



MAT 2022 IN

OTTAWA, March 11, 2022

STATEMENT OF REASONS

Concerning the initiation of investigations into the dumping and subsidizing of

MATTRESSES

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 February 24, 2022, respecting the alleged injurious dumping and subsidizing of certain mattresses 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 December 20, 2021, the Canada Border Services Agency (CBSA) received a written complaint from Restwell Mattress Co. Ltd. (Restwell) and the United Steelworkers (USW) (hereinafter, the complainants), alleging that imports of certain mattresses (mattresses) 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 January 10, 2022, 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 mattresses from China have been dumped and subsidized. The evidence also discloses a reasonable indication that the dumping and subsidizing have caused injury and/or are threatening to cause injury to the Canadian industry producing like goods.

[4] On February 24, 2022, pursuant to subsection 31(1) of SIMA, the CBSA initiated investigations respecting the dumping and subsidizing of mattresses from China.

INTERESTED PARTIES

Complainants

[5] The contact information for the complainants is as follows:

Restwell Mattress Co. Ltd.
14922 54A Avenue
Surrey, BC V3S 5X7

United Steelworkers Canada
National Office
234 Eglinton Avenue East, 8th Floor
Toronto, ON M4P 1K7

[6] Restwell is a Canadian manufacturer of quality mattresses and bed foundations that sells its product line through national retail and independent dealers in North America. It is headquartered in Surrey, British Columbia.¹

¹ Exhibit 2 (NC) – Mattresses Complaint – Para 8.

[7] The USW's full legal name is the "United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union". It is an international trade union with approximately 220,000 members in Canada. The USW was founded in 1941, and its initial membership was based primarily in the basic steel industry. However, the USW has grown with membership in virtually every sector of the economy. Of note, in October 1985, the Upholsterers International Union (UIU) merged into the USW creating, at that time, the Upholsterers Division of the USW. Thanks to the UIU's decision to join the USW, the USW became the predominant union in the mattress sector in both Canada and the United States. Today the USW remains the predominant union in the Canadian mattress sector, with the following bargaining units (in alphabetical order) at producers across Canada:

- King Koil (Satpanth Capital Inc.), USW Local 8300-10; Local President: Carolyn Egan; Unit Chair: Donald Hilton; Total employment: 10 to 20 workers.
- Marshall Ventilated Mattress, Downsview ON, USW Local 3950-62; Plant currently closed.
- Serta Simmons Bedding Canada, Vaughan ON, USW Local 8300-11: Local President: Carolyn Egan; Unit Chair: Aaron Philip; Production workers at full capacity: 150.
- Simmons SSH Bedding Canada Co., Kirkland QC; USW Local 6565, Local President: Ryan Stevens. Production workers at full capacity: 220.
- Springwall Sleep Products Inc., Mississauga ON, USW Local 8300-36; Local President: Carolyn Egan; Unit Chair: Desmond Clarke; Production workers at full capacity: 80.
- Tempur Sealy Canada Ltd, Toronto ON, USW Local 8300-09; Local President: Carolyn Egan; Unit Chair: Dennis Williamson. Total production workers at full capacity: 170.
- Tempur Sealy Canada Ltd, Edmonton AB; USW Local 1-207; Local Union President: Dave Baraniuk; Unit Chair: Devon Mytroen Production workers at full capacity: 100.

[8] The complaints identified the following other potential producers of mattresses in Canada:

Producer	Address
Carpenter Canada Co.	500 Hanlan Rd, Woodbridge, ON, Canada, L4L 3P6
C.J. Mulholland Mattress	2799 Barton Street East, Hamilton, ON, Canada, L8E 2J8
Comfort Foam	10 Ilsley Avenue, Unit 6, Dartmouth, NS, Canada, B3B 1L3
Dream Design Co.	3824 William Street, Burnaby, BC, Canada, V5C 3H9
Endy	60 Adelaide St E, Suite 800, Toronto, ON, Canada, M5C 3E4
Essentia Laval	2760 Boulevard Daniel Johnson, Laval, QC, Canada, H7P 5Z7
Essentia Toronto	2180 Queen St E, Toronto, ON, Canada, M4E 1E6
Essentia Vancouver	2144 W 4th Ave, Vancouver, BC, Canada, V6K 1N6
Fleep Bed	1535 Bd Hamelin, Trois-Rivières, QC, Canada, G8Y 3G7
Galaxy Bedding	110 Vulcan Street, Etobicoke, ON, Canada, M9W 1L2
Goodmorning.com	9707 110 Street NW, Edmonton, AB, Canada, T5K 2L9
Hamuq	4404-295 Adelaide St W, Toronto, ON, Canada, M5V 0L4
Haven Mattress	201 1405 St Paul St, Kelowna, BC, Canada, V1Y 2E4
King Koil (Park Avenue Furniture	11 West Drive, Brampton, ON, Canada, L6T 4T2
Kingsdown	5800 Steeles Avenue, West Woodbridge, ON, Canada, L4L OJ4
Lunazen	2316 Larch Ave, Quesnel, BC, Canada, V2J 5T9
Matelas Dauphin	8124, rue du Blizzard, Lévis, QC, Canada, G6X 1C9
Matelas Lapensee Mattresses	1085 Boul. de la Carrière, Gatineau, QC, Canada, J8Y 6V4
Matelas Mirabel	990 Salaberry, Laval, QC, Canada, H7S 2J1
Matelas Princesse	11700 Phillippe Panneton R.D.P, Montreal, QC, Canada, H1E 4G4
Natural Mattress	3503 62nd Ave SE, Calgary, AB, Canada, T2C 1P5
North Star Bedding	Walnut Street 135, Sudbury, ON, Canada, P3C 5P9
Obasan	155 Colonnade Rd S, Ottawa, ON, Canada, K2E 7K1
Pause&Sleep	2160 Highway 7 W, Toronto, ON, Canada, L4K 1W6
Polysleep	5151 de la Savane, Montreal, QC, Canada, H4P 1V1
Restwell Sleep Products	14922 54A Ave, Surrey, BC, Canada, V3S 5X7
Restonic Mattress Canada	13137 82A Avenue, Surrey, BC, Canada, V3W 9Y6
Serta Simmons Bedding	2550 Meadowvale Blvd, Mississauga, ON, Canada, L5N 8C2
Shepherd's Dream	42 E Main St, Ashland, OR, USA, 97520
Silk & Snow	675 King Street West, Toronto, ON, Canada, M5V 1M9
Simba Sleep	105 Victoria St, London, , UK, SW1E 6QT
Sleepenvie	1500 Avenue Rd., Toronto, ON, Canada, M5M 0A1
Sleepwell Bedding	1570 St James Street, Winnipeg, MN, Canada, R3H 0L2
Slmbrmattress	
SlumberBox	86 Ringwood Drive, Stouffville, ON, Canada, L4A 1C3
Springmade Mattress	110 Norfinch Dr., Toronto, ON, Canada, M3N 1X1
Springwall Sleep Products	7689 Bath Rd, Mississauga, ON, Canada, L4T 3T1
Tempur Sealy	
United Steep Products	65 Stevenson Rd, Winnipeg, MN, Canada, R3H 0J2
Vitafoam Product	150 Toro Road, Toronto, ON, Canada, M3J 2A9

Trade Unions

[9] One of the complainants, the USW, is a trade union representing numerous bargaining units at producers of mattresses across Canada. The complaint also identified three other trade unions which may represent workers at mattress production facilities in Canada. Specifically, the complaint identified UNIFOR Local 112 and 252, the United Food and Commercial Workers Local 501, and the Operating Engineers Local 955.²

Exporters

[10] The CBSA identified 131 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

[11] The CBSA identified 146 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

[12] Upon initiation of the investigations, the GOC was sent the CBSA's Government Subsidy RFI.

[13] 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.

² Exhibit 2 (NC) – Mattresses Complaint – para. 11

PRODUCT INFORMATION

Definition

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

Mattresses, mattress toppers, and mattresses for use and incorporation into furniture regardless of size and core type, originating in or exported from the People’s Republic of China, whether imported independently or in a set with a mattress foundation, mattress topper, or both.

The following are excluded from the investigations:

- a. pet mattresses;*
- b. mattresses which are incorporated into furniture and which are subject to the Canadian International Trade Tribunal’s Finding in NQ-2021-002;*
- c. mattress foundations;*
- d. tufted futon mattresses which do not include innersprings or foam;*
- e. camping mattresses;*
- f. stretcher or gurney mattresses;*
- g. custom mattresses for boats, RVs, or other vehicles;*
- h. airbeds;*
- i. water beds;*
- j. and mattress toppers less than three inches in thickness.*

Additional Product Information³

[15] The term “mattress” denotes an assembly of materials that at a minimum includes a “core” as well as “upholstery” and/or “ticking.” The “core” provides the main support system of the mattress. The core may consist of innersprings, foam or a combination of these materials. “Upholstery” refers to the material between the core and the top panel of the ticking on a single-sided mattress, or between the core and the top and bottom panel of the ticking on a double-sided mattress. The upholstery could be additional foam layers, latex, wool, cotton, or other stuffing materials to create a comfort layer. It could also be a “sock” in the manufacture of a foam mattress. “Ticking” refers to the outermost layer of fabric (e.g., polyester, cotton, or some other blend) or other material (e.g., vinyl) that encloses the core and any upholstery. Ticking is also known as a cover.

[16] Mattresses of all sizes for human use are covered by the scope of this investigation. Mattresses sizes include, but are not limited to “crib”, “toddler”, “twin/single”, “extra-long twin (twin XL)”, “full/double”, “queen”, “king”, “Hong Kong King”, or “California king” mattresses. Mattresses intended for pets are not within the scope.

³ Exhibit 2 (NC) – Mattresses Complaint – paras 23-39.

[17] The scope encompasses mattresses of all core types, including but not limited to innerspring mattress, foam mattresses, and hybrid mattresses. Mattresses that contain innersprings are referred to as “innerspring mattresses” or “hybrid mattresses.” “Hybrid mattresses” contain two or more support systems as the core, such as layers of both memory foam and innerspring units. “Foam mattresses” are those that do not contain any innerspring units. They are generally produced from foams (e.g., polyurethane, memory (viscoelastic), latex foam, gel-infused viscoelastic (gel foam) or thermobonded polyester and polyethylene).

[18] Mattresses covered by the scope of this Complaint may be imported independently, as part of furniture or furniture mechanisms, or as part of a set in combination with a “mattress foundation.” “Mattress foundations” are any base or support for a mattress. Mattress foundations are commonly referred to as “foundations,” “boxsprings,” “platforms,” and/or “bases.” Bases can be static, foldable, or adjustable. Only the mattress is covered by the scope if imported as part of furniture, with furniture mechanisms, or as part of a set, in combination with a mattress foundation.

[19] Mattresses to be incorporated into furniture (i.e., mattresses for use in sofas, daybeds, hide-a-beds, sleepers, murphy beds, etc.) are covered by the scope of the Complaint. That said, where such mattresses are covered by the Canadian International Trade Tribunal’s (CITT) Finding in NQ-2021-002, they are excluded from the product definition.

[20] Mattresses are covered by the scope of this Complaint even if imported without ticking, such as foam mattress slabs that are imported without the outermost cover. Products covered by this Complaint include mattresses packed and sold to end users in boxes, such as those marketed as “bed(s)-in-a-box,” “mattress(es)-in-a-box,” and/or “compressed mattress(es).”

[21] Excluded from the scope of this complaint are:

- a) “futon” mattresses. A “futon” is a bi-fold frame made of wood, metal, or plastic material, or any combination thereof, that functions as both seating furniture (such as a couch, love seat, or sofa) and a bed. A “futon mattress” is a tufted mattress, where the top covering is secured to the bottom with thread that goes completely through the mattress from the top through to the bottom, and it does not contain innersprings or foam. A futon mattress is both the bed and seating surface for the futon.
- b) airbeds (including inflatable mattresses) and waterbeds, which consist of air- or liquid-filled bladders as the core or main support system of the mattress.

- c) “mattress toppers” with a height of less than three inches. A “mattress topper” is a removable bedding accessory that supplements a mattress by providing an additional layer that is placed on top of a mattress. A typical mattress topper is a foam slab cut to the size of a mattress and would typically range from 1.5 to 2.5 inches in thickness. Excluded mattress toppers have a height of less than three inches. Mattress toppers may be covered or uncovered and are produced in a same manner as foam mattresses. Mattress toppers with a thickness of greater than or equal to 3 inches have been included in the definition of the imported goods as these foam slabs are thick enough to be used independently as a foam mattress.
- d) gurney and stretcher mattresses. These are specialty mattresses that would be considered medical devices and would not be used in a residential or commercial setting.
- e) custom mattresses for boats, RVs, and other vehicles. These would be mattresses that are designed pursuant to a customer’s specific size and dimension specifications to fit within their vehicles. Standard size mattresses for such vehicles that are not made pursuant to a custom order such as “three quarter” and “RV short queen” are intended to be covered by the product definition.
- f) camping mattresses. Camping mattresses are portable mattresses for use in tents or outdoors in camping applications.

Production Process⁴

[22] Regardless of domestic or import, and regardless of whether the mattress is destined for incorporation into furniture, the manufacturing process for all types of mattresses is similar in that it consists of the assembly of components into finished mattresses that are ready for use by the ultimate purchaser.

[23] Innerspring and hybrid mattresses are assembled from various components that differ based on the particular mattress design. Components generally consist of the core (innerspring units, foam (*e.g.*, polyurethane, memory (viscoelastic), latex, or gel), or other resilient fillings or a combination of the same) and the upholstery materials.

⁴ Exhibit 2 (NC) – Mattresses Complaint – paras 30-33.

[24] For both innerspring and hybrid mattresses, the innerspring unit may be produced internally or purchased from a supplier. Depending on the particular design, layers of fabric, upholstery, and/or foam are assembled around the core unit as operators “build up” the mattress on an assembly table or production line. Separately, sewers run quilting machines that produce the quilting (also known as a “cover”), which may include a backing material as well as comfort layers (*i.e.*, fiber and foam, along with the ticking). In some instances, the cover is cut into panels for the top, bottom, and sides (also referred to as “borders”). A flange is sewn to the edge of the cover piece(s) and can be attached using a “hog ring” to the innerspring unit to prevent the cover and filling material from shifting once the border is attached and the mattress is sewn shut. A “flange” is a material that is attached to either the top or the bottom panel of the mattress, which is then fastened to either the spring unit or the interior foam components. Its purpose is to hold the top and bottom covers in place and prevent them from shifting throughout the life of the mattress. A “hog ring” is a type of staple, which is used to fasten components to the spring unit or used to fasten the flange to the spring unit. A “tape,” which is a fabric that covers the edge where the top and bottom panels are joined to the border panel, is then sewn around the top and bottom edges of the mattress. In other instances, a “zippered” cover is used, which does not require a flange, hog ring, or tape. Both innerspring and hybrid mattresses may be shipped compressed or uncompressed.

[25] For foam mattresses, the manufacturing process begins with foam production. Foam mattress manufacturers may be vertically integrated (producing both the foam and foam mattress themselves) or they may purchase foam from unaffiliated foam suppliers. The precursor chemicals are combined based on the specific formulation for the type of foam. For example, polyurethane foam is generally comprised of a polyol (complex alcohol) and isocyanate that are kept in separate storage tanks. These materials are mixed with catalysts and a surfactant and heated, which then begins a reaction to form a polyurethane polymer that is combined with carbon dioxide and sprayed or “poured” onto a plastic covered conveyor belt. The reaction generates carbon dioxide gas that causes the material to expand as it moves down the conveyor belt. Once the foam has fully expanded and partially cured, it is cut into large blocks which are allowed to fully cure for up to 72 hours. After product properties are tested and confirmed to customer meet specifications, the cured blocks are then cut into trimmed rectangular sheets (or plates) of various thicknesses that correspond to finished mattress sizes. The foam mattress may consist of a single slab of foam or multiple layers (plates) that have been bound together with glue. The foam mattress may be inserted into a fabric sock before being placed in the cover, although this is not mandatory. The foam mattress is then inserted into the cover (*i.e.*, the ticking). The final step is packaging. As with innerspring and hybrid mattresses, foam mattresses may be shipped compressed or uncompressed. A mattress topper follows a similar production process as a foam mattress as it is a foam slab that may be then covered.

Classification of Imports

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

9404.21.00.00

9404.29.00.00

[27] 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

[28] 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.

[29] 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.

[30] 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 mattresses, which meet the product definition. Therefore, it does not include domestically produced goods which are specifically excluded from the product definition.

[31] The complainants submit that the domestic industry, as defined in the complaint, produces or has the ability to produce the whole range of mattresses included in the scope of the complaint. With respect to physical and market characteristics, the complainants submit that the physical characteristics of the goods are the same whether imported or produced domestically. Additionally, the complainants note that imported and domestically produced mattresses have the same methods of manufacture. Finally, the complainants submit that the market characteristics are the same for imported and domestically produced mattresses, as are the customers’ needs.⁵

[32] To further support their submission that the like goods and subject goods constitute a single class of goods, the complainants referred to a 2019 determination by the United States (US) International Trade Commission (ITC) where, for a similar subject goods definition, the ITC found that Chinese and US produced like goods constitute a single class of goods.⁶

[33] After considering questions of use, physical characteristics and all other relevant factors, the CBSA is of the opinion that domestically produced mattresses, that are of the same description as subject goods, are 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.

⁵ Exhibit 2 (NC) – Mattresses Complaint – para 45.

⁶ Exhibit 2 (NC) – Mattresses Complaint – para 47.

THE CANADIAN INDUSTRY

[34] The complaint includes data on domestic production and on sales of mattresses for domestic consumption.⁷ Specifically, the complaint includes the annual production of like goods for Restwell from January 1, 2017 through September 30, 2021, as well as annual production of like goods for the producers who provided letters of support.

[35] The complainants estimated the total sales volume of all domestic producers of like goods based on Statistics Canada domestic shipment data for mattresses under NAICS 33971.⁸

[36] The CBSA contacted all known potential producers of mattresses in Canada to gather further information concerning the domestic production of mattresses for domestic consumption.

[37] The CBSA received letters of support from domestic producers of mattresses that represent a major proportion of the Canadian production.⁹ Two domestic producers expressed a neutral opinion of the complaint.¹⁰ None of the domestic producers contacted by the CBSA expressed opposition to the complaint.

[38] For the purposes of estimating total domestic production of like goods in Canada, the CBSA referred to the estimates contained in the complaint which were based on data from Statistics Canada. The CBSA is not able to determine whether the responses to the CBSA's Standing RFI represent an exhaustive estimate of the total Canadian industry. As such, the Statistics Canada information provided in the complaint represents the best information available.

[39] Based on the information in the complaint and on the administrative record the CBSA is satisfied that Restwell, together with the supporting producers, account for a major proportion of the total domestic production of like goods.

Standing

[40] 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
- 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.

⁷ Exhibit 2 (NC) – Mattresses Complaint – para 49-51

⁸ Exhibit 2 (NC) – Mattresses Complaint – para 51

⁹ Exhibit 37 (PRO) – Consolidated Responses to Standing RFI

¹⁰ Exhibit 38 (NC) – Consolidated Responses to Standing RFI

[41] As Restwell, together with the supporting producers, represent 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 more than 25% 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

[42] The complainants, using data from Statistics Canada, estimated the total volume of imports of mattresses from China and all other countries from January 1, 2017 to September 30, 2021.¹¹

[43] The tariff classification numbers for mattresses include both subject and non-subject goods. As such, the complainants made a number of adjustments in an effort to remove non-subject goods.¹²

[44] The CBSA conducted its own analysis of imports of mattresses based on CBSA's import data, commercial entry information and commercial intelligence provided by the complainants. In the CBSA's review of commercial entry information for mattresses entering Canada, adjustments were made to the FIRM data to correct any errors respecting the quantity and value for duty as necessary. 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 import data not available to the complainants such as commercial entry information.

[45] The CBSA's estimate of the apparent Canadian market for like goods, using the CBSA's estimates of imports and information concerning domestic production for domestic consumption found on the administrative record, is as follows: ¹³

Table 1
CBSA'S ESTIMATE OF CANADIAN MARKET
(expressed as % of the volume (units))

	2018	2019	2020	2021 Q3 YTD
Sales from Canadian Producers	59%	54%	57%	55%
Imports from China	17%	22%	22%	20%
Imports from All Other Countries	24%	24%	21%	24%
Total Apparent Canadian Market	100%	100%	100%	100%

*Totals may not equal 100% due to rounding

[46] The CBSA will continue to gather and analyze information on the volume of imports during the dumping and subsidizing period of investigation (POI) of January 1, 2021 to December 31, 2021, as part of the preliminary phase of the dumping and subsidizing investigations and will refine these estimates.

¹¹ Exhibit 2 (NC) – Mattresses Complaint – paras 183-190

¹² Exhibit 2 (NC) – Mattresses Complaint – paras 183-184

¹³ Exhibit 19 (PRO) – Complaint Analysis – Table 3

EVIDENCE OF DUMPING

[47] 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.

[48] 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.

[49] The complaint did not include estimates of normal values pursuant to section 15 of SIMA. The complainants explained that sufficient information was not available to estimate normal values pursuant to section 15 of SIMA.

[50] As such, 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 an estimate of the cost of production of the subject goods, an estimate for a reasonable amount for administrative, selling and other costs and an estimate of a reasonable amount for profits.

[51] 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.

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

Normal Values

Complainants' Estimates

Section 15

[53] The complainants stated that sufficient information was not available to estimate normal values pursuant to section 15 of SIMA. As a result, the complainants were unable to estimate normal values on the basis of section 15 of SIMA.¹⁴

Paragraph 19(b)

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

¹⁴ Exhibit 2 (NC) – Mattresses Complaint – para 57.

Estimates Based on Restwell Data

[55] The complainants estimated normal values based on the costs of production of Restwell, adjusted to reflect conditions in China as well as publicly available information on costs and profits in China. Separately, the complainants also estimated normal values based on the costs of production of a supporting producer. Again, these costs were adjusted to reflect conditions in China as well as publicly available information on costs and profits in China.

[56] As information from Chinese producers on their costs of production of subject goods was not available to the complainants, the complainants estimated the cost of production of the subject goods from China, based on twenty three benchmark models produced by Restwell, using:

- a) Restwell's direct material costs for the production of mattresses.¹⁵
- b) Restwell's direct labour costs for the production of mattresses, adjusted downward based on the difference in the most recently available wages in manufacturing in China and Canada as reported by TradingEconomics. The complainants stated that a similar labour rate was used for the purposes of the initiation of a dumping investigation on Upholstered Domestic Seating.¹⁶
- c) Restwell's factory overhead costs for the production of mattresses, adjusting the portion for indirect labour costs in the same manner as direct labour costs.¹⁷

[57] The complainants stated that they could not locate public financial statements covering mattress specific costs. As such, to estimate a reasonable amount for administrative, selling, and other costs (SG&A) and a reasonable amount for profits for the subject goods from China, the complainants relied on the publicly available financial results for Healthcare Co. (Healthcare), Zinus Inc. (Zinus), and Xilinmen Furniture Co. Ltd. (Xilinmen).

[58] According to the complainants, Healthcare is the largest manufacturer of memory foam mattresses in China, but the company also produces and sells mattress toppers and pillows. The complainants noted that Zinus is a Korean company, but that they manufacture foam and hybrid mattresses, along with bedframes and mattress toppers in Xiamen, China. Finally, the complainants identified Xilinmen as a producer of mattresses, furniture, and wood products in Shaozing City, China.

[59] Based on the publicly available quarterly financial statements for these companies, for the period of October 1, 2020 to September 30, 2021, the complainants estimated a reasonable amount for SG&A of 31.1%, and an amount for financial and other expenses of 3.7%, expressed as a percentage of cost of goods sold. The complainants estimated a reasonable amount for profits of 6.6%, based on the same financial expenses, and expressed as a percentage of total costs of production (including SG&A and financial expenses).

¹⁵ Exhibit 2 (NC) – Mattresses Complaint – paras. 61-62

¹⁶ Exhibit 2 (NC) – Mattresses Complaint – para. 63

¹⁷ Exhibit 2 (NC) – Mattresses Complaint – para. 64

[60] Based on the methodology described above, the complainants estimated the normal value of subject goods based on paragraph 19(b) of SIMA, for the period of October 1, 2020 to September 30, 2021.

Estimates Based on Supporting Producer Data

[61] In addition to the estimates of normal values based on cost information from Restwell, the complaint also included estimates of normal values based on the cost information of a supporting producer. The supporting producer provided quarterly cost of production information for a number of product collections, which include a variety of product types, as well as mattresses of various sizes and other characteristics. As a result, normal values have been estimated for a significant number of distinct products. According to the complaint, the products for which cost information was provided account for a vast majority, by quantity, of all of the supporting producer's sales during the proposed POI.

[62] Normal values estimated based on the supporting producer's cost data were calculated in a manner similar to those described above for Restwell, based on:

- a) Supporting producer's direct material costs for the production of mattresses.¹⁸
- b) Supporting producer's direct labour costs for the production of mattresses, adjusted downward based on the difference in the most recently available wages in manufacturing in China and Canada as reported by TradingEconomics.¹⁹
- c) Supporting producer's factory overhead costs for the production of mattresses, adjusting the portion for indirect labour costs in the same manner as direct labour costs.²⁰

[63] The complainants estimated the amounts for SG&A, financial and other expenses, and the amount for profits in the same manner as was used in estimating normal values based on the cost information provided by Restwell.

CBSA's Estimates

[64] In the absence of pricing information specific to mattresses in China, the CBSA was unable to estimate normal values following the methodology described in section 15 of SIMA.

[65] Accordingly, for the purposes of the initiation of the dumping investigation, 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.

¹⁸ Exhibit 2 (NC) – Mattresses Complaint – paras. 70-71

¹⁹ Exhibit 2 (NC) – Mattresses Complaint – para. 72

²⁰ Exhibit 2 (NC) – Mattresses Complaint – para. 73

[66] The CBSA reviewed the estimates of normal values included in the complaint and determined that the estimated normal values calculated based on the cost information provided by the supporting producer would be used for the purposes of the initiation of the dumping investigation. While the CBSA found the normal values as estimated based on the cost information provided by Restwell to be reasonable and reliable, the CBSA finds that the information provided by the supporting producer reflects a more diverse product base as more information was provided. As the CBSA does not have information concerning the specific product characteristics of mattresses imported from China, for the purposes of comparing normal values to export prices, the CBSA finds that the information provided by the supporting producer will provide a more reasonable comparison to the subject goods.

[67] In estimating normal values for subject goods from China based on the methodology of paragraph 19(b) of SIMA, the CBSA:

- a) Used the direct material costs of subject goods as estimated in the complaint based on data provided by the supporting producer.
- b) Estimated direct and indirect labour costs based on data provided by the supporting producer adjusted to reflect the differences in Canadian and Chinese labour costs. The adjustment was calculated based on information provided in the complaint and reported by TradingEconomics, and resulted in a downward adjustment of 71.2% of the supporting producer's direct and indirect labour costs.
- c) Estimated a reasonable amount for selling, administrative and all other costs, as well as an amount for financial and other expenses, as described earlier in this document based on the financial information provided for the three mattress producers for which financial information as publicly available. This resulted in an amount equal to 30.7% for SG&A, and an amount for financial and other expenses of 3.3%, expressed as a percentage of cost of goods sold. This amount differs slightly from the complainants' estimate as the CBSA observed and corrected a slight formula error.
- d) Estimated a reasonable amount for profits based on the publicly available profit information for the mattress producers Healthcare, Zinus, and Xilinmen, as described earlier in this document. This amount is equal to 6.9% of cost of production. This amount differs slightly from the complainants' estimate as the CBSA observed and corrected a slight formula error.
- e) Established normal values for a number of benchmark products, calculated as described, and based on the cost information provided by the supporting producer.

[68] In the absence of more accurate information concerning the product mix of subject mattresses imported from China, the CBSA is of the opinion that the sales data from the supporting producer would reasonably reflect the product mix of subject goods imported from China. Accordingly, as the CBSA cannot identify the specific product characteristics associated with each mattress imported from China, using the benchmark normal values described above, the CBSA calculated respective average quarterly normal values for the subject mattresses, weighted based on the supporting producer's sales data.

[69] The CBSA found the estimated cost of production of mattresses in China as provided by in the complaint to be reasonable and representative. The CBSA acknowledges that the normal values estimated in the complaint may not match the exact models of mattresses sold to Canada from China but finds the complainants have provided sufficient information to demonstrate the comparability of the benchmark products and the subject mattresses exported from China. As such, the CBSA finds the benchmark products included in the complainant, and the cost of production information, to be reasonable and representative.

Export Price

[70] 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.

[71] As described in the Canadian Market section of this document, the Statistics Canada data on which the complainants based their estimates of export price included the two HS tariff classification numbers under which mattresses are normally imported into Canada. The complainants adjusted the Statistics Canada data to remove certain imports with a low average unit value. According to the complainants, this adjustment is necessary to remove non-subject goods such as pet mattresses and certain futon mattresses.

[72] The complainants estimated export prices for foam/hybrid and innerspring mattresses as the average unit value as calculated based on the respective HS tariff classification numbers for the proposed POI.²¹

[73] In order to confirm export prices and determine the volume and value of imports of subject goods into Canada from the subject countries, the CBSA relied on information available through the facility for information retrieval management (FIRM), ACROSS and imports of the goods classified under the relevant tariff classification.

[74] To provide an appropriate comparison for the estimates of normal values described above, export prices were separately estimated for innerspring mattresses and foam/hybrid mattresses as captured by the respective HS tariff classification numbers. Accordingly, the CBSA calculated quarterly average export prices for innerspring mattresses and foam/hybrid mattresses, respectively.

²¹ Exhibit 2 (NC) – Mattresses Complaint – Paras 54-56.

[75] The CBSA used the adjusted import data to calculate estimated export prices for subject goods from China imported from October 1, 2020 to September 30, 2021.

Estimated Margins of Dumping

[76] The CBSA estimated the margin of dumping for China by comparing the estimated normal values with the estimated export prices. Based on this analysis, it is estimated that mattresses imported into Canada from China were dumped by 249%, expressed as a percentage of export price.

EVIDENCE OF SUBSIDIZING

[77] 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.

[78] 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.

[79] 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.

[80] 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.

[81] 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.

[82] 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.

Subsidy Programs in China

[83] In alleging that actionable subsidies were applicable to the subject goods imported from China, the complainants mainly relied on previous CBSA and US Department of Commerce (USDOC) subsidy investigation findings. The complainants also relied on industry reports and government documents, WTO Trade Policy Reviews, and general news articles and publications.

[84] The complaint provided evidence of 16 different programs that producers of subject goods in China may have benefited from.

[85] The complainants listed a number of subsidy programs, with references to the provisions in SIMA, under which the subsidy is alleged to constitute a financial contribution and under which it would be considered to be specific and, therefore, actionable. The complainants have also claimed that each program is either used by or is available for use by producers and exporters of mattresses in China. The documents that formed the basis for these allegations were appended to the complaint.

[86] The complainants primarily referred to the CBSA’s investigations in regards to the subsidizing of *Upholstered Domestic Seating, Line Pipe, Thermoelectric Coolers and Warmers, Unitized Wall Modules, OCTG, Seamless Casing, Pup Joints, Carbon Steel Welded Pipe, Cold-Rolled Steel* and *Large Diameter Line Pipe*. Subsidy information was also referenced from the *Mattresses* investigation by the USDOC.

[87] 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, including other programs found by the USDOC.

[88] As a result, based on the information available, the CBSA identified 34 potentially actionable subsidy programs that may have benefited Chinese producers/exporters of mattresses. Many of these are programs that the CBSA has already countervailed in respect of previous subsidy investigations concerning goods from China. These programs have been grouped into the following five categories:

1. Preferential loans and loan guarantees
2. Grants and grants equivalents
3. Preferential tax programs
4. Relief from duties and taxes
5. Goods/services provided by the government at less than fair market value

[89] The CBSA's analysis revealed that the alleged subsidy programs constitute potential financial contributions by the GOC that may have conferred benefits to producers/exporters of mattresses. In addition, the programs were further examined and were considered to be potentially specific either in law or in fact within the meaning of subsections 2(7.2) and 2(7.3) of SIMA.

[90] The description of the identified programs to be investigated are found in the Appendix.

[91] If more information becomes available during the investigation that indicates that some exporters/producers of subject goods may have benefited from any other programs during the POI that are not included in the Appendix, the CBSA will request complete information from the GOC and exporters/producers of subject goods to pursue the investigation of these programs.

CBSA's Conclusion

[92] Sufficient evidence is available to support the allegations that mattresses 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

[93] The complainants were unable to estimate the amounts of subsidy on a program basis for the subject goods imported from China. Instead, the complainants estimated the amount of subsidy as being equal to the difference between its estimated total cost of production and the export price for Chinese mattresses from October 1, 2020 to September 30, 2021.²²

²² Exhibit 2 (NC) – Mattress Complaint – para. 177

[94] The CBSA estimated the amount of subsidy conferred to exporters of the subject goods from China by comparing the estimated full costs of the subject goods with their total estimated export prices, using the costing and export price methodologies explained in the evidence of dumping section.

[95] 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 complainant's allegations that the imported goods are subsidized.

[96] The CBSA's analysis of the information indicates that subject goods imported into Canada during the period of October 1, 2020 to September 30, 2021 were subsidized and that the estimated amount of subsidy is 226% of the export price.

EVIDENCE OF INJURY

[97] 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.

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

[99] In support of their injury allegations, the complainants provided evidence of: an increase in the volume of dumped and subsidized imports, lost market share, lost sales, price undercutting, price suppression, and reduced profitability and employment.²³

Increase of Subject Imports and Loss of Market Share²⁴

[100] The complainants state that the volume of subject goods from China has increased significantly since 2017. Based on the provided data, the complainants note that imports from China increased from 2018 to 2020. The complainants note a slight decrease in import volumes when comparing Q1-Q3 2020 to the same period in 2021, but note that imports of subject goods in Q1-Q3 2021 were at levels near the full year imports in 2018. Further, the complainants submit that this is a temporary decrease associated with very significant and ongoing supply chain issues.

[101] The complainants allege the subject imports' market share grew from 2018 to 2020 and remained at an increased level in 2021. At the same time, the market share of all Canadian production dropped from 2018 to 2020.²⁵

²³ Exhibit 2 (NC) – Mattresses Complaint – Section VI

²⁴ Exhibit 2 (NC) – Mattresses Complaint – Paragraphs 183-190

²⁵ Exhibit 2 (NC) – Mattresses Complaint – Table 4

[102] The CBSA's analysis of import data supports the allegation of an increase in the import volume of the allegedly dumped goods. Based on the CBSA's estimate of imports, from 2018 to 2020, there was an increase in the volume of imported goods from China. At the same time, imports from other countries dropped significantly. The CBSA notes that the volume of subject imports from China remained at high levels for 2021, decreasing only slightly from the same period in 2020, despite significant supply chain issues.

[103] The CBSA's analysis of market share also found that during the period of 2018-2020 imports of subject goods from China gained significant market share. At the same time, the market share of domestic production decreased. Imports from China maintained an increased market share in 2021 even as the imports faced significant supply chain issues related to the COVID-19 pandemic and challenges associated with shipping costs and logistics. Based on this information, the CBSA finds that the complainants' allegation of lost market share is reasonable and well supported.

Lost Sales²⁶

[104] The complainants provided evidence of lost sales on an offer specific basis. Specifically, the complaint includes examples of numerous sales that were lost either entirely or in part by the complainants to exporters of the allegedly dumped goods. The evidence includes detailed commercial intelligence along with supporting documentation.

[105] 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 to be reasonable and well supported. As such, the CBSA is of the opinion that this injury factor is sufficiently supported and linked to the allegedly dumped and subsidized goods.

Price Suppression and Price Undercutting²⁷

[106] The complainants argue that the allegedly dumped and subsidized goods have captured market share by undercutting the prices of the Canadian producers. Based on the import data estimates provided by the complainants, it is evident that the prices for mattresses from China have been priced significantly lower than imports from other countries.

[107] In addition, the complainants provided specific examples of sales offers which showed that subject good prices for these offers were significantly lower than the complainant's prices.

[108] As a result of these significant price discrepancies, the complainants state that it has been forced to reduce pricing and/or lose sales. In support of this, the complaint includes evidence of several instances where they were forced to discount pricing in order to compete with imports of allegedly dumped and subsidized goods.

²⁶ Exhibit 2 (NC) – Mattresses Complaint – Paragraphs 204, 224-228

²⁷ Exhibit 2 (NC) – Mattresses Complaint – Paragraphs 191-200, 224-228

[109] The CBSA conducted its own analysis into the unit price disparity using import data. The average prices calculated by the CBSA reveal a trend similar to that described by the complainants. Specifically, from 2018 until 2020, the average price of subject goods has been significantly less than the complainant's average selling price.

[110] The CBSA also examined Restwell's sales and costing data for the period of 2017 to 2021. The CBSA notes that Restwell was not able to increase average unit selling prices at a rate sufficient to keep pace with increasing costs.

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

Reduced Profitability²⁸

[112] The complainants allege that the injurious impact of the dumped and subsidized goods is demonstrated by reduced profits. To support this allegation, the complainants have provided financial performance information concerning its sales of mattresses for the period of 2017 to 2021.

[113] 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 2021 which supports the link between the allegedly dumped and subsidized goods and financial injury.

Reduced Employment²⁹

[114] The complainants submit that certain supporting producers have been forced to layoff employees and close factories as a result of the reduced production volumes caused by the presence of the unfairly dumped and subsidized goods.

[115] In support of this allegation, the complainants provided information concerning employment levels, layoffs and plant closures affecting other supporting producers, during the period of 2018 to 2021.

[116] Based on the CBSA's analysis of the information contained in the complaint the CBSA finds that the complainants and supporting producers did layoff employees and reduce employment during the period of 2018 to 2021. The CBSA also finds that the complainants have sufficiently linked this reduction in employment to the allegedly dumped and subsidized goods.

²⁸ Exhibit 2 (NC) – Mattresses Complaint – Paragraphs 205-207

²⁹ Exhibit 2 (NC) – Mattresses Complaint – Paragraphs 208-221

Other Factors Affecting the Canadian Industry³⁰

[117] The complainants reported that the continued presence of the allegedly dumped and subsidized goods has had a material adverse impact on investments. The complainants provided evidence of reductions of investments in equipment, submitting that they have been forced to cancel or delay investments due to the economic conditions caused by the subject imports.

[118] While the complaint includes limited specific supporting evidence, the declarations provided by the complainants provide a sufficient overview of the impact on investments. As such, the CBSA finds that there is a reasonable indication that the presence of the allegedly dumped and subsidized goods has had a material adverse impact on investments.

CBSA's Conclusion – Injury

[119] 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 mattresses industry in Canada in the form of an increase in the volume of dumped and subsidized imports, lost market share, lost sales, price undercutting, price suppression, reduced profitability, reduced employment and lost investments.

THREAT OF INJURY

[120] The complainants state that the import of the allegedly dumped and subsidized goods threatens to cause further material injury to the Canadian domestic industry. The complainants provided the following information to support the allegation that imports of subject goods threaten to cause further injury to the Canadian industry.

Production Capacity and Excess Capacity of Chinese Producers³¹

[121] The complaint includes information concerning the production, production capacity, and capacity growth, of mattress producers in China. While the complainants note that there are difficulties in obtaining reliable data with respect to the production and production capacity of mattress producers in China, the complainants have relied on information from the US ITC as well as other publicly available data. Further, the complainants have provided information concerning the impact of the imposition of anti-dumping measures by the US against Chinese mattresses.

[122] While there is limited publicly available information concerning the production capacity of mattresses in China, the CBSA does find that the information that is available suggests there is significant mattresses production capacity in China.

³⁰ Exhibit 2 (NC) – Mattresses Complaint – Paragraphs 222-223

³¹ Exhibit 2 (NC) – Mattresses Complaint – Paragraphs 232-236, 265-271

Increased Volumes of Subject Goods³²

[123] As described in the Injury section, the complainants have noted an increase in the importation of allegedly dumped and subsidized mattresses into Canada from China. The complainants allege that, while there was interruption in the consistent increase of importations from China in the first half of 2020, this was a temporary interruption associated with supply chain and logistics issues related to the COVID-19 pandemic. According to the complainants, the increased rate of subject imports will only worsen when these temporary issues are resolved.

[124] The CBSA's analysis of import data supports the allegation of an increased volume of imports of subject goods. The CBSA further finds that it is reasonably likely that the volume of subject goods from China will continue to increase, and is likely to further reduce the market share of domestic producers in Canada.

Continued Material Adverse Price Effects³³

[125] The complainants submit that importations of mattresses from China have been increasingly undercutting like goods and that this pricing behaviour is likely to cause increased demand for subject mattresses.

[126] The complainants included average unit pricing information which demonstrates the increasing price gap between subject mattresses and like goods, as well as subject mattresses and importations from other countries. Further, the complainants point to evidence provided with respect to lost sales and lost market share and argue that this evidence further supports a trend of continued price undercutting by subject imports.

[127] The CBSA finds that the limited data with respect to average unit pricing of subject imports from China does support the allegation of continued price undercutting, and that when paired with the account specific allegations provided in the complaint, it is reasonable to determine that the continued presence of subject mattresses at these prices is likely to cause negative price effects in the future.

Diversion of Subject Goods to Canada³⁴

[128] The complainants provided evidence of trade remedies imposed on imports of mattresses from China by the US. Specifically, in two separate proceedings, the USDOC found that mattresses from China were sold in the US at less than fair market value, and that mattresses exported to the US from China had been subsidized. The US ITC subsequently found that the dumped and subsidized goods had caused material injury to domestic producers. As a result of these findings, anti-dumping and countervailing measures were imposed on imports of Chinese mattresses into the US.

³² Exhibit 2 (NC) – Mattresses Complaint – Paragraphs 232-236, 242-256

³³ Exhibit 2 (NC) – Mattresses Complaint – Paragraphs 280-287

³⁴ Exhibit 2 (NC) – Mattresses Complaint – Paragraphs 272-275

[129] According to the complainants, the imposition of these measures resulted in a sharp decline in the volume of imports of Chinese mattresses into the US. Notably, the volume of imports decreased from 2018 to 2020. The complainants submit that the reduction is equivalent to approximately three times the total Canadian market for 2020. Finally, the complainants submit that the decrease of imports of Chinese mattresses in the US coincided with the substantial increase in importations of subject goods into Canada.

[130] The CBSA finds that the recent imposition of anti-dumping and countervailing measures in the US may have contributed to subject goods being diverted from the US into Canada. Further, the CBSA finds that the continued presence of these measures could lead to increased volumes of Chinese exports of subject goods into Canada in the future and thereby threaten to cause injury to the Canadian industry.

Magnitude of Margin of Dumping and Amount of Subsidy³⁵

[131] In a brief submission, the complainants argue that the magnitude of the margin of dumping and amount of subsidy is such that the continued importation of subject imports poses a real, foreseeable, and imminent threat to producers of like goods.

[132] Based on the CBSA's estimates with respect to the margin of dumping and amount of subsidy, the CBSA finds that there is a reasonable indication that the subject goods have been dumped and subsidized, and that the magnitude of this alleged dumping and subsidizing is such that it poses a threat of material injury to domestic producers of like goods.

CBSA's Conclusion – Threat of Injury

[133] The complaint contains evidence that discloses a reasonable indication that there is a threat of injury to the mattresses industry in Canada. The information provided by the complainants indicates that the rate of increase in the volume imports of subject goods, the production capacity of Chinese producers, the potential for diversion, and the impact on current and proposed investments are collectively posing a threat to the Canadian industry.

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

[134] The CBSA finds that the complainants have sufficiently linked the injury they suffered in terms of lost market share, lost sales, price undercutting, price suppression, and reduced profitability and employment to the alleged dumping and subsidizing of the subject goods imported into Canada and the price advantage this provides.

[135] 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.

³⁵ Exhibit 2 (NC) – Mattresses Complaint – Paragraphs 288-289

[136] 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.

[137] 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

[138] 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 certain mattresses originating in or exported from China have been dumped and subsidized. Further, there is evidence that discloses 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 February 24, 2022.

SCOPE OF THE INVESTIGATIONS

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

[140] 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 January 1, 2021 to December 31, 2021, were dumped. The information requested will be used to determine the normal values, export prices and margins of dumping, if any.

[141] 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, 2021 to December 31, 2021, were subsidized. The information requested will be used to determine the amounts of subsidy, if any.

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

FUTURE ACTION

[143] 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 60th 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.

[144] 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 May 25, 2022. Where circumstances warrant, this period may be extended to 135 days from the date of the initiation of the investigations.

[145] 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.

[146] 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 and the estimated amount of subsidy on the imported goods.

[147] 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.

[148] 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.

[149] 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.

[150] 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

[151] 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.

[152] 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.

[153] 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

[154] 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.

[155] 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.

[156] 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.

[157] 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

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

INFORMATION

[159] 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.

[160] To be given consideration in the investigations, all information should be received by the CBSA by July 4, 2022.

[161] 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.

[162] 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 Canada-United States-Mexico Agreement (CUSMA) 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.

[163] 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. The exhibit listing will be updated as new exhibits and information are made available.

[164] This *Statement of Reasons* is 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, 11th floor
Ottawa, Ontario K1A 0L8
Canada

Telephone: Shawn Ryan 902-943-9978
Hugo Dumas 343-553-2007

Email: simaregistry@cbsa-asfc.gc.ca

Website: 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 *Fabricated Industrial Steel Components (FISC)*, *Carbon and Alloy Steel Line Pipe (Line Pipe)*, *Pup Joints*, *Oil Country Tubular Goods (OCTG)*, *Seamless Casing* and *Upholstered Domestic Seating (UDS)*.

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

Assurance provided by the Government of China, a SOE bank or public (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 *Large Diameter Carbon and Alloy Steel Line Pipe (Large Line Pipe)*, *FISC*, *Line Pipe* and *UDS*.

In a recent investigation by the US Department of Commerce (USDOC) in *Mattresses from the People’s Republic of China*, it appears that they countervailed this program as “Export Loans from Chinese State-Owned Banks (SOCBs)”

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 *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".

The CBSA has previously countervailed this program in *Line Pipe* and *UDS*.

In a recent investigation by the USDOC into *Mattresses* from China, it appears that they countervailed this program as "Export Seller's Credit" and "Export Buyer's Credit".

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 credit insurance fees.

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

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 *Sucker Rods, Copper Tube, Photovoltaic Modules and Laminates, OCTG, Unitized Wall Modules, Seamless Casing, Pup Joints, Decorative and Other Non-Structural Plywood (Plywood)* and *UDS*.

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 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 *Sucker Rods, OCTG, Unitized Wall Modules, Galvanized Steel Wire, Aluminum Extrusions, Carbon Steel Welded Pipe, Steel Grating, Plywood* and *UDS*.

As per the SOR issued at the OCTG final determination, the program was established in the Circular of the Trial Measures of the Administration of International Market Development Funds for Small and Medium-Sized Enterprises Cai Qi No. 467, 2000, which came into force on October 24, 2000. The program was established to support the development of small and medium-sized enterprises, to encourage SMEs to join in the competition of international markets, to reduce the business risks of the enterprises, and to promote the development of the national economy. The granting authority is the Foreign Trade and Economic Department and the program is administered at the local levels.

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 *Seamless Casing, Aluminum Extrusions, OCTG, Pup Joints, Copper Tube, Line Pipe* and *UDS*.

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 *Stainless Steel Sinks, Unitized Wall Modules, Photovoltaic Modules and Laminates, Seamless Casing, OCTG, Pup Joints, Line Pipe, Plywood* and *UDS*.

In a recent investigation by the USDOC into *Mattresses* from China, it appears that they countervailed this program as “Provision of Land Use Rights in SEZs for Less Than Adequate Remuneration (LTAR)”

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

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 administered by Jiangsu Intellectual Property Office.

The CBSA has previously countervailed this program in *Plywood*.

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 *Copper Tube*.

In a recent investigation by the USDOC into *Mattresses* from China, it appears that they countervailed this program as “Grants for Energy Conservation and Emission Reduction”.

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: Grants for the Retirement of Capacity

The GOC’s 12th Five-Year Plan for Energy Conservation and Emission Reduction calls for accelerating and eliminating “backward production capacity” in certain industrial sectors. In 2013, the State Council issued the “Guiding Opinion on Resolving the Problem of Severe Excess Capacity,” which called for establishing special funds to accelerate the elimination of backwards capacity and to also support industries with excess production capacity.

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 13: Grants for Relocating Production Facilities

As part of the GOC's 12th Five-Year Steel Development Plan, the PRC has been locating urban based steel producers to locations outside of their current city. The GOC's 12th Five-Year Plan for Energy Conservation and Emission Reduction calls for the relocation for "heavy polluting enterprises" and for measures to optimize the "regional spatial layout" of "key industries,".

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 14: Subsidies Related to Company/Enterprise Development and Innovation

Available information indicates that the GOC has introduced several grants and incentives related to company and enterprise development and innovation grants and awards.

The CBSA has previously countervailed this program in *UDS*.

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 15: Subsidies Related to Employment, Training and Recruitment

Available information indicates that the GOC has introduced several grants and incentives designed to support job stabilization by assisting companies with unemployment insurance payments as well as supporting the recruitment, training and subsequent job security of their staff.

The CBSA has previously countervailed this program in *UDS*.

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 16: Subsidies Related to Pandemic Support

Available information indicates that the GOC has introduced several grants and incentives designed to support job stabilization and weather economic hardships experienced by exporters during the COVID-19 pandemic.

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 17: Subsidies Related to Quality & Improvement

Available information indicates that the GOC has introduced several grants and incentives related to quality and improvement in production.

The CBSA has previously countervailed this program in *UDS*.

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 18: Subsidies Related to Science and Technology

Available information indicates that the GOC has introduced several grants and incentives related to science and technology.

The CBSA has previously countervailed this program in *UDS*.

The complainants allege that producers are eligible to receive grants associated with the State Key Technology Project Fund, which is meant to support the technological renovation of key industries, key enterprises and key products by means of increasing the issuance of financial bonds, to promote technological advancement of the enterprises, upgrade the products range, improve the quality of the products, develop import-substitution products, increase effective supply, enlarge internal demands and ensure a continuous and stable development of the national economy.

The complainants also allege that the GOC created the SME Technology Innovation Fund (SME Fund) in which businesses who qualify must be in accordance with “national industrial policy, high technology content, strong innovation.” and must produce in an area with “clear market demand and competitiveness.”

In a recent investigation by the USDOC into *Mattresses* from China, it appears that they countervailed this program as “SME Technology Innovation Fund”.

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 19: Subsidies Related to Social Security

Available information indicates that the GOC has introduced several grants and incentives related to social security.

The CBSA has previously countervailed this program in *UDS*.

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 20: Subsidies Related to Talent and Skills

Available information indicates that the GOC has introduced several grants and incentives related to talent and skills.

The CBSA has previously countervailed this program in *UDS*.

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 21: Subsidies to Provide Business Support

Available information indicates that the GOC has introduced several grants and incentives related to providing business support.

The CBSA has previously countervailed this program in *UDS*.

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 22: Subsidies for Utilities for Certain Enterprises

Available information indicates that the GOC has introduced several grants and incentives related to utilities for specific enterprises classes.

The CBSA has previously countervailed this program in *UDS*.

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 23: Subsidies for the Establishment of Non-Manufacturing Facilities

Available information indicates that the GOC has introduced several grants and incentives related to assistance in establishing non-manufacturing facilities.

The CBSA has previously countervailed this program in *UDS*.

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.

CATEGORY 3: PREFERENTIAL TAX PROGRAMS

Program 24: 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 there are several known mattress producers who stand to benefit from their location in SEZs, including the Guangdong Province SEZ.

The CBSA has previously countervailed this program in *Aluminum Extrusions, CSWP, OCTG, Seamless Casing, Line Pipe, and UDS*.

In a recent investigation by the USDOC into *Mattresses* from China, it appears that they countervailed this program as the following: Tax Incentives for Businesses in the Guangdong Province Special Economic Zone (SEZ).

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 either enterprises in certain geographic areas.

Program 25: Corporate Income Tax Reduction for New High Tech Enterprises (“NHTE”)

Under Article 28.2 of the Enterprise Income Tax Law in China, companies designated as high- or new-technology enterprises (HNTEs) 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 *FISC, Line Pipe, Certain Seamless Casing, OCTG, Pup Joints, Plywood, UDS, and Container Chassis*.

In a recent investigation by the USDOC into *Mattresses* from China, it appears that they countervailed this program as “Income Tax Reductions for High- and New-Technology 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(7.2) of SIMA because it is limited to enterprises in certain industries.

Program 26: Municipal/Local Income or Property Tax Reductions

The CBSA has previously countervailed this program in *UDS*.

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

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 27: Preferential Tax Policies for Foreign-Invested Enterprises (FIEs)

Despite the implementation of the new Enterprise Income Tax Law (EITL) 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 *Pup Joints* and *Seamless Casing*. Further, the GOC has listed this title in its notification of subsidy programs to the WTO.

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 28: 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 *Photovoltaic Modules and Laminates*, *Seamless Casing*, *OCTG*, *Pup Joints*, *Plywood*, and *UDS*. Further, the GOC has listed this title in its notification of subsidy programs to the WTO.

In a recent investigation by the USDOC into *Mattresses* from China, it appears that they countervailed this program as "Income Tax Deduction for Research and Development Expenses Under the Enterprise Income Tax Law (EITL)".

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 29: 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 *Aluminum Extrusions, Photovoltaic Modules and Laminates, Seamless Casing, OCTG, and Pup Joints*.

In a recent investigation by the USDOC into *Mattresses* from China, it appears that they countervailed this program as “VAT Rebates on Domestically Produced Equipment”.

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 30: 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 *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 31: 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 *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 32: Deed Tax Exemption for SOEs Undergoing Mergers or Restructuring

The GOC imposes a deed tax on transfers of land and real estate. In the context of an ownership transfer by means of an asset sale, as opposed to a stock sale, a deed tax of three to five percent is levied on the amount of the purchase price, and the purchaser is responsible for paying the tax. The GOC's "Notice of the Ministry of Finance and the State Administration of Taxation on Several Deed Tax Policies Concerning Enterprise Reorganization and Restructuring," exempts this deed tax where the transfer of ownership occurs as part of the restructuring or merger of an SOE.

This 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 33: 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 electricity as an input that may be provided to mattress manufacturers at less than fair market value.

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

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 34: 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 *Line Pipe* and *Large Line Pipe*.

This 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.