



Canada Border  
Services Agency

Agence des services  
frontaliers du Canada

GB 2016 IN

OTTAWA, June 23, 2016

## STATEMENT OF REASONS

**Concerning the initiation of the investigation into the dumping of certain gypsum board originating in or exported from the United States of America, imported into Canada for use or consumption in the provinces of British Columbia, Alberta, Saskatchewan, and Manitoba, as well as the Yukon and Northwest Territories**

## DECISION

Pursuant to subsection 31(1) of the *Special Import Measures Act*, the Canada Border Services Agency initiated an investigation on June 8, 2016, respecting the alleged injurious dumping of certain gypsum board originating in or exported from the United States of America, imported into Canada for use or consumption in the provinces of British Columbia, Alberta, Saskatchewan, and Manitoba, as well as the Yukon and Northwest Territories.

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 18, 2016, CertainTeed Gypsum Canada Inc., Mississauga, Ontario (the complainant) filed a complaint with the Canada Border Services Agency's (CBSA) Trade and Anti-dumping Programs Directorate alleging that imports of certain gypsum board originating in or exported from the United States of America (US), imported into Canada for use or consumption in the provinces of British Columbia, Alberta, Saskatchewan, and Manitoba, as well as the Yukon and Northwest Territories (Western Canada), are being dumped. The complainant alleges that the dumping has caused injury and is threatening to cause injury to the Western Canadian industry producing the like goods.

[2] On May 9, 2016, pursuant to paragraph 32(1)(a) of the *Special Import Measures Act* (SIMA), the CBSA informed the complainant that the complaint was properly documented. The CBSA also notified the government of the US that a properly documented complaint had been received.

[3] The complainant provided evidence to support the allegations that certain gypsum board from the US imported into Canada for use or consumption in Western Canada has been dumped. The evidence also discloses a reasonable indication that the dumping has caused injury and is threatening to cause injury to the Western Canadian industry producing the like goods.

[4] On June 8, 2016, pursuant to subsection 31(1) of SIMA, the CBSA initiated an investigation respecting the dumping of certain gypsum board originating in or exported from the US, imported into Canada for use or consumption in Western Canada.

## **INTERESTED PARTIES**

### **Complainant**

[5] CertainTeed Gypsum Canada Inc. (CertainTeed) operates six gypsum board manufacturing facilities located throughout Canada and is the only producer of gypsum board located in Western Canada with three manufacturing facilities located in Vancouver, British Columbia, Calgary, Alberta and Winnipeg, Manitoba.

[6] The name and address of the complainant's head office is as follows:

CertainTeed Gypsum Canada Inc.  
2424 Lakeshore Road West  
Mississauga, Ontario  
L5J 1K4

[7] According to the complainant, there are no other producers of gypsum board in Western Canada. The CBSA conducted research, and based on the available information there are no other Canadian producers of like goods in Western Canada. Accordingly, the complainant is the sole producer of like goods in Western Canada, as defined in subsection 2(1) of SIMA.

### **Exporters**

[8] The CBSA has identified 25 potential exporters of the subject goods from CBSA import data<sup>1</sup> and the complaint.

### **Importers**

[9] The CBSA has identified 36 potential importers of the subject goods from CBSA import data and the complaint.

## **PRODUCT INFORMATION**

### **Definition**

[10] For the purpose of this investigation, subject goods are defined as:

Gypsum board, sheet, or panel (“gypsum board”) originating in or exported from the United States of America, imported into Canada for use or consumption in the provinces of British Columbia, Alberta, Saskatchewan, and Manitoba, as well as the Yukon and Northwest Territories, composed primarily of a gypsum core and faced or reinforced with paper or paperboard, including gypsum board meeting or supplied to meet ASTM C 1396 or ASTM C 1396M or equivalent standards, regardless of end use, edge-finish, thickness, width, or length, excluding (a) gypsum board made to a width of 54 inches (1,371.6 mm); (b) gypsum board measuring 1 inch (25.4 mm) in thickness and 24 inches (609.6 mm) in width regardless of length (commonly referred to and used as “paper-faced shaft liner”); (c) gypsum board meeting ASTM C 1177 or ASTM C 1177M (commonly referred to and used primarily as “glass fiber re-enforced sheathing board” but also sometimes used for internal applications for high mold/moisture resistant applications); (d) double layered glued paper-faced gypsum board (commonly referred to and used as “acoustic board”); and (e) gypsum board meeting ISO16000-23 for sorption of formaldehyde. All dimensions are plus or minus allowable tolerances in applicable standards.

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<sup>1</sup> Customs Commercial System (CCS).

## Additional Product Information

[11] For greater certainty, the gypsum board considered to be subject goods includes but is not limited to:

- i. **Abuse-resistant gypsum board** offering greater resistance to surface indentation, abrasion and penetration than standard gypsum board.
- ii. **Eased edge gypsum board**, which has a tapered and slightly rounded or beveled factory edge. It may be used as an aid in custom finishing of joints.
- iii. **Gypsum base** for veneer plaster serves as a base for thin coats of hard, high strength gypsum veneer plaster.
- iv. **Impact-resistant gypsum board** offer greater resistance to the impact of solid objects from high traffic and vandalism than standard gypsum board.
- v. **Mold-resistant gypsum board or Mold and moisture resistant gypsum board** has a mold/moisture resistant gypsum core and paper facing that incorporates various methods of preventing the growth of mold and mildew on the board's surface.
- vi. **Regular gypsum board** (gypsum wallboard) is used as a surface layer on walls and ceilings.
- vii. **Sag-resistant gypsum board** is a ceiling board that offers greater resistance to sagging than regular gypsum products used for ceilings where framing is typically spaced 24 inches.
- viii. **Type C or Proprietary Type-X gypsum board** is available in 1/2 inch and 5/8 inch thicknesses and is required in some fire rated assemblies. Additional additives give this product improved fire resistive properties.
- ix. **Type X gypsum board** is available in 1/2 inch and 5/8 inch thicknesses and has an improved fire resistance made possible through the use of special core additives. Type X gypsum board is used in most fire rated assemblies.

[12] Gypsum board has long been used as a building material because of its fire-resistant properties. It provides a durable, economical, non-combustible and easily decorated surfacing material for construction use. Gypsum board is the most widely used material for ceilings and interior walls for residential, commercial, and institutional buildings in developed countries. Paper-covered gypsum board is well suited to the application for which it was designed, that is interior non-load bearing construction.

## **Production Process**

[13] The process of gypsum board production does not typically vary substantially between producers. To produce gypsum board (also known as “drywall”), the gypsum rock is subjected to a calcination process in which the rock is crushed and heated to approximately 150°C, drying out roughly 75% of the chemically combined water. Typically, roughly 45 kilograms of gypsum rock contains approximately 8.5 kilograms of water. The resultant calcined gypsum powder (commonly referred to as “plaster of Paris”) is used to produce the core of the board. The core is formed by a slurry of calcined gypsum or “stucco”, water, foam, pulp, starch and optional chemical components to enhance water and/or fire resistance. At this stage, the slurry is forced between two unwinding rolls of absorbent paper resulting in a continuous “sandwich” of wet board resting on a belt line.

[14] As the board moves down the belt line, the calcined gypsum rehydrates to its original crystalline structure while the paper sheets become firmly bonded to the rehydrated core. After moving down the line for approximately 4 to 5 minutes, the continuous “sandwich” is cut to length and moved through dryers to remove excess moisture. The cut boards are moved to an off-loading area where they are bundled, stacked and put into storage or shipped directly to customers.

## **Classification of Imports**

[15] The allegedly dumped goods are normally classified under the following Harmonized System (HS) classification number:

6809.11.00.10

[16] The listing of the HS classification number is for convenience of reference only. Refer to the product definition for authoritative details regarding the subject goods.

## **Like Goods**

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

[18] Certain gypsum board produced by the complainant has the same physical characteristics and end uses as the subject goods imported from the US. The goods produced in Canada and the US are fully interchangeable when manufactured to industry standards and specifications. Subject goods from the US compete directly with like goods produced by the complainant. After considering questions of use, physical characteristics and all other relevant factors, the CBSA is of the opinion that domestically produced gypsum board are like goods to the subject goods. Further, the CBSA is of the opinion that subject goods and like goods constitute only one class of goods.

## **DETERMINATION OF REGIONAL MARKET**

[19] The goods subject to this investigation are those imported into Canada for use or consumption in a regional market composed of the provinces of British Columbia, Alberta, Saskatchewan, and Manitoba, as well as the Yukon and Northwest Territories. In order to identify a regional market in Canada, subsection 2(1.1) of SIMA specifies that two criteria must exist. The first criterion is that the producers in the region must sell all or almost all of their production of the product in the regional market. CertainTeed is the only producer of gypsum board in the region and, based on evidence in the complaint, it sells all or almost all of its production within the regional market.<sup>2</sup> Therefore, the CBSA is satisfied that the first criterion for a regional market is met.

[20] The second criterion is that the demand for the product in the regional market should not, to any substantial degree, be supplied by producers located elsewhere in Canada. Based on information received from the complainant, the total demand in Western Canada is not to any substantial degree supplied by producers located elsewhere in Canada.<sup>3</sup> Consequently, the CBSA is satisfied that this criterion has been met.

[21] As a result, the CBSA is satisfied that a regional market for gypsum board exists in the provinces of British Columbia, Alberta, Saskatchewan, and Manitoba, as well as the Yukon and Northwest Territories.

### **Standing**

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

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

[23] Since a regional market has been identified and CertainTeed is the only Western Canadian producer of gypsum board in that market, the CBSA is satisfied that the requirements of subsection 31(2) of SIMA have been met.

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<sup>2</sup> Exhibit 2 (NC) – Gypsum Board Complaint, paragraph 44.

<sup>3</sup> Exhibit 2 (NC) – Gypsum Board Complaint, paragraph 45.

## WESTERN CANADIAN MARKET

[24] There are three other Canadian producers of gypsum board; CGC Inc., Atlantic Wallboard Limited Partnership and Cabot Gypsum Company. None of these companies have gypsum board manufacturing facilities located in Western Canada. The manufacturing facilities are located in the provinces of Ontario, Quebec, New Brunswick and Nova Scotia.

[25] Gypsum board is generally marketed to customers within close proximity of the manufacturing facilities due to the friable nature of the product and high freight costs due to the product's weight. In Western Canada, gypsum board is normally sold through two main distribution channels. The first distribution channel is comprised of building supply retail outlets, which purchase directly from manufacturers and sell to end users. The second distribution channel is comprised of gypsum board specialty dealers or lumber merchants who sell gypsum board almost exclusively to large-scale applicators and general contractors.

[26] The complainant asserts that gypsum board is sold as a commodity-type product, and as such is sold primarily on the basis of price. Further, both Canadian and US suppliers produce gypsum board that meet the specifications of Canadian consumers, therefore domestically produced and imported gypsum board can be used interchangeably.

[27] The complainant, using Statistics Canada information, estimated the total volume of imports of gypsum board originating from all countries from 2013 to 2015.<sup>4</sup>

[28] The CBSA conducted its own analysis of imports of gypsum board based on actual CBSA import data. A review of the CBSA import data demonstrated similar trends and volumes with respect to imports of subject goods when compared to information provided in the complaint.

[29] Detailed information regarding the volume of imports of subject goods and domestic production cannot be divulged for confidentiality reasons. However, the CBSA has prepared the following table to show the estimated import share of subject goods in Western Canada.

**CBSA Estimates of Import Share**  
(as % of volume – square meters)

<b>COUNTRY</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>
US	100.00%	100.00%	99.99%
All Other Countries	0%	0%	0.01%
<b>Total All Imports (%)</b>	<b>100.00%</b>	<b>100.00%</b>	<b>100.00%</b>

<sup>4</sup> Exhibit 2 (NC) – Gypsum Board Complaint, paragraph 20.

[30] The estimated import share will be further refined based on information received from cooperative exporters and importers of the subject goods in the next phase of the investigative process.

### **EVIDENCE OF DUMPING**

[31] The complainant alleges that subject goods from the US have been injuriously dumped into Western Canada. Dumping occurs when the normal value of the goods exceeds the export price to importers in Western Canada.

[32] Normal values are generally based on the domestic selling price of like goods in the country of export where competitive market conditions exist or on the cost of production of the goods plus a reasonable amount for administrative, selling and all other costs, plus a reasonable amount for profits.

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

[34] The CBSA's analysis of the alleged dumping is based on a comparison of the estimated normal values, with estimated export prices based on the actual declared value for duty during the period of investigation (POI), that is, between January 1<sup>st</sup>, 2015, and December 31<sup>st</sup>, 2015. This POI encompasses a sufficient length of time to accurately reflect the exporters' price levels to Western Canada and relates closely to the time period during which the Western Canadian industry alleges that the injurious dumping has occurred.

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

#### **Normal Value**

[36] The complainant estimated normal values for the subject goods using the methodology of section 15 of SIMA. Normal values were estimated based on average monthly domestic sales prices in the US for gypsum board products realized by the complainant's sister company in the US during 2015.<sup>5</sup>

[37] The information provided was not as detailed as publicly available information to the CBSA.

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<sup>5</sup> Exhibit 2 (NC) – Gypsum Board Complaint, paragraph 73.

[38] The CBSA estimated normal values on the basis of the methodology of section 15 of SIMA using publicly available information that was filed with the US Securities and Exchange Commission.<sup>6</sup> Specifically, the CBSA used quarterly domestic pricing information that was published in financial statements of two US gypsum board producers.<sup>7</sup> The quarterly domestic selling prices for 2015 reported by the two companies in their financial statements were net of freight and delivery costs and were based on the sales of all gypsum board products by the two companies. The CBSA estimated normal values were more conservative compared to the complainant's estimated normal values.

### **Export Price**

[39] 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.

[40] The complainant estimated export prices based on the monthly average unit values for imports of gypsum board into Western Canada which originated from the US as reported by Statistics Canada. The complainant noted that since there was only a single applicable tariff code, they were unable to differentiate products and remove gypsum board products not included in the product definition.

[41] In estimating the export prices, the CBSA used the value for duty (VFD) data as reported in the CBSA import database, for each individual shipment imported into Western Canada during the POI. No adjustments were made to the VFD in estimating export price as VFD represents a price exclusive of freight and delivery costs, which is consistent with the normal values estimated by the CBSA.

[42] The CBSA import database contains both subject and non-subject goods. However, it is the CBSA's opinion that it is unlikely that the volume and value of the non-subject goods would have a material impact on the margin of dumping estimated for the initiation of the investigation.

### **Estimated Margins of Dumping**

[43] The CBSA compared the estimated normal values with the estimated export prices obtained from CBSA import data for all importations into Western Canada during the period of January 1<sup>st</sup>, 2015, to December 31<sup>st</sup>, 2015. The margin of dumping was estimated by deducting the total estimated export price from the total estimated normal value.

[44] As a result, it is estimated that the subject goods from the US were dumped by an estimated margin of dumping of 76.8%, expressed as a percentage of export price.

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<sup>6</sup> Exhibit 19 (NC) – US Quarterly Pricing for 2015.

<sup>7</sup> The two companies are Continental Building Products Inc. and Eagle Materials Inc.

## **ESTIMATED MARGIN OF DUMPING AND VOLUME OF DUMPED GOODS**

[45] Under section 35 of SIMA, if, at any time before making a preliminary determination the CBSA is satisfied that there is insufficient evidence of dumping to justify proceeding, the margin of dumping of the goods of a country is insignificant or the actual and potential volume of dumped goods of a country is negligible, the CBSA must terminate the investigation with respect to goods of that country.

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

[47] As summarized in the following table, the margin of dumping and the volume of dumped imports estimated by the CBSA for the period of January 1<sup>st</sup>, 2015, to December 31<sup>st</sup>, 2015, are greater than the thresholds outlined above.

### **ESTIMATED VOLUME OF DUMPED GOODS AND MARGIN OF DUMPING (January 1<sup>st</sup>, 2015, to December 31<sup>st</sup>, 2015)**

<b>Country</b>	<b>Estimated Dumped Goods as a Percentage of Total Imports Into Western Canada, by Volume</b>	<b>Estimated Margin of Dumping as % of Export Price</b>
US	99.99%	76.8%

## **EVIDENCE OF INJURY**

[48] Subsection 42(5) of SIMA specifies two conditions that must be evaluated in assessing the alleged injury to domestic production in a regional market.

[49] The first condition is that there must be a concentration of the dumped goods imported into the regional market as opposed to the volume imported into the rest of Canada. Information provided in the complaint demonstrated that there is a concentration of the allegedly dumped goods imported into Western Canada.

[50] The second condition is that there must be evidence that the dumped imports cause injury to all or almost all of the production within the regional market. The complainant is the only Canadian producer of gypsum board in the regional market. CertainTeed has provided evidence of injury resulting from the allegedly dumped imports in question, the extent of which is discussed below. Consequently, the second condition is also met.

[51] The CBSA cannot release specific quantitative data concerning the two above mentioned conditions, as it will disclose confidential information pertaining to only one Canadian company.

[52] The complainant has alleged that the subject goods from the US have been dumped into Western Canada and that the dumping has caused or is threatening to cause injury to the Western Canadian industry producing the like goods.

[53] In support of its allegations, the complainant has provided evidence of price undercutting, erosion and suppression; lost sales and market share; negative financial results; reduced production and capacity utilization; and reduction of employment.

[54] In the following analysis of injury, the CBSA cannot release specific quantitative data, as it relates to only one Canadian company and would result in the disclosure of confidential information. Therefore, the information is presented without reference to specific numbers.

### **Loss of Market Share**

[55] The Western Canadian market information provided by the complainant shows a decrease in the market share of domestically produced gypsum board from 2013 through 2015.<sup>8</sup> The CBSA's analysis of imports of subject goods into Western Canada from the US revealed increased importations from 2013 through 2015.

[56] Based on the CBSA's analysis of information contained in the complaint, as well as the CBSA's estimate of imports, the CBSA finds the complainant's claim of loss of market share to be reasonable and well supported.

### **Price Undercutting, Erosion and Suppression**

[57] The complainant states that the allegedly dumped goods have captured sales and market share by undercutting their prices. As a result, the complainant states that they have been forced to discount their prices to compete with the low priced subject goods in order to retain sales.<sup>9</sup> Further, the complainant notes that the low pricing of the allegedly dumped goods will further increase demand for subject goods and result in further price undercutting and erosion. CertainTeed notes that they have foregone price increases, sought to offset increased costs, due to the alleged dumped imports.

[58] As reviewed by the CBSA, the complaint contains evidence of price undercutting and erosion. It also contains documented instances where prices were suppressed or lowered in order to retain sales in response to allegedly dumped imports from the US.

[59] Based on the above, and the CBSA's analysis of the information contained in the complaint, the CBSA finds the claim of price undercutting, erosion and suppression is well supported and sufficiently linked to the allegedly dumped goods.

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<sup>8</sup> Exhibit 2 (NC) – Gypsum Board Complaint – paragraph 106.

<sup>9</sup> Exhibit 2 (NC) – Gypsum Board Complaint – paragraph 126.

## **Loss of Sales**

[60] The complainant provided declarations which detail specific examples of lost sales to specific accounts due to low-priced subject imports from the US.<sup>10</sup> The complaint contains evidence, including price quotations and internal reports, that supports the link between the complainant's lost sales and the allegedly dumped subject goods.

[61] Based on the CBSA's analysis of the information contained in the complaint, the CBSA finds the claim of loss of sales to be well supported and sufficiently linked to the allegedly dumped goods.

## **Reduced Production and Resulting Underutilization of Capacity**

[62] The complainant states that capacity utilization rates with respect to production of gypsum board have suffered due to the presence of the allegedly dumped goods. The complainant has provided evidence of this underutilization of capacity on a plant by plant basis for Western Canada from 2013 to 2015.<sup>11</sup>

[63] Based on the information provided, the CBSA finds the claim of underutilization of capacity to be reasonable and well supported.

## **Reduction in Employment**

[64] The complainant provided evidence that competition from unfairly priced imports has led to a reduction in employment.<sup>12</sup>

[65] The CBSA finds that the reduction in employment can be reasonably linked to the presence of the allegedly dumped goods from the US.

## **Negative Financial Results**

[66] The complainant alleges that the injurious impact of the dumped goods is demonstrated in CertainTeed's deteriorating financial and operational performance in Western Canada.<sup>13</sup> To support this allegation the complainant has provided consolidated profit and loss statements for gypsum board for the Western Canada operations for 2013 to 2015.<sup>14</sup>

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<sup>10</sup> Exhibit 2 (NC) – Gypsum Board Complaint – Appendix 7.

<sup>11</sup> Exhibit 2 (NC) – Gypsum Board Complaint – paragraph 111.

<sup>12</sup> Exhibit 2 (NC) – Gypsum Board Complaint – paragraph 113.

<sup>13</sup> Exhibit 2 (NC) – Gypsum Board Complaint – paragraph 105.

<sup>14</sup> Exhibit 2 (NC) – Gypsum Board Complaint – Appendix 25.

[67] The CBSA has reviewed the complainant's financial statements. Specifically, the consolidated profit and loss statements for gypsum board for Western Canada. The CBSA agrees that these income statements demonstrate negative financial performance during the period of 2013 to 2015.

[68] The CBSA finds that the complainant's declining financial performance can be linked to lost sales and price suppression resulting from imports of the allegedly dumped goods.

### **THREAT OF INJURY**

[69] The complainant alleges that the dumped goods threaten to cause further material injury to the domestic production of like goods. The complainant argues that the threat posed by the allegedly dumped goods is evident in a number of factors which are likely to have an impact in the next 12 to 18 months.

[70] The following are some of the factors provided:

#### **Significant Increase in the Rate of Subject Goods Imports**

[71] The complainant alleges that the increase in the volume of allegedly dumped subject goods, at prices that undercut domestically produced like goods, pose a threat of further injury to the Western Canadian industry. This allegation is supported by import statistics provided by the complainant. The complainant submits that without protection, the trend of increasing imports is expected to continue.<sup>15</sup>

#### **Excess Production Capacity**

[72] The complainant has provided a variety of reports and supporting information to support the allegation of excess and underutilized production capacity for gypsum board in the US.<sup>16</sup>

[73] The combined capacity and output data reveals that the US gypsum board manufacturers have significant excess capacity. As highlighted in the complaint, US gypsum board manufacturers were operating in the 60 percent range from 2013 to 2015.<sup>17</sup> The excess capacity for 2015 is many times greater than the entire total apparent market for gypsum board in Western Canada in 2015. The information in the complaint also shows that Western Canada continues to be an important export market for the US.<sup>18</sup>

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<sup>15</sup> Exhibit 2 (NC) – Gypsum Board Complaint – paragraph 131.

<sup>16</sup> Exhibit 2 (NC) – Gypsum Board Complaint – paragraph 132 and Appendix 5.

<sup>17</sup> Exhibit 2 (NC) – Gypsum Board Complaint – footnote 23.

<sup>18</sup> Exhibit 2 (NC) – Gypsum Board Complaint – Appendix 27.

## **Domestic Market Conditions**

[74] The complainant states that the Western Canadian market demand for gypsum board in the next 12 to 18 months is expected to decline.<sup>19</sup> As previously alleged, subject goods have gained market share at the expense of the domestic industry by undercutting prices. In a shrinking market, price undercutting will likely intensify and cause further material injury to the domestic production of like goods.

## **Impact of the Subject Goods on the Price of Like Goods**

[75] The complainant states that the alleged dumping of the subject goods has suppressed the price of like goods in Canada.<sup>20</sup> The complainant notes the importance of price as the decisive factor in the purchasing decisions for gypsum board in Western Canada. Given the trend of aggressive pricing of the subject goods from the US the complainant alleges that it is likely that these price effects will continue to impact domestic prices and sales over the next 12 to 18 months.<sup>21</sup>

## **Magnitude of the Dumping**

[76] The complainant states that the magnitude of alleged dumping of the subject goods demonstrates a real threat to the Western Canadian industry. The complainant argues that the evidence demonstrates that exporters of subject goods are willing to resort to substantial margins of dumping in order to secure sales in the Western Canadian market.<sup>22</sup>

[77] In a commodity market even a small price difference can influence purchasing decisions by customers. As noted previously, the estimated margin of dumping is not insignificant. The CBSA recognizes that dumping could significantly impact the trade of gypsum board.

[78] The CBSA finds the complainant's allegations of threat of injury, as summarized in the respective sections above, to be reasonable. Further, the CBSA finds that the continued presence of these conditions threaten to cause further injury to the Western Canadian industry producing the like goods.

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<sup>19</sup> Exhibit 2 (NC) – Gypsum Board Complaint – paragraph 135.

<sup>20</sup> Exhibit 2 (NC) – Gypsum Board Complaint – paragraph 140.

<sup>21</sup> Exhibit 2 (NC) – Gypsum Board Complaint – paragraph 142.

<sup>22</sup> Exhibit 2 (NC) – Gypsum Board Complaint – paragraph 149.

## **CAUSAL LINK – DUMPING AND INJURY**

[79] The CBSA finds that the complainant has provided sufficient evidence that there is a reasonable indication that they have suffered injury due to the alleged dumping of subject goods imported into Western Canada. There is a reasonable indication that the injury the complainant has suffered in terms of loss of market share, price undercutting, erosion and suppression, loss of sales, reduced production and resulting underutilization of capacity, reduced employment, and negative financial results is related to the price advantage the alleged dumping has produced between the imported subject goods and the Western Canadian produced like goods.

[80] The CBSA also finds that the complainant has provided sufficient evidence that there is a reasonable indication that the continued alleged dumping of subject goods imported into Western Canada threatens to cause injury to the Western Canadian industry producing like goods.

## **CONCLUSION**

[81] Based on information provided in the complaint, other available information, and the CBSA import data, the CBSA is of the opinion that there is evidence that gypsum board originating in or exported from the US, imported into Canada for use or consumption in Western Canada has been dumped. There is a reasonable indication that such dumping has caused and is threatening to cause injury to the Western Canadian industry. As a result, based on the CBSA's examination of the evidence and its own analysis, a dumping investigation was initiated on June 8, 2016.

## **SCOPE OF THE INVESTIGATION**

[82] The CBSA is conducting an investigation to determine whether the subject goods have been dumped.

[83] The CBSA has requested information relating to the subject goods imported into Western Canada originating in or exported from the US during the period of January 1<sup>st</sup>, 2015, to December 31<sup>st</sup>, 2015, the selected period of investigation. The information requested from all potential exporters and importers will be used to estimate normal values and export prices and ultimately to determine whether the subject goods have been dumped.

[84] All parties have been clearly advised of the CBSA's information requirements and the time frames for providing their responses, by the due date provided in the Requests for Information.

## **FUTURE ACTION**

[85] The Canadian International Trade Tribunal (CITT) will conduct a preliminary inquiry to determine whether the evidence discloses a reasonable indication that the alleged dumping of the goods has caused or is threatening to cause injury to the Western 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 investigation, by August 5, 2016. If the CITT concludes that the evidence does not disclose a reasonable indication of injury to the Western Canadian industry, the investigation will be terminated.

[86] If the CITT finds that the evidence discloses a reasonable indication of injury to the Western Canadian industry and the CBSA determines in the preliminary phase of the investigation that the goods have been dumped, the CBSA will make a preliminary determination of dumping within 90 days after the date of the initiation of the investigation, by September 6, 2016. Where circumstances warrant, this period may be extended to 135 days from the date of the initiation of the investigation.

[87] If, in respect of the named country, the CBSA's investigation reveals that imports of the subject goods have not been dumped, that the margin of dumping is insignificant or that the actual and potential volume of dumped goods is negligible, the investigation will be terminated.

[88] Imports of subject goods released by the CBSA on and after the date of a preliminary determination of dumping may be subject to provisional duty in an amount not greater than the estimated margin of dumping on the imported goods.

[89] Should the CBSA make a preliminary determination of dumping, the investigation will be continued for the purpose of making a final decision within 90 days after the date of the preliminary determination. If a preliminary determination of dumping is made, the CITT will initiate an inquiry to determine whether the dumping of the goods has caused injury or retardation or is threatening to cause injury.

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

[91] 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.

## **RETROACTIVE DUTY ON MASSIVE IMPORTATIONS**

[92] When the CITT conducts an inquiry concerning injury to the Canadian industry, it may consider if dumped 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.

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

## **UNDERTAKINGS**

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

[95] 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.

[96] If undertakings were to be accepted, the investigation and the collection of provisional duty 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**

[97] Notice of the initiation of this investigation is being published in the Canada Gazette pursuant to subparagraph 34(1)(a)(ii) of SIMA.

## **INFORMATION**

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

[99] To be given consideration in this phase of this investigation, all information should be received by the CBSA by July 15, 2016.

[100] Any information submitted to the CBSA by interested parties concerning this investigation 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.

[101] Confidential information submitted to the CBSA will be disclosed on written request to independent counsel for parties to this proceeding, 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/NAFTA dispute settlement panel. Additional information respecting the Directorate's policy on the disclosure of information under SIMA may be obtained by contacting one of the officers identified below or by visiting the CBSA's website.

[102] The investigation schedule 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 exhibits listing will be updated as new exhibits and information are made available.

[103] 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:** Richard Pragnell 613-954-0032  
Matthew Lurette 613-954-7398

**Fax:** 613-948-4844

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

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



Brent McRoberts  
Director General  
Trade and Anti-dumping Programs Directorate