the government consists of government revenue that is otherwise due is foregone or not collected, pursuant to section 2(1.6)(b) of SIMA. The program may be considered specific pursuant to subsection 2(7.3) of SIMA in that the manner in which discretion is exercised by the granting authority indicates that the subsidy may not be generally available.

## **Program 21: Relief from Duties and Taxes on Imported Material and Other Manufacturing Inputs**

Under a duty drawback program, a subsidy may exist where the amount of duties and taxes relieved or refunded on inputs incorporated into exported goods is found to be in excess of the actual liability that existed on those imports.

The CBSA has previously countervailed this program in investigations including Photovoltaic Modules and Laminates, Seamless Casing, OCTG, and Pup Joints.

The financial contribution by the government consists of government revenue that is otherwise due is foregone or not collected, pursuant to section 2(1.6)(b) of SIMA. The program may be considered specific pursuant to subsection 2(7.3) of SIMA in that the manner in which discretion is exercised by the granting authority indicates that the subsidy may not be generally available.

## **Category 5: Good / Services Provided by the Government at Less Than Fair Market Value**

### **Program 22: Acquisition of Government Inputs/Utilities at Less than Fair Market Value**

The complainants allege that exporters may avail themselves of input materials or utilities from state-owned enterprises (SOE) at below fair market value. They have identified the following inputs that may be provided to decorative plywood manufacturers at less than fair market value:

- Electricity
- Water
- Timber

- Urea/Formaldehyde

The CBSA has previously countervailed this program in Seamless Casing, OCTG, Stainless Steel Sinks, Steel Piling Pipe, Large Line Pipe, and Pup Joints.

This program may constitute a financial contribution pursuant to paragraph 2(1.6)(c) of SIMA as they involve the provision of goods or services, other than general governmental infrastructure. The program may be considered specific pursuant to subsection 2(7.3) of SIMA in that the manner in which discretion is exercised by the granting authority indicates that the subsidy may not be generally available.

### **Program 23: Provision of Land for Less than Adequate Remuneration by Government**

All land in China belongs to the government (i.e., either national or local governments, or through a “collective” at the township or village level), and government land agencies across China control the allocation of land through the granting of land-use rights.

The CBSA has previously countervailed this program in investigations including Line Pipe and Large Line Pipe.

The financial contribution by the government consists of government revenue that is otherwise due is foregone or not collected, pursuant to section 2(1.6)(b) of SIMA. The program may be considered specific pursuant to subsection 2(7.3) of SIMA in that the manner in which discretion is exercised by the granting authority indicates that the subsidy may not be generally available.