

PUBLIC COMPLAINT

The Dumping of Polyethylene Terephthalate Resin Originating in or Exported from China, India, Oman, Pakistan and Turkey and the Subsidization of Polyethylene Terephthalate Resin Originating in or Exported from China, India, Oman and Pakistan

Submitted by: Compagnie Selenis Canada

June 29, 2017

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This document contains confidential information, the disclosure of which would cause commercial harm to Compagnie Selenis Canada

Table of Contents

I. Introduction	5
A. General	5
B. The Complainant	5
C. The Product	6
D. Production Process	10
E. Product Use	15
F. HS Tariff Classification	15
G. Foreign Producers and Exporters	16
1. Oman	16
2. Pakistan	17
3. China	17
4. India	19
5. Turkey	20
H. Importers	20
I. Marketing and Distribution	21
1. Selenis Canada	21
2. Imported PET resin	22
J. The Domestic Industry	22
K. The Complaint is supported by the Domestic Industry	22
L. Production of Like Goods in Canada	23
M. Like Goods and Single Class of Goods	23
N. Period of investigation	24
II. Evidence of Dumping	25
A. Introduction	25
B. Chinese Normal Values	27
1. Section 15	27
2. Section 19	33
3. Section 20	34
C. Normal Values for all other Subject Countries	58

1. Oman	58
2. Pakistan.....	63
3. India	67
4. Turkey.....	72
D. Export Price	78
1. China.....	78
2. Oman	79
3. Pakistan.....	79
4. India	80
5. Turkey.....	81
E. Dumping Margins.....	81
III. Evidence of Subsidizing	82
A. Introduction	82
B. Relevant Provisions of SIMA.....	83
C. Amount of Subsidization.....	85
1. Methodology.....	85
2. Amount of Subsidization.....	87
IV. Evidence of Injury.....	87
A. Apparent Canadian Market.....	88
B. Indicators of Injury	90
1. Price Undercutting and Erosion.....	90
2. Specific Examples of Price Undercutting, Price Depression and Lost Sales	93
3. Lost sales and lost market share	95
4. Poor Financial Results	97
5. Reduced Employment.....	101
V. Evidence of Threat of Injury.....	101
A. Global Market Conditions	102
B. Subject Country Market Conditions.....	104
1. China.....	104
2. Oman	106
3. Pakistan.....	110

4. India	111
5. Turkey.....	114
C. Commodity Nature of PET resin and the Production Imperative	117
D. Product Shifting	117
E. Substantial Production Capacity in the Subject Countries	118
F. Likely Volumes of Dumped Goods.....	120
1. Export-orientation of the Subject Countries.....	120
G. Anti-Dumping Measures by Canada and Other Countries in Respect of Goods of the same description or in Respect of Similar Goods.....	126
1. PET resin and Similar Products.....	127
2. Likelihood that Measures Taken by Other Countries Will Cause Diversion of Dumped Goods to Canada.....	128
H. Increase in Volume and Likely prices	130
1. Increase in Volume.....	130
2. Price Undercutting.....	131
VI. Conclusion.....	134
List of Attachments Shaded rows indicate Confidential attachments.....	135
Glossary	141

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I. Introduction

A. General

1. This Complaint is filed by Compagnie Selenis Canada (“**Selenis Canada**” or “**Complainant**”) with the Canada Border Services Agency (“**CBSA**”) pursuant to section 31 of the *Special Import Measures Act* (“**SIMA**”) regarding the dumping of polyethylene terephthalate resin (“**PET resin**”) originating in or exported from the People’s Republic of China (“**China**”), the Sultanate of Oman (“**Oman**”), the Islamic Republic of Pakistan (“**Pakistan**”), the Republic of India (“**India**”) and the Republic of Turkey (“**Turkey**”) (collectively, the “**Subject Countries**”) and the subsidizing of PET resin originating in or exported from China, India, Pakistan and Oman.
2. It is submitted that the aforementioned dumped and subsidized goods have caused injury to Canadian producer of like goods and are also threatening the Canadian producer with injury. The Complainant therefore requests that the President of CBSA initiate an investigation into the injurious impact of the dumping and subsidization of PET resin originating in or exported from the Subject Countries.

B. The Complainant

3. The address of the Complainant is:

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Montreal East, QC H1B 5B4

All notices related to this Complaint should be sent to:

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220 Laurier Ave West, Suite 700
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4. The Complainant's PET resin production facility in Montreal, QC was first built in 2004 by a joint venture of Shell International, B.V. and Société générale de financement (now Investissement Québec) as a poly trimethylene terephthalate ("PTT") plant. At the time, the company was named PTT Poly Canada. The facility was converted to PET resin production in 2010 by Control PET, S.A. ("Control PET"), a subsidiary of IMG Group, after this company purchased the company in 2009 and changed the name to Selenis Canada Inc. The facility began producing PET resin in May, 2011, becoming the only virgin PET production facility in Canada. On August 1, 2016, DAK Americas LLC ("DAK") completed a transaction with Control PET to acquire a controlling interest in Selenis Canada's operations. DAK is a wholly owned subsidiary of Alfa S.A.B. of Mexico. With DAK's acquisition of a controlling interest, the company officially changed its name to Compagnie Selenis Canada.¹

C. The Product

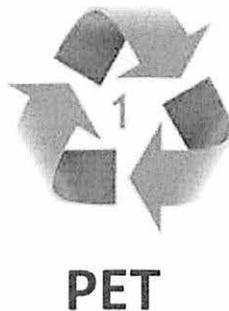
5. The goods that are the subject of this Complaint are defined as (the "Subject Goods"):

Polyethylene terephthalate ("PET") resin having an intrinsic viscosity of at least 0.70 deciliters per gram but not more than 0.88 deciliters per gram, including PET resin that contains various additives introduced in the manufacturing process, as well as blends of virgin PET resin and recycled PET containing 50 percent or more virgin PET resin content by weight, originating in or exported from the People's Republic of China, the Republic of India, the Sultanate of Oman, the Islamic Republic of Pakistan, and the Republic of Turkey.

¹ Public Attachment 1: Statement of Evidence of Richard A. Lane, para 2.

6. PET is a clear, strong and lightweight plastic belonging to the polyester family. PET is typically called polyester when used for fibers or fabrics and “PET” or “PET resin” when used for bottles, jars, containers and packaging applications. PET resin meeting the product definition in this complaint is typically used in the production of plastic beverage bottles, in packaging for food and manufactured products, in containers for household and automotive products, and in industrial strapping. The most common use for PET resin containers is to package carbonated soft drinks and bottled water.²
7. PET resin is primarily sold in bulk form as chips or pellets to downstream users/converters. Typically, PET resin is spherical or cylindrical in size. PET resin is a thermoplastic, which softens upon heating and can be made to flow under stress repeatedly. When cooled it regains its solid nature.³
8. Consumers identify containers produced with PET resin by the triangular recycle symbol with the #1 resin identification code and either PET or PETE written underneath:

Figure 1



² *Ibid* at para. 7.

³ *Ibid* at para. 8.

9. The product definition includes an intrinsic viscosity (“IV”) range. One of the most important characteristics of PET is referred to as IV. The IV of the material is measured in decilitres per gram (dl/g). IV is a measure of the polymer’s molecular chain length and molecular weight. IV reflects the material’s melting point, crystallinity and tensile strength. A higher IV means a tougher polymer.⁴
10. The IV is used as part of the specification to select the right grade of PET for a particular application. Packaging grade PET resin has a higher IV, generally greater than 0.70 deciliters per gram. Polyester used in fiber as fill and in textile industries has a lower IV, generally less than 0.70 deciliters per gram, and is clear rather than white.⁵
11. PET resin may contain some recycled material, although PET resin for packaging end uses (i.e. meeting the product definition parameters of 0.70 to 0.88 IV) is generally limited to a recycled content of 20%, and in any case, would not exceed a recycled content of 50%, which is a threshold included in our product definition.⁶
12. PET resin containing recycled content is sometimes referred to as RPET. There is no generally accepted threshold of recycled content to be considered RPET. It is important to note that some material that is referred to as RPET may actually be 100% recycled material, which does not meet our product definition. 100% recycled resin is often referred to as PCR (post-consumer resin). When I use the term PCR in this witness statement, I am referring to 100% recycled material.⁷
13. The PCR and PET resin production processes differ materially. The production of PCR involves mechanical operations, including waste/scrap separation, washing, grinding and

⁴ *Ibid* at para. 10.

⁵ *Ibid* at para. 11.

⁶ *Ibid* at para. 12.

⁷ *Ibid* at para. 13.

cutting functions. In contrast, the production of PET resin meeting the product definition in our complaint involves primarily chemical reaction processes. PCR, in contrast to the PET resin meeting our product definition, is produced without any chemical conversion. PCR is significantly more expensive to produce compared to PET resin. Producers of PCR do not have the necessary equipment to produce PET resin with virgin content⁸

14. While customers of PET resin may blend PCR and virgin PET resin in producing food and beverage packaging, they will generally not use more than 20% PCR content. Using a higher PCR content is impractical, as the resulting impurities affect production cost, quality (including color) and throughput of many commercial operations for packaging and bottle production. There are limited cases where 100% PCR is used for bottling applications, but this is more the exception than the norm. For example, PepsiCo Canada is producing a bottle for its 7UP product from 100% PCR. This is a very high cost and niche area of the market.⁹
15. Most PCR is used for polyester fiber applications, such as fiberfill or less quality-sensitive applications.¹⁰
16. PCR used in bottling and packaging for food and beverage use applications, as with all packaging materials used in the sale of food and beverage, must comply with Division 23 of the *Food and Drug Regulations*.¹¹ Health Canada's Health Protection Branch ("HPB") conducts evaluations on the chemical safety of PET resin and will issue a "no objection letter" to food packaging suppliers for specified food packaging end uses, including the use of recycled materials for food packaging. Selenis Canada's commercial PET resins,

⁸ *Ibid* at para. 14.

⁹ *Ibid* at para. 15.

¹⁰ *Ibid* at para.16.

¹¹ C.R.C., c. 870, Division 23 (Food Packaging Materials).

including PET resins containing recycled material, have received “no objection letters” from the HPB for food contact.¹²

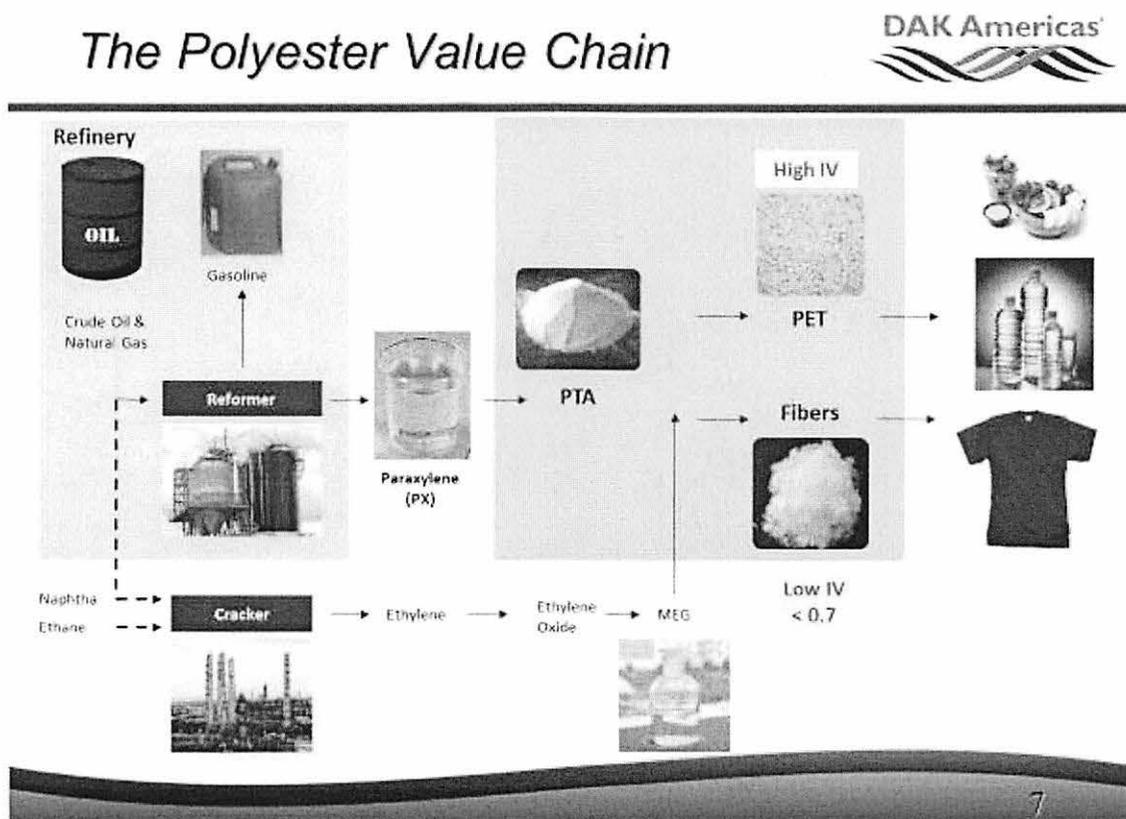
D. Production Process

17. The production of PET begins by mixing Monoethylene Glycol (“MEG”) and Purified Terephthalic Acid (“PTA”) at ambient temperatures to form a slurry. PTA is the preferred feedstock for production but dimethyl terephthalate (“DMT”) can be used in some facilities that use older production technologies. It is more economical to produce most grades of PET polymer from PTA than from DMT. For that reason, DMT is generally not used for production of commodity PET resin. Selenis Canada [] using DMT.¹³
18. The following graphic provides a high-level overview of the inputs and production process for PET resin and Polyester:

¹² Public Attachment 1: Statement of Evidence of Richard A. Lane, para 17.

¹³ *Ibid* at para. 18.

Figure 2 Polyester Value Chain¹⁴



19. There are varying qualities of terephthalic acid (“TPA”) but the preferred one is PTA, which is the one marketed to PET resin producers. PET resin lines can use qualities of TPA other than PTA, but if non-purified forms of TPA are used in PET resin manufacturing then the producers must do additional in line chemical processing to accommodate the lower quality raw material.¹⁵

¹⁴ *Ibid* at para. 19.

¹⁵ *Ibid* at para. 20.

-
20. PTA, TPA and DMT are all produced using paraxylene, a petrochemical. MEG is produced from ethylene, which is also a petrochemical.¹⁶
 21. PET resin is roughly 65% PTA or TPA, 25% MEG and 10% co-monomers, basic additives and functional additives.¹⁷
 22. Typical co-monomers are Diethylene Glycol (“DEG”), which is a by-product of the MEG monomer during polymerization; Purified Isophthalic Acid (“PIA” or “IPA”); and CycloHexaneDiMethanol (“CHDM”).¹⁸
 23. Basic additives include catalysts for chemical reaction (Sb, Co, Ti, Ge). Organic toners and/or Cobalt are added to improve color. Thermal stabilizers (phosphoric/phosphorous acid) minimize yellowing during polymerization and re-melting into containers.¹⁹
 24. Functional additives include infrared (“IR”) absorbers (carbon black or graphite, sequestered antimony), molecular chain extenders and slip and anti blocking agents for friction reduction on preform and bottle surfaces.²⁰
 25. The slurry is heated through an esterification process to 290° centigrade and reacts to form a monomer. Additives and catalysts are added to the monomer to provide reheat and color characteristics for the final product. The monomer is then heated under vacuum in a polymerization process, and certain gases are exhausted. The resulting polymer is quenched in water and cut into chips, known as amorphous PET (“AMPET”). AMPET has a short polymer chain length and a low IV, generally 0.50 to 0.65. The AMPET also

¹⁶ *Ibid* at para. 21.

¹⁷ *Ibid* at para. 22.

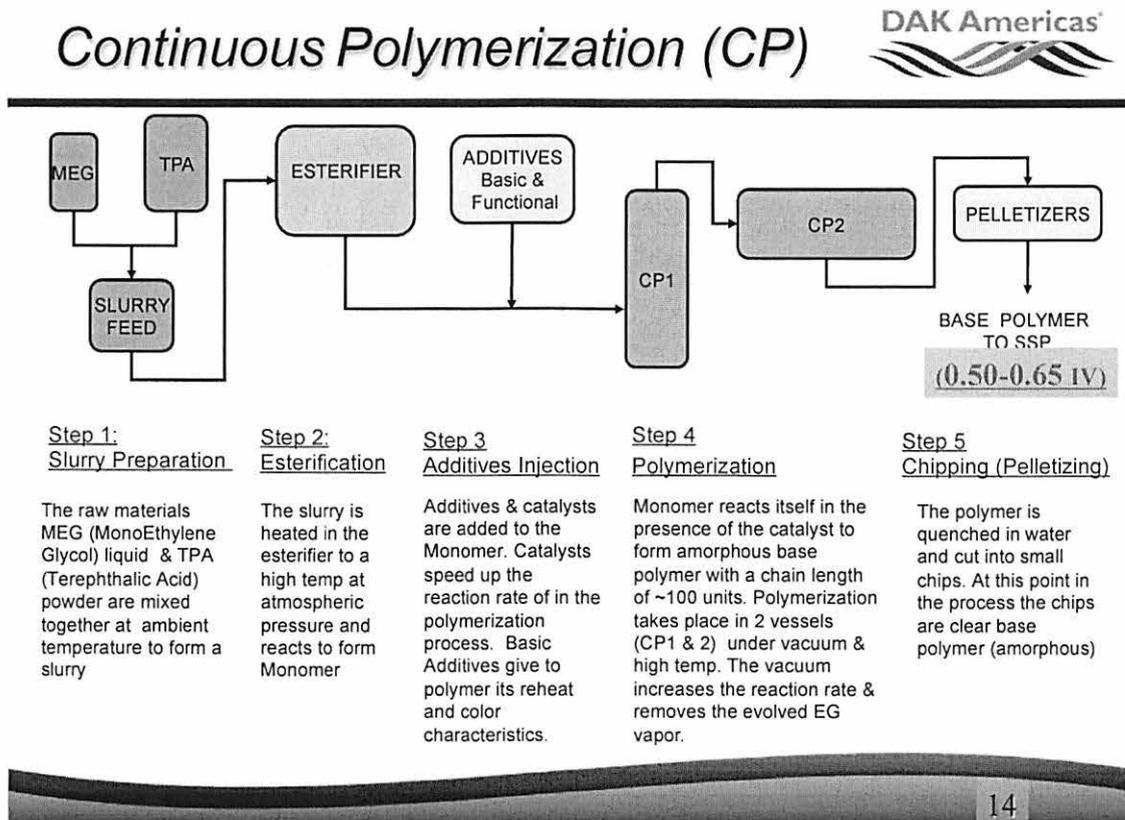
¹⁸ *Ibid* at para. 23.

¹⁹ *Ibid* at para. 24.

²⁰ *Ibid* at para. 25.

contains a high Acetaldehyde level. The process up to this point is shown in the flow chart below:

Figure 3: CP Flow Chart²¹

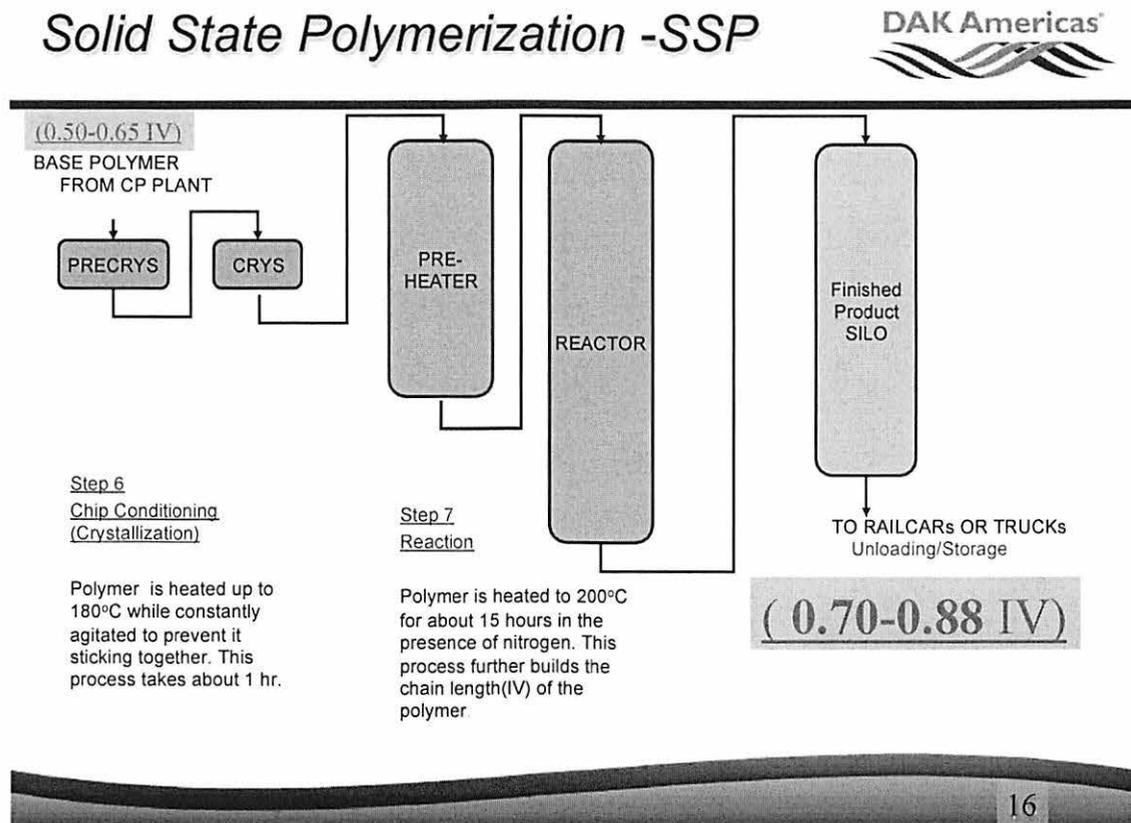


26. The AMPET chips are then subjected to a solid-state polymerization (“SSP”) treatment. To make PET resin, the AMPET chips are baked during the SSP treatment in large cylindrical reaction towers. In the towers, the AMPET chips flow through an oxygen-free, nitrogen-gas atmosphere at above 200°C temperatures for a period of 18-24 hours, known as the crystallization and annealing process. After the baking is completed, the PET resin pellets exit the bottom of the reaction tower and undergo air cooling in a closed circuit heat exchanger prior to storage for transport by rail or truck. The SSP treatment increases the

²¹ *Ibid* at para. 26.

intrinsic viscosity of the AMPET pellet to the level as defined by the scope of this complaint. This process also removes Acetaldehyde. The SSP process is shown in the flow chart below:

Figure 4: SSP Flow Chart²²



27. PET resin must be protected from moisture and contamination during transport. Both imported and exported products are typically shipped offshore in sealed, one metric ton poly bags (super sacks) within large metal shipping containers. Imported products may be removed from the containers and temporarily stored in order to have some local inventory and save on demurrage. Both imported and domestically-produced PET resin may be

²² *Ibid* at para. 27.

shipped bulk inland on truck beds or in specially lined railcars in lots of 50,000 or 200,000 pounds.²³

E. Product Use

28. PET resin is a large-volume, commodity-grade thermoplastic polyester polymer. The two primary building blocks of PET resin are MEG and PTA, which are combined to form a polymer chain.²⁴
29. PET resin is primarily sold in bulk form as chips or pellets to downstream end users/converters. Chips or pellets of PET resin are heated to a molten liquid, which is then extruded or molded into plastic bottles, containers and packaging. Articles manufactured with PET resin are transparent with high gloss; lightweight; have excellent impact strength; provide CO₂ and O₂ barrier improvement; and are thermally stable, which is why PET resin is preferred for packaging many foods and beverages. PET is also relatively inexpensive, re-sealable, shatter-resistant and recyclable. While PET resin is known for its clarity in end-use applications, PET resin pellets themselves are opaque with a whitish color. There are no differences in the basic physical and technical characteristics and uses between the PET resin produced in China, Pakistan, Oman, India and Turkey and that produced in Canada.

F. HS Tariff Classification

30. Until December 31, 2016, the merchandise subject to this investigation was properly classified under Harmonized System (“HS”) classification number 3907.60.00, with the majority of Subject Goods imported under 10-digit statistical codes 3907.60.00.10 and 3907.60.00.90. While the former most accurately describes the Subject Goods, the latter is often used. The Complainant believes that this is because the latter has a less restrictive

²³ *Ibid* at para 28.

²⁴ *Ibid* at para. 18.

end use definition. Some Subject Goods may have been imported under statistical code 3907.60.00.80 (“Other, of recycled materials”), as PET resin may contain some recycled material, even where it is considered “virgin” PET resin by the seller and the customer.²⁵

31. As of January 1, 2017, Subject Goods will be classified mostly under subheadings 3907.61.00 and 3907.69.00 and statistical codes 3907.61.00.00 or 3907.69.00.10 or 3907.69.00.90. For the same reason noted above, a small amount of Subject Goods will likely continue to be classified under 3907.69.00.80.
32. While these tariff codes will capture a small amount of non-Subject Goods, the Complainant believes that the vast majority of imports under these subheadings will be captured by the product definition above.
33. The HS classification numbers identified are for convenience of reference only. Refer to the product definition for authoritative details regarding the Subject Goods.

G. Foreign Producers and Exporters

34. Confidential Attachment 2 lists known producers and/or exporters of PET resin from the Subject Countries, along with the contact information for these producers and/or exporters where such information is reasonable available.²⁶
35. The Complainant has also compiled the following information on the production of PET resin in each Subject Country.

1. Oman

36. Octal Petrochemical LLC, is the world’s largest single-site PET resin producer, with a stated total system output of nearly 1 million MT of PET resin and DPET sheet (a

²⁵ *Ibid* at para. 12.

²⁶ Confidential Attachment 2: Excerpts from the PCI Wood Mackenzie PET Supply Demand Database, Q4 2016.

proprietary form of PET sheet production) per year.²⁷ Evidence available to the complainant indicates that Octal has 850,000 MT of virgin PET production capacity per year.²⁸

2. Pakistan

37. Novatex Limited (along with Gatron (Industries) Limited) was the only bottle grade PET resin manufacturer in Pakistan until the fourth quarter of 2016, operating under the brand name Gatronova. According to its website, Novatex produces PET resin for both domestic and export sales.²⁹

38. Pakistan Synthetics Limited (“PSL”) reportedly commenced commercial production of PET resin in Pakistan on October 1, 2016.³⁰

3. China

39. The Complainant has attached a list of Chinese producers of PET resin, along with the reported PET resin production capacity of each facility, at Confidential Attachment 2. The Petitioners in the recent US PET resin case against China, India, Oman and Canada identified the following additional Chinese producers.³¹

- Artree (Xiamen) Group Ltd.
- Asia Int’l Enterprise (Hong Kong), Ltd.
- BEI ER TE Industrial Co., Ltd.

²⁷ Public Attachment 3: Octal: Who we are, Octal Website, available online: <http://www.octal.com/About-Us/Who-We-Are>.

²⁸ Confidential Attachment 2: Excerpts from the PCI Wood Mackenzie PET Supply Demand Database, Q4 2016.

²⁹ Public Attachment 4: Gatronova Website, “Overview of PET Capabilities”

³⁰ Public Attachment 5: Pakistan Synthetics Limited, Letter to the General Manager of the Pakistan Stock Exchange Limited, October 3, 2016.

³¹ Public Attachment 6: Petition, DOC Investigation Nos. A-122-855, A-570-024, A-533-861, A-523-810, C-570-025, C-533-862; C-523-811, Volume 1: General and Injury Section, Exhibit GEN-3: Foreign Producers/Exporters of PET resin.

- Conet Industrial Corp., Ltd.
- GC Limited
- Giant Flex Taixing Co., Ltd.
- Guangdong Huaye Packing Materials Co.
- Jiangsu Huachen Plastic Woven Co., Ltd.
- Jiangsu Xingye Plastic Co., Ltd.
- Jiangyin Xingtai New Material Co., Ltd. (Subsidiary of JIANGSU SAN FANG XIANG GROUP)
- Jiangyin Xingyu New Material Co., Ltd. (C/O: Wan Kai Hong Kong International, Ltd.)
- Klockner Pentaplast (Suzhou) Specialty Materials Co., Ltd.
- LG International Corp.
- LPI 3D Printing Ltd.
- Qingdao Zhengdexiang Industry and Trade Co., Ltd.
- R&Y International Co., Ltd.
- Radiance Electronics Shanghai Co., Ltd.
- Sinochem Plastics Co., Ltd.
- Wan Kai Hong Kong International, Ltd.
- Worldwide Polychem (HK) Ltd.
- Xiamen Goodget Enterprise Co., Ltd.
- Xiamen Goodget Enterprise Co. Ltd.
- Xiamen Kaiyan Trading Co., Ltd.
- Xianglong Industry Co., Ltd.
- Zhejiang Henda Trading Company, Ltd.
- Zhejiang Wankai New Materials Co., Ltd.

4. India

40. The Complainant has attached a list of Indian producers of PET resin, along with the reported PET resin production capacity of each facility, at Confidential Attachment 2. In addition to those listed in Confidential Attachment 2, the Petitioners in the U.S. investigation identified the following PET resin producers in India:³²

- Damco India PVT Ltd.
- Ester Industries Ltd.
- Futra Polyesters, Ltd. (or Future Polyesters Ltd.)
- Garden Silk Mill Limited
- Nippon Express India PVT, Ltd.
- Polyplex Corporation Limited
- Shree Krishna Plastic Plastic Process PVT., Ltd.
- SRF Ltd.
- Uflex Limited
- Zydex Industries

41. As reported by the Asia Petrochemical Industry Conference, the Indian PET resin market is highly consolidated and dominated by three major players, Reliance Industries Limited, Dhunseri Petrochem Limited and JBF Industries Ltd. Reliance Industries is the largest player in the country's PET resin market and is expected to maintain its leadership position through 2016-17.³³

³² Public Attachment 6: Petition, DOC Investigation Nos. A-122-855, A-570-024, A-533-861, A-523-810, C-570-025, C-533-862; C-523-811, Volume 1: General and Injury Section, Exhibit GEN-3: Foreign Producers/Exporters of PET resin. Some of these facilities may be the same facilities listed in Confidential Attachment 2 under a different name. The Complainant has deleted facilities from this list from the US case where those facilities are clearly the same as those in Confidential Attachment 2.

³³ Public Attachment 7: Asia Petrochemical Industry Conference 2016, Indian Petrochemical Industry: Country Paper from India, available online: <http://cpmaindia.com/pdf/apic-country-2016/apic2016-india-report.pdf>, p. 28.

5. Turkey

42. The Complainant has attached a list of Turkish producers of PET resin, along with the reported PET resin production capacity of each facility, at Confidential Attachment 2.

H. Importers

43. Confidential Attachment 8 identifies enterprises that the Complainant believes are importing Subject Goods into Canada.³⁴ The Complainant is aware of the following entities that may be importing Subject Goods into Canada:

(a) [

(b)

(c)

(d)

(e)

(f)

(g)]

(h) Other independent agents³⁵

44. Further information that may identify additional importers is available from import documentation filed with CBSA by importers of Subject Goods.

³⁴ Confidential Attachment 8: Potential Importers of PET resin from the Subject Countries.

³⁵ Confidential Attachment [].

I. Marketing and Distribution

1. Selenis Canada

45. The Canadian industry sells PET resin to bottle producers and container manufacturers.
46. The domestic industry markets its PET resin to customers across Canada. Selenis Canada markets its PET resin through Davis PET resin Management Inc. (“**Davis PRM**”), which is an exclusive sales agent for Selenis Canada.³⁶ DavisPET resin USA, Inc. (a Maryland Corporation) acts under contract to Davis PET resin Management Inc. and has been doing so since its formation in June 2014. Adam Davis, President of DavisPET resin USA, Inc. has a certified statement of evidence, attached to this complaint and has provided commercial intelligence in support of the complaint.³⁷ In some cases, sales people from DAK Americas, Selenis Canada’s parent company, will also negotiate sales to Canadian customers on Selenis Canada’s behalf.³⁸
47. PET resin is primarily sold in Canada through brokers, who purchase both imported and domestically produced PET resin and re-sell this material to end users. These brokers buy on behalf of end-users and may or may not hold inventory for distribution.³⁹ The main PET resin brokers in Canada are as follows:
- (a) Novara International
 - (b) M. Holland
 - (c) Jean Peck (Arc Polymers Inc.)

³⁶ *Ibid.*, para 2.

³⁷ *Ibid.*

³⁸ *Ibid.*, para. 14.

³⁹ *Ibid.*, para 11.

- (d) Muehlstein (acquired by Ravago Holdings in 2006)
- (e) Burcham International (acquired by Ravago Holdings in 2012)
- (f) Ravago⁴⁰

2. Imported PET resin

48. Customers for imported PET resin are the same as for domestically-produced like goods. Subject and Like Goods are distributed through the same channels. The same conditions of competition apply to this fungible product whether produced in the Subject Countries or by the domestic Canadian industry, or from any other import source.

J. The Domestic Industry

49. There is currently one domestic producer of like goods, namely Selenis Canada.

50. In July 2016, DAK Americas acquired a controlling interest in Selenis Canada.⁴¹ DAK Americas, headquartered in Charlotte, North Carolina is a subsidiary of Alpek S.A. de C.V. of Mexico. DAK Americas is a large integrated producer of PET resins and polyester staple fibres.

K. The Complaint is supported by the Domestic Industry

51. Selenis Canada is the sole Canadian producer of like goods. Therefore, the Complainant satisfies the requirements for standing to file a complaint in accordance with subsection 31(2) of SIMA.

⁴⁰ *Ibid*, para. 11.

⁴¹ Public Attachment 1: Statement of Evidence of Richard A. Lane Jr., paras. 22-25.

L. Production of Like Goods in Canada

52. Selenis Canada believes that it accounted for all Canadian production of Like Goods in 2016. Selenis Canada produced a total of [] MT of Like Goods in 2016, with [] MT of this production sold in the domestic market.⁴² Selenis Canada is not aware of any other domestic producers of Like Goods.

53. The foregoing demonstrates that the Complainant has standing to bring this Complaint and that the Complaint is expressly supported by the domestic producer that represents 100% of total Canadian production of Like Goods.

M. Like Goods and Single Class of Goods

54. Subsection 2(1) of SIMA defines “like goods” in relation to any other goods as “... (a) goods that are identical in all respects to the other goods, or (b) in the absence of any [such] goods ..., goods the uses and other characteristics of which closely resemble those of the other goods.” In considering the issue of like goods, the Tribunal typically looks at a number of factors, including the physical characteristics of the goods (e.g., composition and appearance) and their market characteristics (e.g., substitutability, pricing, distribution channels, and end uses) and whether the domestic goods fulfill the same customer needs as the subject goods.

55. In addressing the issue of classes of goods, the Tribunal typically examines whether goods potentially comprising separate classes of goods constitute “like goods” in relation to each other, in which case they will be regarded as comprising a single class of goods. In other words, the Tribunal uses the same factors as those discussed above.

56. The Like and Subject Goods in this case are commodity products that compete with one another in the Canadian market place, and are fully interchangeable. The Complainant submits that the Subject Goods constitute a single class of goods.

⁴² Confidential Attachment 10: Complainant’s Financial data 2014-Q1 2017.

N. Period of investigation

57. The Complainant submits that the appropriate period of investigation for a dumping investigation is April 1, 2016 through March 31, 2017 (the “**Dumping POI**”) and for a subsidy investigation it is October 1, 2015 through March 31, 2017 (the “**Subsidy POI**”).
58. As demonstrated in the Canadian import table in Public Attachment 11 and the table below, the volume of imports from Pakistan, China, India and Oman each individually exceed the applicable 3% negligibility threshold based on publicly available statistics for imports under subheading 3907.60.⁴³

Table 1⁴⁴

Dumping POI	Volume (MT)	% imports
World	113,065	100%
United States	49,178	44.0%
Pakistan	24,737	21.9%
China	12,649	11.2%
Oman	11,362	10.0%
India	6,266	5.5%
Turkey	2,732	2.4%
All other countries	3,491	5.0%

59. Imports from Turkey under subheading 3907.60 account for 2.4% of total imports to Canada. However, the Complainant believes that once the CBSA removes non-Subject Goods from the total imports denominator, Turkish imports will represent at least 3% of all Subject Goods imports to Canada.
60. The Complainant understands that exports of non-Subject Goods have arrived in Canada under subheading 3907.60, particularly PCR and PET that has an IV below 0.70 deciliters per gram, such as fiber grade PET for use in textiles and biaxially oriented PET (BoPET)

⁴³ Public Attachment 11: Public Canadian Import Table, 2014-Q1 2017.

⁴⁴ *Ibid.*

film. The Complainant does not believe that these non-Subject forms of PET have been exported to Canada from the Subject Countries in general and Turkey in particular. Therefore, removing these non-Subject Goods would reduce the denominator in the threshold equation, increasing Turkey's share of total imports. The Complainant is unable to filter the import statistics to remove such non-Subject Goods, as even the 10-digit statistical HS codes are insufficiently detailed to do so. As such, the Complainant relies on the CBSA to filter the total imports under subheading 3907.60 to remove all non-Subject imports.

61. The Complainant requests that the CBSA assess whether Turkey meets the statutory threshold of 3% by referencing detailed import data that is not reasonably available to the Complainant.

II. Evidence of Dumping

A. Introduction

62. The Complainant has calculated normal values and dumping margins in accordance with sections 15, 19 and 20 (addressed separately below in relation to China) of SIMA.

63. Section 15 provides:

15. Subject to sections 19 and 20, where goods are sold to an importer in Canada, the normal value of the goods is the price of like goods when they are sold by the exporter of the first mentioned goods

(a) to purchasers

(i) with whom the exporter is not associated at the time of the sale of the like goods, and

(ii) who are at the same or substantially the same trade level as the importer,

(b) in the same or substantially the same quantities as the sale of goods to the importer,

(c) in the ordinary course of trade for use in the country of export under competitive conditions,

(d) during such period of sixty days that ends in the interval commencing with the first day of the year preceding the date of the sale of the goods to the importer and ending on the fifty-ninth day after such date as is selected by the President or, where, in the opinion of the President, the nature of the trade in those goods or the fact that they are sold to the importer for future delivery requires that sales of like goods by the exporter during a period other than a period of sixty days that ends in that interval be taken into account, during such period of sixty days or longer

(i) that precedes the date of the sale of the goods to the importer, or

(ii) where the goods are sold to the importer for future delivery, that precedes the date of the sale of the goods to the importer or within the year that precedes the date of the delivery of the goods to the importer

as the President specifies for those goods or for goods of the class to which those goods belong, and

(e) at the place from which the goods were shipped directly to Canada or, if the goods have not been shipped to Canada, at the place from which the goods would be shipped directly to Canada under normal conditions of trade,

adjusted in the prescribed manner and circumstances to reflect the differences in terms and conditions of sale, in taxation and other differences relating to price comparability between the goods sold to the importer and the like goods sold by the exporter.

64. Section 19 provides:

19. Subject to section 20, where the normal value of any goods cannot be determined under section 15 by reason that there was not, in the opinion of the President, such a number of sales of like goods that comply with all the terms and conditions referred to in that section or that are applicable by virtue of subsection 16(1) as to permit a proper comparison with the sale of the goods to the importer, the normal value of the goods shall be determined, at the option of the President in any case or class of cases, as

(a) such price of like goods when sold by the exporter to importers in any country other than Canada during the period referred to in paragraph 15(d) as, in the opinion of the President, fairly reflects the market value of the goods at the time of the sale of the goods to the importer in Canada, adjusted in the prescribed manner and circumstances to reflect the differences in terms and conditions of sale, in taxation and other differences relating to price comparability between the goods sold to the importer in Canada and the like goods

sold by the exporter to importers in the country other than Canada;
or

(b) the aggregate of

(i) the cost of production of the goods,

(ii) a reasonable amount for administrative, selling and all
other costs, and

(iii) a reasonable amount for profits.

65. Where foreign producer prices and costs have been provided in US dollars, the Complainant converted these values to Canadian dollars based on the Bank of Canada's published monthly or quarterly exchange rates. Quarterly exchange rates were calculated by averaging the daily noon rate for each day in the quarter.⁴⁵

B. Chinese Normal Values

1. Section 15

66. As explained below, the Complainant was unable to calculate normal values based on section 15 of SIMA, as information available to the Complainant indicates that Chinese home market sales were made at less than the average cost of those goods within the meaning of paragraph 16(2)(b) of SIMA.⁴⁶

67. To assess the feasibility of calculating margins of dumping under section 15, the Complainant used home market pricing data from PCI Wood Mackenzie's "PET Business Report" publication.⁴⁷

68. The Complainant examined home market sales in China based on an assumed lead time of one quarter (3 months) between when Subject Goods are ordered by a customer in Canada

⁴⁵ Public Attachment 12: Bank of Canada Daily Noon and Quarterly Average Exchange Rates, 2016.

⁴⁶ SIMA, ss. 16(2)(b).

⁴⁷ Confidential Attachment 13: Complainant's Margins of Dumping Calculations: China, tab 1.

and when they arrive in Canada. Therefore, to conduct a fair comparison to Subject Goods imports during the dumping POI, the Complainant examined home market pricing in China for calendar year 2016.

69. PCI Wood Mackenzie pricing for the Chinese market is published in Renminbi per MT.⁴⁸ The Complainant converted this pricing to Canadian dollars on a quarterly basis using the quarterly average of daily noon exchange rates published by the Bank of Canada.
70. The average home market price in China in calendar year 2016 was \$1,351/MT.⁴⁹

Section 16(2) Cost Test

71. In accordance with subsection 16(2)(b) of SIMA, the Complainant performed an assessment of whether sales made in the Chinese home market were made at less than the average cost of those goods. Constructed costs for Chinese sales were determined as follows.

(a) Direct Materials

72. The Complainant calculated an average per MT direct materials cost for Chinese production of PET resin by applying the Complainant's consumption rate of PTA and MEG in the production of Like Goods⁵⁰ to the Chinese costs for these materials. Chinese PTA and MEG costs were determined through import prices for these materials to China, as reported by UN Comtrade.⁵¹ Import prices were available for calendar year 2016. This is the best information available to the Complainant and reasonably approximates the cost of

⁴⁸ *Ibid.*

⁴⁹ Confidential Attachment 13: Complainant's Margins of Dumping Calculations: China, tab 1.

⁵⁰ Public Attachment 9: Statement of Evidence of Adam Davis, para. 6

⁵¹ Confidential Attachment 13: Complainant's Margins of Dumping Calculations: China, tab 5.

the actual PTA and MEG used by Chinese producers in producing goods for sale in calendar year 2016.

73. The average input cost reported for MEG was \$857.84/MT. The average input cost reported for PTA was \$798.33/MT.⁵²
74. Applying the Complainant's consumption rate to these raw materials costs, $(\text{PTA} \times 0.85) + (\text{MEG} \times 0.35)$ ⁵³ produces a total Chinese direct materials cost of \$978.82/MT.⁵⁴
75. The Complainant submits that this is a conservative direct materials calculation as it accounts only for PTA and MEG and not for other additives used in the production of PET resin.⁵⁵

(i) Direct Labour

76. To calculate direct labour costs, the Complainant used its own direct labour costs incurred in producing Like Goods,⁵⁶ adjusted to account for the difference in labour costs between the two countries. To perform this calculation, the Complainant compared Canada's and Hong Kong's 2014 labour costs for Plant and Machine Operators and Assemblers (ISCO-08), as reported by the International Labour Organization ("ILO").⁵⁷ Chinese labour rates were not available for comparison, so Hong Kong was chosen as an appropriate proxy, as it is a semi-autonomous region of China with deep economic connections to the mainland.⁵⁸

⁵² *Ibid.*

⁵³ Public Attachment 9: Statement of Evidence of Adam Davis, para. 6.

⁵⁴ Confidential Attachment 13: Complainant's Margins of Dumping Calculations: China, tab 5.

⁵⁵ Public Attachment 1: Statement of Evidence of Richard A. Lane Jr. at para. 22-25.

⁵⁶ Confidential Attachment 14: Complainant's PET resin Employment and Employment-related Costs, 2014-Q1 2017.

⁵⁷ Confidential Attachment 13: Complainant's Margins of Dumping Calculations: China, tab 8.

⁵⁸ Public Attachment 15: BBC News, Hong Kong Profile Overview, September 27, 2015.

2014 was the most recent year in which both Canada and Hong Kong reported labour rates in this category to the ILO.⁵⁹

77. On this basis, the Complainant applied a labour reduction rate of 96.2% to arrive at a Chinese direct labour cost of \$[]/MT.⁶⁰

(ii) Factory Overhead

78. The Complainant does not have access to the factory overhead costs of Chinese producers or a comparable manufacturing operation in China. Therefore, the best information available to the Complainant is its own factory overhead cost in 2016 of \$[]/MT.⁶¹

(iii) General, Sales and Administrative Expenses

79. To calculate GS&A expenses, the Complainant used the public financial statements of Hengyi Petrochemical Co. Ltd. (“**Hengyi**”) and Far Eastern New Century Corp. (“**FENC**”). Hengyi is a producer of PET resin in Yaqian Town in the Xiaoshan District of China. FENC operates a PET resin production facility in Yizheng City in the Jiangsu province of China, while also having extensive operations in Chinese Taipei.⁶² FENC’s financial results are not exclusive to China, as they also include results relating to facilities in Chinese Taipei. Financial results for other PET resin producers in China were not available.

⁵⁹Confidential Attachment 13: Complainant’s Margins of Dumping Calculations: China, tab 8.

⁶⁰ *Ibid*, tab 2.

⁶¹ Confidential Attachment 10: Complainant’s Financial data 2014-Q1 2017. The Complainant’s factory overhead expense includes an allocation based on domestic sales as a proportion of total sales of the following lines in the Complainant’s audited financial statements: [

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⁶² Confidential Attachment 2: Excerpts from the PCI Wood Mackenzie PET Supply Demand Database, Q4 2016.

80. PCI Wood Mackenzie's database shows 28 PET resin production facilities in China.⁶³ The Complainant submits that it is reasonable to use the average results of these two producers, despite that FENC's results are not exclusive to China, as this captures a larger and more representative sample size. FENC's facility is the fifth largest in China, with 550,000 MT of production capacity, while Hengyi has 280,000 MT of production capacity.⁶⁴
81. The most recently available financial statements for both Hengyi and FENC were for calendar year 2016. Hengyi's GS&A costs for this period accounted for 1.3% of its cost of sales in this period.⁶⁵ FENC's GS&A costs for this period accounted for 36.8% of its cost of sales in this period.⁶⁶ The average percentage between the two companies for the period is 19.1%.⁶⁷
82. The Complainant calculated an amount for GS&A by applying the average of Hengyi's and FENC's GS&A percentages to the section 19 constructed cost of production. On this basis, the Complainant used an amount of \$[]/MT for GS&A.⁶⁸

(iv) Financial Expense

83. For the same reason above, the Complainant used the financial statements of Hengyi and FENC to estimate financial expenses incurred by Chinese producers in selling PET resin on a percentage basis. Hengyi's financial expenses accounted for 1.3% of its cost of sales

⁶³ *Ibid.*

⁶⁴ Confidential Attachment 2: Excerpts from the PCI Wood Mackenzie PET Supply Demand Database, Q4 2016.

⁶⁵ Confidential Attachment 13: Complainant's Margins of Dumping Calculations: China, tabs 2, 6.

⁶⁶ *Ibid*, tabs 2, 7.

⁶⁷ *Ibid*, tabs 2, 6, 7.

⁶⁸ *Ibid*, tab 2.

in the period discussed above.⁶⁹ FENC's financial expenses accounted for 1.7% of its cost of sales in this period.⁷⁰

84. The Complainant calculated an amount for financial expense by applying the average of Hengyi's and FENC's financial expense percentages to the Chinese constructed cost of production. On this basis, the Complainant used an amount of \$[]/MT for financial expenses.⁷¹

(b) Section 15/16 Conclusion

85. The cost test performed in accordance with subsection 16(2) of SIMA demonstrates that China's home market PET resin sales were made at less than the cost of production of the goods and the administrative, selling and all other costs with respect to the goods.⁷²
86. Further, the subsidy analysis discussed below indicates that goods exported from China to Canada are benefiting from significant countervailable subsidies. This would suggest that selling prices in the country of export are lower than could be the case without the subsidies and may not be profitable. Estimates of normal values based on market pricing may therefore be unreliable.
87. Therefore, the Complainant calculated normal values for China under section 19 of SIMA. As noted below, the Complainant ultimately submits that the CBSA should calculate normal values for China under section 20(1)(a) of SIMA.

⁶⁹ *Ibid.*

⁷⁰ *Ibid.*

⁷¹ *Ibid.*

⁷² *Ibid.* These calculations show that Chinese producers incurred an estimated loss of \$[]/MT on home market sales in 2016.

2. Section 19

88. Section 19 normal values were calculated for China by accounting for the cost of production of the goods (i), a reasonable amount for administrative, selling and all other costs (ii) and a reasonable amount for profits (iii) in accordance with subsection 19(b).
89. The values referred to in paragraphs 19(b)(i) and 19(b)(ii) were calculated in the same manner as described above, for the purpose of the cost test under subsection 16(2).⁷³
90. To calculate a reasonable amount for profit, the Complainant considered the net profit margins reported by Hengyi and FENC for calendar year 2016 for the same reasons discussed above. Hengyi's net profit margin was 1.6% of its cost of sales.⁷⁴ FENC's profit margin was 9.5% of its cost of sales.⁷⁵ The average net profit margin of these two companies was 5.5% for calendar year 2016.⁷⁶
91. The Complainant applied this profitability rate of 5.5% to the Chinese constructed cost of production, resulting a reasonable amount for profit of \$[]/MT.⁷⁷
92. On the basis of the above, the section 19 normal value calculated for China is \$[]/MT.⁷⁸
93. In any event, as discussed further below, the Complainant submits that Chinese normal values should be calculated under section 20(1)(a) of SIMA.

⁷³ *Ibid*, tab 2.

⁷⁴ *Ibid*, tab 6.

⁷⁵ *Ibid*, tab 7.

⁷⁶ *Ibid*, tabs 3, 6, 7.

⁷⁷ *Ibid*, tab 3.

⁷⁸ *Ibid*.

3. Section 20

94. The Complainant submits that the President of the CBSA should determine normal values for exports of Chinese PET resin under section 20 of SIMA.
95. Section 20 reads:

20 (1) Where goods sold to an importer in Canada are shipped directly to Canada

(a) from a prescribed country where, in the opinion of the President, domestic prices are substantially determined by the government of that country and there is sufficient reason to believe that they are not substantially the same as they would be if they were determined in a competitive market, or

(b) from any other country where, in the opinion of the President,

(i) the government of that country has a monopoly or substantial monopoly of its export trade, and

(ii) domestic prices are substantially determined by the government of that country and there is sufficient reason to believe that they are not substantially the same as they would be if they were determined in a competitive market,

the normal value of the goods is

(c) where like goods are sold by producers in any country other than Canada designated by the President for use in that country,

(i) the price of the like goods at the time of the sale of the goods to the importer in Canada, adjusted in the prescribed manner and circumstances to reflect the differences in terms and conditions of sale, in taxation and other differences relating to price comparability between the goods sold to the importer in Canada and the like goods sold by producers in the country other than Canada designated by the President for use in that country, or

(ii) the aggregate of

(A) the cost of production of the like goods,

(B) a reasonable amount for administrative, selling and all other costs, and

(C) a reasonable amount for profits,

whichever of the price or aggregate the President designates for any case or class of cases; or

(d) where, in the opinion of the President, sufficient information has not been furnished or is not available to enable the normal value of the goods to be determined as provided in paragraph (c), the price of like goods

(i) produced in any country designated by the President, other than Canada or the country from which the goods were shipped directly to Canada, and

(ii) imported into Canada and sold by the importer thereof in the condition in which they were imported to a person with whom, at the time of the sale, the importer was not associated,

such price to be adjusted in the prescribed manner and circumstances to reflect the differences in terms and conditions of sale, in taxation and other differences relating to price comparability between the goods sold to the importer and the imported like goods in relation to their sale by the importer thereof.

96. Pursuant to subsection 17.1(1) of the *Special Import Measures Regulations*, China is a prescribed country for the purposes of section 20 of SIMA.
97. There is sufficient evidence to form an opinion pursuant to section 20 of SIMA that the GOC substantially determines China's domestic price in the polyester sector and that there is sufficient reason to believe the domestic prices for PET resin are not substantially the same as they would be in a competitive market. Evidence and analysis regarding the existence of Section 20 conditions within the Chinese polyester sector are discussed below.

Section 20 and China's Polyester Sector

98. The Complainant submits that section 20 conditions exist in the Chinese polyester sector. The prices in China's polyester sector are substantially controlled by the Government of China and are different than what they would be in a competitive market. The evidence below is relevant and reasonably reliable, and is capable of reasonably supporting a positive determination as to the applicability of section 20. Therefore, the Complainant submits that the CBSA should determine normal values for China under section 20(1)(a).

(a) Evidence and information required to initiate a section 20 inquiry

99. The CBSA relies upon a two-step test when determining whether to proceed with an inquiry under section 20 of SIMA:

4.4.4.4. Sufficiency of Evidence for Purposes of Initiating a Section 20 Inquiry

When evaluating information which suggests that subsection 20(1) conditions may exist in a particular sector, staff is to rely on the following test to determine whether to initiate an inquiry:

Is the evidence presented, either by the complainant or the CBSA, in support of an allegation regarding the applicability of section 20 relevant and reasonably reliable?

If so, would this evidence, if properly verified, be capable of reasonably supporting a positive determination as to the applicability of section 20?

The first part of the test addresses the admissibility of the evidence presented. Unless the evidence can be considered relevant and reasonably reliable, it is to be disregarded when addressing the second part of the test. Evidence is considered to be relevant where it has some tendency, as a matter of logic and personal experience, to make the proposition for which it is advanced more likely than that proposition would appear to be in the absence of that evidence. In other words, evidence is considered to be relevant if it tends to prove the subject at issue. As for the reliability criteria, it serves to eliminate information that may have been obtained through fraudulent, inaccurate, biased or uninformed sources.

The second part of the test addresses the strength or weight of the evidence by simply asking whether this evidence is reasonably capable of supporting the inferences necessary for making a positive determination. This helps to avoid situations where the President may not be in possession of sufficient information to form an opinion regarding the applicability of section 20.

(Emphasis added)

102. As noted in the *SIMA Handbook*, the test at this stage is not whether the evidence unequivocally demonstrates that the section 20 conditions exist, but rather whether the evidence is reasonably capable of supporting the inferences necessary for making a positive determination.
103. There is nothing in the Act itself which defines or describes a “section 20 inquiry”. Rather, section 20 provides a methodology available to the CBSA where the CBSA forms the opinion that certain circumstances are met. In this regard, and on the issue of the evidence necessary to initiate a section 20 inquiry, it is instructive to consider the information necessary for the CBSA to initiate an anti-dumping investigation. Subsection 31(1) of SIMA provides that the President shall initiate an anti-dumping investigation if the

When evaluating information which suggests that section 20 conditions may exist in a particular sector in new investigations and in re-investigations, the CBSA will rely on a two-part threshold test to determine whether to proceed with a section 20 inquiry. The first part of the test requires that the evidence presented in support of an allegation be relevant and reasonably reliable. The second part asks whether this evidence, if later found to be accurate, would be capable of reasonably supporting a positive determination as to the applicability of section 20.⁷⁹

100. The evidence on the record prior to the initiation of the investigation is not required to conclusively *demonstrate* that the section 20 conditions exist, but rather the evidence need only suggest that the section 20 conditions *may* exist, subject to CBSA's two-part analysis described above. Indeed, the very purpose for the section 20 inquiry is to determine — after the fact-finding investigation — whether the section 20 conditions, in fact, exist.
101. The CBSA's *SIMA Handbook* also underscores that the threshold for an initiation does not require dispositive proof that non-market economy conditions exist. Rather, a complainant is expected to provide reasonably reliable facts to support its allegation and CBSA staff may initiate a section 20 inquiry if the facts and evidence before them are capable of reasonably supporting the initiation:

4.4.4.1 General

References to a "Section 20 inquiry"

...A section 20 inquiry is characterized by official notification to the government of the country of export, exporters and domestic producers that the President has reason to believe that the conditions of section 20 **might** exist in the sector under investigation. ...

4.4.4.3 General Policy and Procedures

Initiation of New Anti-dumping Investigations

If a written dumping complaint is received in which the complainant has based the estimation of normal values on surrogate values because it is alleged that the goods are exported to Canada from a country in which the conditions of subsection 20(1) apply, **the complainant is expected to outline the facts on which this allegation is made and provide such information that is available to support these facts.**

⁷⁹ *Unitized Wall Modules (II)*, Notice of Initiation, Statement of Reasons (March 19, 2013) at para 68.

President “is of the opinion that there is evidence (a) that the goods have been dumped...” and (b) that “discloses a reasonable indication” that the dumping has caused injury or is threatening to cause injury. In other words, the legal test to initiate an anti-dumping investigation is whether the President is of the opinion that there is evidence that the goods have been dumped and whether the evidence discloses a reasonable indication that the dumping has caused injury. The President need not be satisfied that there has been dumping, but only that there is evidence that the goods have been dumped. The purpose of the investigation itself is to determine whether there has, in fact, been dumping. The Complainant submits that a similar approach is appropriate in order to determine whether to commence a section 20 inquiry.

104. The SIMA requirement that a complainant provide facts and evidence to support a request for the application of section 20 against a prescribed country, rather than conclusive or dispositive proof, reflects the potential challenges associated with obtaining conclusive evidence, much of which may not be publicly available. This challenge is also recognized in China’s *Protocol of Accession to the WTO*, which is incorporated into Canadian law pursuant to section 20 of SIMA and section 17.1 of SIMR. Article 15(a)(i) of the Protocol permits the use of non-market economy dumping methodologies in cases involving China unless the Chinese exporters under investigation “...can clearly show that market economy conditions prevail in the industry producing the like product...”. The Protocol therefore establishes a reverse burden whereby a methodology like that found at section 20 may be used unless Chinese industry under investigation can establish they operate as a market economy. The threshold for initiating a section 20 inquiry should be interpreted and applied within this context.

(b) The Section 20 conditions

105. As noted above, the conditions for the application of the section 20 methodology are that:
- ...domestic prices are *substantially* determined by the government of that country and there is sufficient reason to believe that they are not

substantially the same as they would be if they were determined in a competitive market...⁸⁰ (Emphasis added)

106. The Federal Court of Appeal provided guidance on the scope of subsection 20(1), stating:

[9] In our view, the use of *the expression "substantially determined"* necessarily implies something less than completely determined and as such, Parliament did not intend the provision to be restricted to situations where a foreign government directly sets the prices. Indeed, the phrase captures the various ways in which governments can exert a determinative influence on pricing, whether directly or indirectly.⁸¹ (Emphasis added)

107. Indeed, in every investigation in which the President has found that the conditions of section 20 apply, it has been the totality of government influence which has resulted in those findings, as opposed to a direct form of price-setting.

(c) Relevant section 20 CBSA decisions

108. The CBSA has previously found that various sectors of China's economy are controlled by the GOC, and that prices of goods in these sectors are lower than in other markets. In particular, the CBSA found that section 20 conditions exist in the following cases:

- *Aluminium Extrusions*
- *Large Diameter Carbon and Alloy Steel Line Pipe*
- *Carbon and Alloy Steel Line Pipe*
- *Photovoltaic Modules and Laminates*
- *Carbon Steel Welded Pipe*
- *Concrete Reinforcing Bar*
- *Copper Tube*
- *Hot-Rolled Sheet and Strip*
- *Oil Country Tubular Goods*

⁸⁰ SIMA, s. 20.

⁸¹ Public Attachment 16: *Tianjin Pipe (Group) Corporation v. Tenaris Algoma Tubes Inc.*, 2009 FCA 164, May 20, 2009.

- *Piling Pipe*
- *Pup Joints*
- *Seamless Casings*
- *Silicon Metal*
- *Steel Plate*

109. These findings speak to Chinese government control over its economy generally. In addition, GOC control of the pricing of inputs can affect downstream products.
110. The final determination with respect to the dumping and subsidizing of *Certain Aluminum Extrusions* is particularly relevant to this matter, as it demonstrates how government can control prices of goods by maintaining artificially low input prices.⁸² In the Summary of Findings on section 20, the CBSA wrote:

Based on the evidence on the record, it is clear that the GOC exerts a substantial degree of influence over the aluminum industry in China through its industrial policy measures. As noted under the government policy section, newer GOC aluminum industry documents also include policy measures specifically applicable to the aluminum extrusion industry. These policies impose minimum capacity size for new facilities, and minimum energy and production efficiency levels. The GOC has also been shown to provide preferential treatment and subsidies to aluminum producers and to aluminum extruders in China which would increase the ability of Chinese producers to supply the products to the Chinese market. The GOC also has measures in place that restrict the exports of aluminum and aluminum extrusions, also affecting the supply situation in the domestic market.

While the GOC does not directly set or control the prices of aluminum extrusions in China, the information currently available to the CBSA indicates that prices of aluminum extrusions in China are being substantially determined by GOC industrial policies and export restrictions. The cost of aluminum in China appears to be well below the world price of aluminum during the dumping POI. Since aluminum comprises a large percentage of the cost of aluminum extrusions and directly impacts the price of aluminum extrusions due to the 'aluminum cost plus' selling practices of the industry, the low cost of aluminum in China clearly impacts the prices of aluminum extrusions in China.

⁸² *Certain Aluminum Extrusions*, NQ-2008-003, CBSA Statement of Reasons (March 3, 2009).

The CBSA has assessed the cumulative effect that the GOC industrial policy measures; regulations controlling technology and production levels; GOC preferential treatment and subsidies; and the control of import and export levels through tax changes have had on both aluminum and aluminum extrusions. The CBSA is satisfied that there is sufficient evidence on the record demonstrating that the domestic prices of aluminum extrusions in China are being substantially determined by the GOC and that there is sufficient reason to believe that these prices are substantially different than if they were determined in a competitive market.

Based on the preceding considerations, the President of the CBSA has formed the opinion, for purposes of the final determination that Section 20 conditions exist in the aluminum extrusions sector in China.⁸³ (Emphasis added)

111. The significance of the finding in *Certain Aluminum Extrusions* was that the GOC may be found to substantially determine prices on the basis of its influence on the price of an important input into production of a good, even if production of that good is not directly controlled by government. Thus, in the case of the Chinese polyester sector in general and PET resin in particular, section 20 conditions may be found to exist if the GOC influences the price of MEG or PTA, the primary inputs for PET resin.

(d) Factors to be considered under Section 20

112. The CBSA has previously recognized various factors that may support a finding that the section 20 conditions exist with respect to a particular Chinese industry. In *Certain Seamless Casing*, the CBSA stated that a Chinese government may be substantially determining prices where only one of these factors is present.⁸⁴ Previously recognized factors include:

- a) Direct government involvement in price setting:
 - i) Whether the GOC sets floor/ceiling prices;

⁸³ *Certain Aluminum Extrusions*, NQ-2008-003, CBSA Statement of Reasons (March 3, 2009), p. 100.

⁸⁴ *Certain Seamless Carbon or Alloy Steel Oil and Gas Well Casing Originating in or Exported from the People's Republic of China* (AD/1371, CV/122), Preliminary Determination Statement of Reasons (Nov. 23, 2007) at para. 49.

- ii) Whether the GOC sets absolute pricing levels;
 - iii) Whether the GOC sets recommended price and expects it to be followed;
 - iv) Whether regulatory bodies set and enforce prices;
- b) Indirect government involvement in price setting:
- i) Import/export controls (quotas, licences, etc.);
 - ii) Subsidies and low priced inputs
 - iii) Government purchases of subject goods in sufficient quantities;
 - iv) Preferential treatment of an industry;
 - v) Industry designation as a “pillar” or “strategic” industry;
- c) Government ownership and/or control of enterprises involved in the production of the goods;
- i) Presence and influence of State-owned Enterprises (“SOEs”);
 - ii) Output controls;
- d) Government influence and/or control over production, sourcing and other operational decisions:
- i) Government control of production output or the number of producers;
 - ii) Market volatility that is inconsistent with competitive markets;
 - iii) Existing section 20 findings with respect to inputs;
 - iv) Inputs being sold at prices above that for subject goods;
- e) Government policies or directives applicable to the industry under investigation:
-

- i) Industrial policies with the following objectives, tasks or measures:
- (1) structural adjustment of the industry;
 - (2) consolidation or reorganization of producers, including horizontal and vertical unification;
 - (3) regulation of technological upgrades;
 - (4) reduction of environmental impacts and energy consumption;
 - (5) government supervision of industry;
 - (6) stabilization of the market, both domestic and export;
 - (7) improvement of exports;
 - (8) output control (minimum and maximum);
 - (9) capacity control;
 - (10) product mix (high end);
 - (11) the relocation of producers;
 - (12) the stabilization of imports used as inputs;
 - (13) industry associations tasked with providing support to GOC policy proposals;
 - (14) proposals;
 - (15) development of resources;
 - (16) support, creation or promotion of SOEs;
 - (17) setting specific profit levels;

- (18) improvement of the overall industry management system;
 - (19) standardization in the industry;
 - (20) improvement of industry information flow, capital flow and material flow;
 - (21) improvement of industrial planning by regional authorities of industries;
 - (22) restriction of investment in certain types of production methods;
 - (23) regulation of minimum capital investment in new projects; and
 - (24) access to raw materials;
- ii) statements by Chinese producers supporting the existence or influence of GOC industrial policies;
 - iii) media reports supporting the existence or influence of GOC industrial policies;
 - iv) evidence of industry consolidation that is consistent with GOC policies;
 - v) The existence of measures to enforce GOC policy objectives and measures
- f) Use of the tax system to influence pricing:
- i) Taxation that regulates profits;
 - ii) Value Added Tax policies that manipulate exports and imports.⁸⁵

⁸⁵ *Aluminum Extrusions*, Preliminary Determination – Statement of Reasons (December 2, 2008) at para 69, 73, 76-81; *Carbon Steel Welded Pipe*, Initiation – Statement of Reasons (February 7, 2008) at paras 48-49; *Carbon Steel Welded Pipe*, Preliminary Determination – Statement of Reasons (May 7, 2008) at para 62, 64-67; *Carbon Steel*

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113. As discussed below, many of these factors are present with respect to the Chinese Polyester sector and support the determination that section 20 conditions exist.

(e) GOC substantially determines prices of PET resin sold in China

114. The Complainant submits that publicly available evidence at this time supports that polyester prices in China are substantially determined by the GOC. The Complainant requests that the CBSA initiate a section 20 inquiry and use its powers of investigation to confirm the GOC's control over domestic polyester prices.

(i) Government Policies and Directives: 12th and 13th Five-year plans

115. In previous preliminary and final determinations, the CBSA determined that section 20 conditions exist, in part, because GOC industrial policies regulate the domestic industry, including domestic prices.⁸⁶ One manner in which these industrial policies regulate, guide and control an industry is through 5-year plans that regulate, *inter alia*, production capacity and technology requirements.⁸⁷ Such influence over production is likely to also result in influence and control over domestic prices and also supports the initiation of a section 20 investigation.

Welded Pipe, Final Determination – Statement of Reasons (August 5, 2008) at 36-39, 43, 45-57 and at para 54; *Seamless Casings*, Initiation – Statement of Reasons (August 28, 2007) at para 52-53; *Certain Seamless Casing* (Preliminary), at 62, 75 and at para. 52, 59-61, 71-74; *Aluminum Extrusions*, Final Determination – Statement of Reasons (March 3, 2009) at 75-100; *Piling Pipe*, Initiation – Statement of Reasons (May 18, 2012) at 9; *Certain Pup Joints*, Initiation – Statement of Reasons (September 27, 2011) at 11; *Certain Pup Joints*, Preliminary Determination – Statement of Reasons (December 28, 2011) at para 59-77, 60, 64, 78, 89-90; *Certain Pup Joints*, Final Determination – Statement of Reasons (March 28, 2012) at para 52, 67, 68, 71, 72, 76; *Oil Country Tubular Goods*, Initiation – Statement of Reasons (September 8, 2009) at paras. 69-70; *OCTG*, Preliminary Determination (December 9, 2009) at para 100-102, 108-112; *OCTG*, Final Determination – Statement of Reasons (March 9, 2010) at 54, 56-63, 66.

⁸⁶ *Certain Pup Joints*, Final Determination – Statement of Reasons (March 28, 2012) at para 82 -83; *OCTG*, Preliminary Determination (December 9, 2009) at para 100-104.

⁸⁷ *OCTG*, Preliminary Determination (December 9, 2009) at para 101; *Certain Pup Joints*, Final Determination – Statement of Reasons (March 28, 2012) at para 66, 68, 72

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116. In *Rebar*, the CBSA noted “[f]urther support that the domestic prices are substantially determined by the GOC and are not substantially the same as they would be in a competitive market in the steel industry in China can be found in the GOC’s new macro-economic policy entitled, 12th Five-Year Plan: Iron and Steel”.⁸⁸ In analyzing the policy the CBSA noted that it includes, *inter alia*, minimum production requirements; a target share for China’s 10 largest steel producers; control over capacity expansion; direction on accelerating production of high value steel products; and directions for industry consolidation.⁸⁹ In particular, the CBSA found that the plan’s objectives “are likely to conflict with the commercial interests of producers” and “will likely affect production volumes, competition and ultimately prices”.⁹⁰
117. With respect to petrochemicals, which includes the inputs for producing polyester in general and PET resin specifically, the GOC is seeking in its 13th five year plan to maintain annual growth in its petrochemicals industry, with value added at 8% and a 4.9% profit margin by 2020.⁹¹ The Plan also calls for increasing financial support to key enterprises and key projects and using government funds to continue supporting industrial upgrades and technological renovation projects. To this end, the prioritized areas in the 13th five year plan include promoting the construction of major projects.⁹²

(ii) Other Government Policies and Directives: Petrochemical Industry

118. The Chinese Government has a history of supporting its petrochemicals and ethylene industries. In the 11th Five-Year Plan, the GOC called for the support of the petrochemical

⁸⁸ *Rebar*, Statement of Reasons Final Determination, (December 23, 2014) at para 107.

⁸⁹ *Rebar*, Statement of Reasons Final Determination, (December 23, 2014) at paras 108-111.

⁹⁰ *Rebar*, Statement of Reasons Final Determination, (December 23, 2014) at para 111.

⁹¹ See Public Attachment 4 to Appendix 1: China Subsidy King and Spalding, China Subsidy Exchange “China issues 13th Five year Plan for the Petrochemical and Chemical Industry”, October 25, 2016.

⁹² *Ibid.*

industry and specifically the ethylene industry.⁹³ The GOC also lists the petrochemical industry as an “encouraged category” in its *Guidance Catalogue on Industrial Structural Adjustment (2011) (revised 2013)*.⁹⁴

119. Ethylene was similarly included as “encouraged” in the Order of the State Development Planning Commission and the State Economic and Trade Commission on Distributing the List of industries, Products and Technologies Currently Encouraged by the State for Development (Revised in 2000).⁹⁵ Finally, petrochemicals and ethylene are listed in Article 6 of the Decision of the State Council on Promulgating and Implementing the “Temporary Provisions on Promoting Industrial Structure Adjustment” (No. 40 [2005] of the State Council) ⁹⁶ This policy states “we shall support the development of...ethylene” and “We shall urge the industries of oil refining, ethylene...to develop towards bases and large scale”.⁹⁷

(iii) Industry designation as a “strategic” industry

120. In *Carbon Steel Welded Pipe*, the CBSA found that the GOC had made steel a “pillar industry”. The CBSA also the even more stringent requirements applicable to “strategic” industries. The President noted:

There are differences between a socialist market economy and a market economy. The main difference being the government involvement in various industrial sectors deemed to be important to the GOC. For example, the GOC has identified two industry groups where the GOC must maintain a degree of control. The two groups are “strategic industries” and “pillar

⁹³ Public Attachment 2 to Appendix 1: China Subsidy: US DOC, *Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Certain Polyethylene Terephthalate from the People's Republic of China* (March 4, 2016), p. 30.

⁹⁴ *Ibid.*

⁹⁵ *Ibid.*

⁹⁶ Public Attachment 6 to Appendix 1: China Subsidy AsianLII Laws of the Peoples Republic of China “Temporary Provision on Promoting Industrial Structure Adjustment” article 6.

⁹⁷ *Ibid.*

industries". As reported by the United States International Trade Commission (USITC) in December 2007, the State-owned Assets Supervision and Administration Commission (SASAC) noted that for "strategic industries" the GOC must maintain "absolute control", which is a minimum of 50% GOC equity stake in every company in the industry group. For "pillar industries", the GOC should maintain relatively strong control over the principal companies, which is a minimum of 50% GOC equity in the principal enterprises in the industry group. Based on this information, it is the view of the CBSA that the GOC considers the iron and steel industry to be a "pillar industry" and subject to these conditions.⁹⁸ (Citations omitted)

121. The "Oil and Petrochemicals" industry is included in the list of "Strategic Industries (2006)". There is no evidence that petrochemicals have lost their status as a "strategic" industry or that the GOC has relinquished its control over the industry. Indeed, as of February 2017, the U.S.-China Economic and Security Review Commission ("USCC") reported that Petrochemicals remain on this list.⁹⁹ This indicates that petrochemicals are subject to even more stringent GOC control than the steel industry, within which section 20 conditions have been found to exist in numerous CBSA determinations.

(iv) Government Control over Key Inputs

122. It appears that a number of producers of MEG and Paraxylene in China are SOEs, and are therefore vested with government authority. Paraxylene is used to produce PTA. MEG and PTA constitute the major inputs in the production of PET resin.
123. As of 2014, CNCIC, a consultancy, issued a report noting that ethylene glycol ("EG") production in China remained dominated by state-owned, large-scale petrochemical enterprises.¹⁰⁰ Indeed, this report shows that Sinopec owned ten EG producers accounting for 51% of China's total EG capacity. Five PetroChina subsidiaries accounted for another

⁹⁸ *Carbon Steel Welded Pipe (China)*, Statement of Reasons (August 5, 2008) at pp 36-37.

⁹⁹ Public Attachment 17: Katherine Koleski, Staff Research Report: The 13th Five-Year Plan, *U.S.-China Economic and Security Review Commission*, February 14, 2017, p. 10 (Table 3).

¹⁰⁰ Public Attachment 18: CNCIC, Production Pattern of EG in China has Changed Significantly, available online: http://en.chemconsulting.com.cn/cnt_140.html.

15% of capacity and a CNOOC subsidiary accounted for another 6%.¹⁰¹ All three of these are SOEs.

124. These three major SOEs therefore accounted for 72% of all EG production capacity in China in 2014. Further, the other companies listed by CNCIC can all be confirmed as SOE's based on publicly available information, save only one company (Ningbo Fund Energy Co. Ltd.):

- China North Chemical Industries Corp is a subsidiary of China North Industries Group Corp, one of China's 500 largest SOEs in terms of total assets and revenue.¹⁰²
- Tongliao Gem Chemical Co. Ltd. operates facilities producing EG from coal in joint venture with Henan Coal & Chemical Industry Group ("HCCIG"), a state-owned enterprise.¹⁰³
- Yongjin Chemical, which appears to operate Xinxiang Yongjin Chemical Co. Ltd., Anyang Yongjin Chemical Co. Ltd. and Puyang Chemical Co. Ltd, is also a joint venture between Tongliao Gem Chemical Co. Ltd. and HCCIG.¹⁰⁴
- Shandong Hualu Hengsheng Group Co. Ltd. is a subsidiary of Hualu Holdings Co. Ltd, itself a sole capital state-owned company.¹⁰⁵
- Xinjiang Tianye Group Co. Ltd., is a large state-owned entity.¹⁰⁶

¹⁰¹ Public Attachment 18: CNCIC, Production Pattern of EG in China has Changed Significantly, available online: http://en.chemconsulting.com.cn/cnt_140.html.

¹⁰² Public Attachment 19: Bloomberg Business, Company Overview of China North Chemical Industries Corp.; China North Industries Corp website, available online: <http://www.cccme.org.cn/shop/cccme0012/index.aspx>.

¹⁰³ Public Attachment 20: Excerpt from ChinaCoalChem, Monthly Report, Issue Nov. 2010 and Research Bank: Henan Coal & Chemical Industry Group Co. Ltd. Company Profile.

¹⁰⁴ Public Attachment 21: ICIS News, China's Yongjin Chemical to Start Third MEG Plant in end-Nov, 26 November 2016.

¹⁰⁵ Public Attachment 22: Hualu Holdings Co. Ltd., Profile, available online: <http://en.hualuholdings.com/>.

¹⁰⁶ Public Attachment 23: Xinjiang Tianye (Group) Co. Ltd., Company Profile.

125. Based on this data from CNCIC, at least 91% of MEG production capacity in China in 2014 was state-owned.
126. Paraxylene, which is used to produce PTA and therefore constitutes a key input in the production of PET resin, is also heavily controlled by the GOC. Sinopec, a Chinese SOE, is the top producer of Paraxylene in the country.¹⁰⁷ Other state-owned producers Petrochina and CNOOC also produce large volumes of Paraxylene. As of April 2014, Sinopec held 41% of production capacity in China (4.798 million MT), Petrochina held 20% (2.4 million MT) and CNOOC held 7% (840 thousand MT).¹⁰⁸ In other words, roughly 68% of Paraxylene production capacity in China was owned by the GOC.
127. Further, at that time, Dragon Aromatics was the largest non-SOE producer of Paraxylene in China, operating the largest single production facility in the country with 1.6 million MT or 14% of total capacity.¹⁰⁹ Sinopec is now reportedly in talks to take a controlling stake in Dragon Aromatics.¹¹⁰ This would bring GOC control of Paraxylene production capacity in China to roughly 82%.
128. The Dragon Aromatics facility in question is valued at US\$3 billion. Dragon aromatics also operates a condensate splitter with a capacity of 100,000 barrels per day and a 3.2 million tonnes per year hydrocracker at this location.¹¹¹

¹⁰⁷ Public Attachment 24: Chen Aizhu, "FACTBOX – China's PX Production Capacity in the Petrochemical Sector", *Reuters Oil Report*, April 21, 2014.

¹⁰⁸ Public Attachment 24: Chen Aizhu, "FACTBOX – China's PX Production Capacity in the Petrochemical Sector", *Reuters Oil Report*, April 21, 2014.

¹⁰⁹ *Ibid.*

¹¹⁰ Public Attachment 25: Chen Aizhu, "Exclusive: China's Sinopec in Talks to buy \$3 billion Chemical Plant shut over Safety – Sources", *Reuters*, October 20, 2015.

¹¹¹ Confidential Attachment 25: Chen Aizhu, "Exclusive: China's Sinopec in Talks to buy \$3 billion Chemical Plant shut over Safety – Sources", *Reuters*, October 20, 2015.

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129. Further, Dragon Aromatics is part of the Dragon Group, and was treated as such in the US investigation.¹¹² According to the commercial intelligence filed by the Complainant with this Complaint, the Dragon Group has actively exported PET resin to Canada.¹¹³
130. The level of government control over the SOE's allows the effectuation of GOC goals and policy. The GOC confirmed in the context of the US DOC's recent investigation that several of the producers of MEG and PTA are SOEs, in that they are majority owned by the Government.¹¹⁴ As stated by the DOC:

majority state-owned enterprises in the PRC possess, exercise, or are vested with governmental authority.¹⁹¹ The GOC exercises meaningful control over these entities and uses them to effectuate its goals of upholding the socialist market economy, allocating resources, and maintaining the predominant role of the state sector.¹¹⁵

131. While the Complainant does not have access to MEG, paraxylene or PTA prices in China, the pervasive state-ownership of the producers of MEG and paraxylene suggests that prices for these inputs are influenced by GOC policy as opposed to by competitive market forces. This evidence supports the initiation of a section 20 inquiry with respect to the polyester sector in China.

(f) Prices are not substantially the same as they would be in a competitive market

132. Evidence also demonstrates that, as a result of GOC influence on the polyester sector in China, there is sufficient reason to believe that domestic prices are not substantially the same as they would be if they were determined in a competitive market.

¹¹² Public Attachment 2 to Appendix 1: China Subsidy US DOC, *Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Certain Polyethylene Terephthalate from the People's Republic of China* (March 4, 2016)

¹¹³ See for example Confidential Attachment 9: Statement of Evidence of Adam Davis, Attachment 2 Support for [] Import Competition Report, Tab 2.

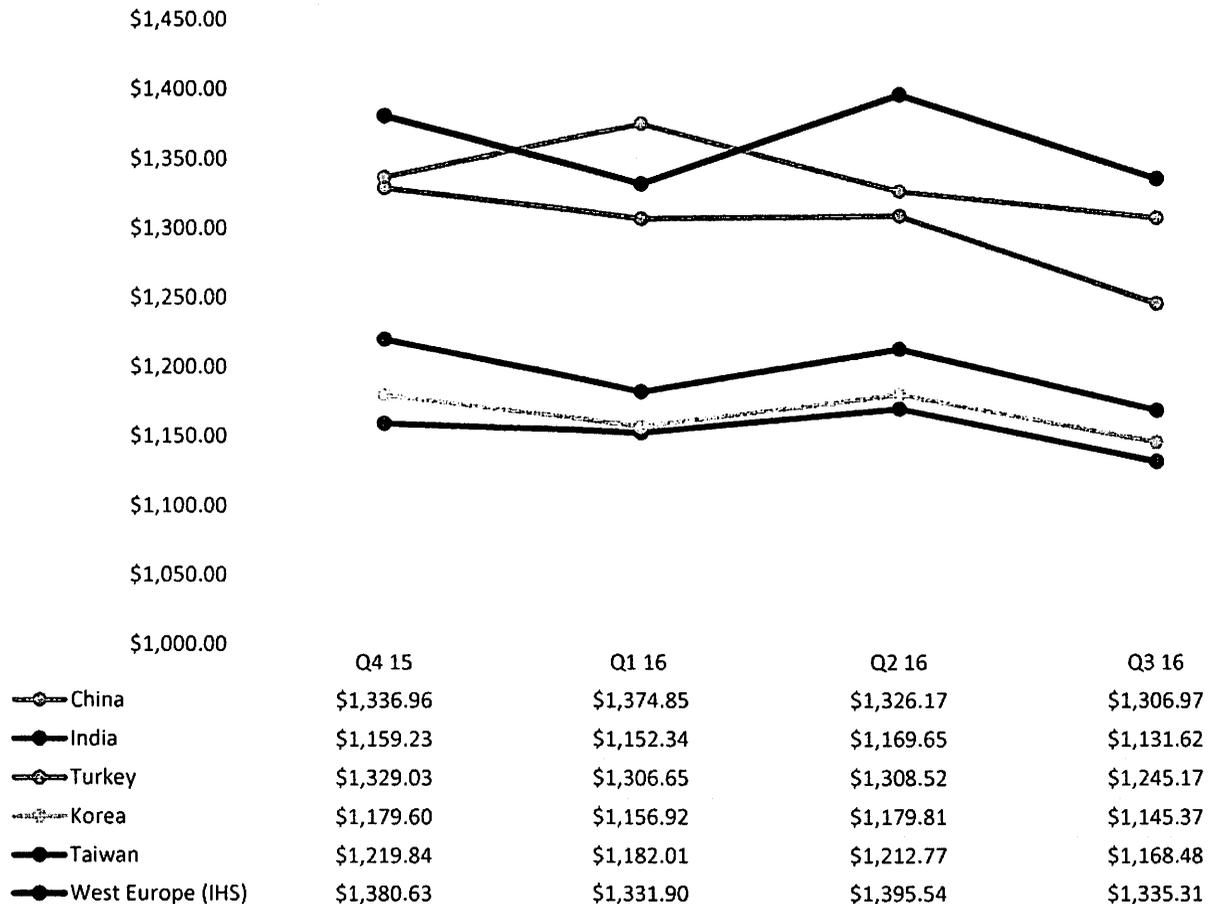
¹¹⁴ Public Attachment 2 to Appendix 1: China Subsidy US DOC, *Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Certain Polyethylene Terephthalate from the People's Republic of China* (March 4, 2016) page 33.

¹¹⁵ *Ibid*, p. 34.

(i) Chinese PET resin prices do not follow global price trends

133. The Complainant has conducted a trend analysis of Chinese pricing compared to pricing in competitive markets globally. The results of this analysis are represented in the chart below:

Table 2: Chinese PET Pricing Trend vs. Other Competitive Markets (C\$/MT)¹¹⁶



134. As demonstrated above, Chinese PET resin prices followed a different trend than the other markets surveyed, over the four quarters from Q4 2015 through Q3 2016. In particular,

¹¹⁶ Chinese, Indian and Turkish home market prices are as shown in Confidential Attachments 13, 29 and 30. Korean, Taiwanese and Western European prices were sourced from ICIS (Korea and Taiwan) and IHS (West Europe).

from Q4 2015 to Q1 2016, Chinese PET resin prices rose sharply while every other market saw prices decline. From Q1 2016 to Q2 2016, Chinese PET resin prices showed a distinct downward trend while pricing in all other markets surveyed went up or remained essentially flat (Turkey only). From Q2 2016 to Q3 2016, Chinese prices fell along with the other markets surveyed. However, Chinese prices fell by the lowest amount of any of these markets (\$19.20/MT). All other markets saw their prices fall by between \$34.44/MT (Korea) and \$60.23/MT (West Europe).

135. The Complainant submits that this analysis provides sufficient reason to believe that domestic prices are not substantially the same as they would be if they were determined in a competitive market, such as the other markets surveyed above.

(ii) GOC Subsidization of the PET resin industry

136. As noted elsewhere, the GOC engages in systematic, countervailable subsidization of its PET resin industry through the provision of direct benefits and financial support to producers of PET resin and its petrochemical inputs. Countervailable subsidization of this industry is alleged in this complaint and was found in the United States as recently as March 7, 2016.¹¹⁷ Such subsidization distorts pricing in the market by insulating producers from market forces and pressures experienced by producers located in competitive markets. This is compounded by GOC involvement in the production of, and therefore pricing of, key inputs used in producing polyester.

(g) Conclusion

137. The Complainants submit there is evidence on the record to justify the initiation of a section 20 inquiry. The evidence demonstrates that the GoC imposes comprehensive measures, through direct and indirect government action, that have significantly influenced the Chinese polyester sector. The information before the President establishes that the prices

¹¹⁷ Public Attachment 2 to Appendix 1: China Subsidy US DOC, *Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Certain Polyethylene Terephthalate from the People's Republic of China* (March 4, 2016).

in China for PET resin are not substantially the same as they would be in a competitive market.

138. The Complainants submit that the CBSA should, at the initiation of an anti-dumping investigation, initiate a Section 20 inquiry and send section 20 questionnaires to all known exporters and producers of subject goods in China as well as the GoC, requesting detailed information related to the Chinese industry producing PET resin.

Proposed Surrogate Country and Methodology

139. The Complainants believe that information on costs of production of like PET resin in Chinese Taipei is an appropriate surrogate to use for actual costs in China. Chinese Taipei has strong economic and political ties to mainland China.¹¹⁸ As in China, producers in Chinese Taipei produce substantially more PET resin than is required to support their domestic demand¹¹⁹ and pay wages substantially lower than Canada. Further, the majority of PET resin production capacity in Chinese Taipei is held by FENC, a company that also produces PET resin in China.¹²⁰

(h) Direct Materials

140. The Complainant was unable to access actual prices for MEG and PTA in the surrogate country market. Therefore, the Complainant calculated a direct material cost for the purpose of the section 20 normal value using its own average direct material cost for 2016.¹²¹ The Complainant purchases these commodity raw materials at prices that are competitive in the global market. As such, the Complainant feels that its own raw material costs constitute the best information available for calculating raw material costs in the surrogate country.

141. The Complainant's average cost for direct materials in 2016 was \$[]/MT.¹²²

¹¹⁸ Public Attachment 26: BBC News, Taiwan Country Profile, June 14, 2017.

¹¹⁹ Confidential Attachment 2: Excerpts from the PCI Wood Mackenzie PET Supply Demand Database, Q4 2016.

¹²⁰ Confidential Attachment 2: Excerpts from the PCI Wood Mackenzie PET Supply Demand Database, Q4 2016.

¹²¹ Confidential Attachment 10: Complainant's Financial data 2014-Q1 2017.

¹²² Confidential Attachment 10: Complainant's Financial data 2014-Q1 2017.

(i) Direct Labour

142. To calculate direct labour costs, the Complainant used its own direct labour costs incurred in producing Like Goods¹²³, adjusted to account for the difference in labour costs between Canada and the surrogate country. To perform this calculation, the Complainant compared Canada's and Hong Kong's 2014 labour costs for Plant and Machine Operators and Assemblers (ISCO-08), as reported by the ILO.¹²⁴ Chinese Taipei labour rates were not available for comparison, so Hong Kong was chosen as an appropriate proxy, as these countries are both semi-autonomous regions of China with deep economic connections to the mainland. 2014 was the most recent year in which both Canada and Hong Kong reported labour rates in this category to the ILO.¹²⁵
143. On this basis, the Complainant applied a labour reduction rate of 96.2% to arrive at a surrogate direct labour cost of \$[]/MT.

(j) Factory Overhead

144. The Complainant does not have access to the factory overhead costs of Chinese Taipei producers of PET resin or a comparable manufacturing operation in Chinese Taipei. Therefore, the best information available to the Complainant is its own factory overhead cost in 2016 of \$[]/MT.¹²⁶

¹²³ Confidential Attachment 14: Complainant's PET resin Employment and Employment-related Costs, 2014-Q1 2017.

¹²⁴ Confidential Attachment 13: Complainant's Margins of Dumping Calculations: China, tab 8.

¹²⁵ *Ibid.*

¹²⁶ Confidential Attachment 10: Complainant's Financial data 2014-Q1 2017.

(k) General, Sales and Administrative Expenses

145. To calculate GS&A expenses, the Complainant used the public financial statements of FENC. FENC is a significant producer of PET resin in Chinese Taipei and also produces PET resin in China.¹²⁷
146. FENC financials were available for calendar year 2016. FENC's GS&A costs for this period accounted for 36.8% of its cost of sales in this period.¹²⁸
147. The Complainant calculated an amount for GS&A by applying FENC's GS&A percentage to the surrogate constructed cost of production. On this basis, the Complainant used an amount of \$[]/MT for GS&A.¹²⁹

(l) Financial Expense

148. For the same reason above, the Complainant used the financial statements of FENC to estimate financial expenses incurred by Chinese Taipei producers in selling PET resin on a percentage basis. FENC's financial expenses accounted for 1.7% of its cost of sales in the period discussed above.¹³⁰
149. The Complainant calculated an amount for financial expense by applying FENC's financial expense percentage to the surrogate constructed cost of production. On this basis, the Complainant calculated an amount of \$[]/MT for financial expenses.¹³¹

¹²⁷ Confidential Attachment 2: Excerpts from the PCI Wood Mackenzie PET Supply Demand Database, Q4 2016.

¹²⁸ Confidential Attachment 13: Complainant's Margins of Dumping Calculations: China, tab 7.

¹²⁹ *Ibid*, tab 4.

¹³⁰ *Ibid*, tab 7.

¹³¹ *Ibid*, tab 4.

(m) Reasonable amount for profit

150. To calculate a reasonable amount for profit, the Complainant considered the net profit margin reported by FENC for calendar year 2016 for the same reasons discussed above. FENC's net profit margin was 9.5% of its cost of sales.¹³²
151. The Complainant applied this profitability rate of 9.5% to the Chinese constructed cost of production, resulting a reasonable amount for profit of \$[]/MT.¹³³
152. Based on the above, the surrogate normal value calculated for China under section 20 is \$[]/MT. This results in a section 20 margin of dumping for China of []%.¹³⁴

C. Normal Values for all other Subject Countries

153. The normal values, export prices and dumping calculations for the Subject Countries are set out in Confidential Attachments 29 to 28.
154. The following summarizes the normal value calculations for each country.

1. Oman

Section 15

155. The Complainant was unable to estimate normal values on the basis of domestic prices in Oman, using the methodology of section 15 of SIMA, because there is no domestic pricing information available on a country-specific basis. Therefore, the Complainant calculated normal values for Oman based on section 19 of SIMA.

¹³² *Ibid*, tab 7.

¹³³ *Ibid*, tab 4.

¹³⁴ *Ibid*.

Section 19

156. Section 19 normal values were calculated for Oman by accounting for (i) the cost of production of the goods, (ii) a reasonable amount for administrative, selling and all other costs and (iii) a reasonable amount for profits, in accordance with subsection 19(b).

(i) Direct Materials

157. The Complainant calculated an average per MT direct materials cost for Octal's production of PET resin by applying the Complainant's consumption rate of PTA and MEG in the production of Like Goods¹³⁵ to the Omani costs for these materials. Omani PTA and MEG costs were determined through import prices for these materials to Oman, as reported by UN Comtrade.¹³⁶ The most recently available prices were for 2016. However, the MEG price reported by Comtrade for 2016 amounted to \$7,888/MT, which the Complainant believes is in error as it is unreasonably high.¹³⁷ Therefore, the Complainant used 2015 reported MEG prices and 2016 reported PTA prices.¹³⁸ This is the best information available to the Complainant and reasonably approximates the cost of the actual PTA and MEG used by Octal in producing goods for sale in calendar year 2016. The average input cost used for MEG in 2015 was \$1,297.87/MT. The average input cost used for PTA in 2016 was \$791.88/MT.¹³⁹
158. Applying the Complainant's consumption rate to these raw materials costs, $(PTA \times 0.85) + (MEG \times 0.35)$ produces a total Omani direct materials cost of \$1,127.35/MT.¹⁴⁰

¹³⁵ Public Attachment 9: Statement of Evidence of Adam Davis, para. 6.

¹³⁶ Confidential Attachment 27: Complainant's Margins of Dumping Calculations: Oman, tab 4.

¹³⁷ *Ibid.*

¹³⁸ *Ibid.*

¹³⁹ *Ibid.*, tabs 1, 4.

¹⁴⁰ *Ibid.*

159. The Complainant submits that this is a conservative direct materials calculation, as it accounts only for PTA and MEG and not for other additives used in the production of PET resin.¹⁴¹ Therefore, the Complainant submits that this is the best available methodology for calculating Omani raw material costs.

(ii) Direct Labour

160. To calculate direct labour costs, the Complainant used its own direct labour costs incurred in producing Like Goods,¹⁴² adjusted to account for the difference in labour costs between the two countries. To perform this calculation, the Complainant compared Canada's and the United Arab Emirates' 2009 labour costs for Plant and Machine Operators and Assemblers (ISCO-08), as reported by the ILO.¹⁴³ 2009 was the most recent year in which both Canada and the UAE reported labour rates in this category to the ILO.¹⁴⁴

161. Labour costs are not reported by the ILO for Oman. The Complainant views the UAE as a reasonable proxy in this regard as it is a neighboring GCC member with similar economic development and petrochemical industries.

162. On this basis, the Complainant applied a labour reduction rate of 72.4% to arrive at an Omani direct labour cost of \$[]/MT.¹⁴⁵

¹⁴¹ Public Attachment 1: Statement of Evidence of Richard A. Lane Jr. at paras. 22-25.

¹⁴² Confidential Attachment 14: Complainant's PET resin Employment and Employment-related Costs, 2014-Q1 2017.

¹⁴³ Confidential Attachment 27: Complainant's Margins of Dumping Calculations: Oman, tab 5.

¹⁴⁴ *Ibid.*

¹⁴⁵ *Ibid.*, tab 1.

(iii) Factory Overhead

163. The Complainant does not have access to the factory overhead costs of Octal or a comparable manufacturing operation. Therefore, the best information available to the Complainant is its own factory overhead cost in 2016 of \$[]/MT.¹⁴⁶

(iv) General, Sales and Administrative Expenses

164. Octal is the only producer of PET resin in Oman and does not publish public financial statements. Therefore, the Complainant used the financial statements of JBF RAK LLC, a UAE PET resin producer, to estimate Octal's GS&A costs on a percentage basis.¹⁴⁷ The Complainant submits that this is the best information available.

165. The most recently available financial statements for JBF RAK were for the financial year ended 31 March 2016. JBF RAK's GS&A costs accounted for 9.9% of its cost of sales in this period.¹⁴⁸

166. The Complainant calculated an amount for GS&A for Octal by JBF RAK's GS&A percentage to Octal's constructed cost of production. On this basis, the Complainant used an amount of \$[]/MT for GS&A.¹⁴⁹

(v) Financial Expense

167. For the same reason above, the Complainant used the financial statements of JBF RAK LLC to estimate Octal's financial expenses on a percentage basis. The most recently

¹⁴⁶ Confidential Attachment 10: Complainant's Financial data 2014-Q1 2017. The Complainant's factory overhead expense includes an allocation based on domestic sales as a proportion of total sales of the following lines in the Complainant's audited financial statements [

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¹⁴⁷ Confidential Attachment 27: Complainant's Margins of Dumping Calculations: Oman, tab 2.

¹⁴⁸ *Ibid*, tabs 1, 2.

¹⁴⁹ *Ibid*, tab 1.

available financial statements for JBF RAK were for the financial year ended 31 March, 2016. JBF RAK's financial expenses accounted for 5.9% of its cost of sales in this period.¹⁵⁰

168. The Complainant calculated an amount for financial expense for Octal by applying JBF RAK's financial expense percentage to Octal's constructed cost of production. On this basis, the Complainant used an amount of \$[]/MT for financial expenses.¹⁵¹

(vi) Reasonable amount for profit

169. To calculate a reasonable amount for profit, the Complainant was unable to use the financial statements of JBF RAK, as JBF RAK was not profitable in its 2016 financial year.¹⁵² Therefore, the Complainant used profitability of JBF Industries Ltd. ("JBF"), the parent company of JBF RAK and a significant Indian producer of Subject Goods, for calendar year 2016.¹⁵³ JBF's net profit margin was 2.4% of its cost of sales.¹⁵⁴
170. The Complainant applied this profitability rate of 2.4% to Octal's constructed cost of production, resulting a highly conservative, and therefore reasonable amount for profit of \$[]/MT.¹⁵⁵
171. On the basis of the above, the normal value calculated for Oman under section 19 of SIMA is \$[]/MT.¹⁵⁶

¹⁵⁰ *Ibid*, tabs 1, 2.

¹⁵¹ *Ibid*, tab 1.

¹⁵² *Ibid*, tab 2.

¹⁵³ *Ibid*, tab 3.

¹⁵⁴ *Ibid*.

¹⁵⁵ *Ibid*, tab 1.

¹⁵⁶ *Ibid*.

2. Pakistan

Section 15

172. The Complainant was unable to estimate normal values on the basis of domestic prices in Pakistan, using the methodology of section 15 of SIMA, because there is no domestic pricing information available on a country-specific basis. Therefore, the Complainant calculated normal values for Pakistan based on section 19 of SIMA.

Section 19

173. Section 19 normal values were calculated for Pakistan by accounting for (i) the cost of production of the goods (ii), a reasonable amount for administrative, selling and all other costs and (iii) a reasonable amount for profits in accordance with subsection 19(b).

(i) Direct Materials

174. The Complainant calculated an average per MT direct materials cost for Novatex/Gatron's production of PET resin by applying the Complainant's consumption rate of PTA and MEG in the production of Like Goods¹⁵⁷ to the Pakistani costs for these materials. Pakistani PTA and MEG costs were determined through import prices for these materials to Pakistan, as reported by UN Comtrade.¹⁵⁸ The most recently available prices were for 2015. This is the best information available to the Complainant and reasonably approximates the cost of the actual PTA and MEG used by Novatex/Gatron in producing goods for sale in calendar year 2016.
175. The average input cost used for MEG was \$1,423/MT. The average input cost reported for PTA was \$5,449/MT.¹⁵⁹ This PTA cost is significantly higher than reported for other jurisdictions. Therefore, to be conservative, the Complainant calculated a PTA cost for

¹⁵⁷ Public Attachment 9: Statement of Evidence of Adam Davis, para. 6.

¹⁵⁸ Confidential Attachment 28: Complainant's Margins of Dumping Calculations: Pakistan, tab 4.

¹⁵⁹ *Ibid.*

Pakistan based on India's 2016 PTA cost. This results in a PTA cost for Pakistan of \$839.77/MT.¹⁶⁰

176. Applying the Complainant's consumption rate to these raw materials costs, $(PTA \times 0.85) + (MEG \times 0.35)$ produces a total Pakistani direct materials cost of \$1,202.03/MT.¹⁶¹

[
].¹⁶² [] the Complainant submits that this information provides a strong and verifiable indication as to actual market prices for these inputs in Pakistan.

177. The Complainant submits that this is a conservative direct materials calculation as it accounts only for PTA and MEG and not for other additives used in the production of PET resin.¹⁶³

(ii) Direct Labour

178. To calculate direct labour costs, the Complainant used its own direct labour costs incurred in producing Like Goods,¹⁶⁴ adjusted to account for the difference in labour costs between the two countries. To perform this calculation, the Complainant compared Canada's and Pakistan's 2014 labour costs for Plant and Machine Operators and Assemblers (ISCO-08),

¹⁶⁰ *Ibid.*

¹⁶¹ *Ibid.*

¹⁶² Confidential Attachment 10: Complainant's Financial data 2014-Q1 2017.

¹⁶³ Public Attachment 1: Statement of Evidence of Richard A. Lane Jr. at paras. 22-25.

¹⁶⁴ Confidential Attachment 14: Complainant's PET resin Employment and Employment-related Costs, 2014-Q1 2017.

as reported by the ILO.¹⁶⁵ 2014 was the most recent year in which both Canada and the Pakistan reported labour rates in this category to the ILO.¹⁶⁶

179. On this basis, the Complainant applied a labour reduction rate of 96.8% to arrive at a Pakistani direct labour cost of \$[]/MT.¹⁶⁷

(iii) Factory Overhead

180. The Complainant does not have access to the factory overhead costs of Novatex/Gatron or a comparable manufacturing operation in Pakistan. Therefore, the best information available to the Complainant is its own factory overhead cost in 2016 of \$[]/MT.¹⁶⁸

(iv) General, Sales and Administrative Expenses

181. To calculate GS&A expenses, the Complainant used the public financial statements of Gatron (Industries) Ltd. Novatex does not publish public financial statements, nor does the joint venture of Novatex/Gatron that produces PET resin in Pakistan. The Complainant submits that this is the best information available.

182. The most recently available financial statements for Gatron were for the half year ended December 31, 2016.¹⁶⁹ While a quarterly financial statement for calendar Q1 2016 is available, a similar statement for calendar Q2 is not. An annual financial statement for the

¹⁶⁵ Confidential Attachment 28: Complainant's Margins of Dumping Calculations: Pakistan, tab 6.

¹⁶⁶ *Ibid.*

¹⁶⁷ *Ibid*, tab 1.

¹⁶⁸ Confidential Attachment 10: Complainant's Financial data 2014-Q1 2017. The Complainant's factory overhead expense includes an allocation based on domestic sales as a proportion of total sales of the following lines in the Complainant's audited financial statements [

].

¹⁶⁹ Confidential Attachment 28: Complainant's Margins of Dumping Calculations: Pakistan, tab 2.

12 months ended June 30, 2016 is available.¹⁷⁰ To provide the most representative sample using available information, the Complainant created a combined 18-month financial statement for Gatron and used this data to calculate a reasonable amount for GS&A.¹⁷¹ Gatron's GS&A costs accounted for 4.7% of its cost of sales in this period.¹⁷²

183. The Complainant calculated an amount for GS&A by applying Gatron's GS&A percentage to the section 19 constructed cost of production. On this basis, the Complainant used an amount of \$[]/MT for GS&A.¹⁷³

(v) Financial Expense

184. For the same reason above, the Complainant used the financial statements of Gatron to estimate Novatex/Gatron's financial expenses in selling PET resin on a percentage basis. Gatron's financial expenses accounted for 0.5% of its cost of sales in the period discussed above.¹⁷⁴
185. The Complainant calculated an amount for financial expense by applying Gatron's financial expense percentage to Novatex/Gatron's constructed cost of production. On this basis, the Complainant used an amount of \$[]/MT for financial expenses.¹⁷⁵

¹⁷⁰ *Ibid.*

¹⁷¹ *Ibid.*

¹⁷² *Ibid*, tabs 1, 2.

¹⁷³ *Ibid*, tab 1.

¹⁷⁴ *Ibid*, tabs 1, 2.

¹⁷⁵ *Ibid*, tab 1.

(vi) Reasonable amount for profit

186. To calculate a reasonable amount for profit, the Complainant was unable to use the financial statements of Gatron, as Gatron was not profitable in its 2016 financial year.¹⁷⁶ Therefore, the Complainant used the profitability of JBF Industries Ltd. (“JBF”), an Indian producer of Subject Goods, for calendar year 2016. JBF’s net profit margin was 2.4% of costs.¹⁷⁷
187. The Complainant applied this profitability rate of 2.4% to Gatron’s constructed cost of production, resulting a reasonable amount for profit of \$[]/MT.¹⁷⁸
188. On the basis of the above, the section 19 normal value calculated for Pakistan is \$[]/MT.¹⁷⁹

3. India

Section 15

189. As explained below, the Complainant was unable to calculate normal values based on section 15 of SIMA, as information available to the Complainant indicates that Indian home market sales were made at less than the average cost of those goods within the meaning of paragraph 16(2)(b) of SIMA.¹⁸⁰
190. To assess the feasibility of calculating margins of dumping under section 15, the Complainant used home market pricing data published by ICIS.¹⁸¹

¹⁷⁶ *Ibid*, tab 2.

¹⁷⁷ *Ibid*, tab 3.

¹⁷⁸ *Ibid*, tabs 1, 3.

¹⁷⁹ *Ibid*, tab 1.

¹⁸⁰ SIMA, ss. 16(2)(b).

¹⁸¹ Confidential Attachment 29: Complainant’s Margins of Dumping Calculations: India, tab 1.

191. The Complainant examined home market sales in India based on an assumed lead time of one quarter between when Subject Goods are ordered by a customer in Canada and when they arrive in Canada. Therefore, to conduct a fair comparison between Subject Goods imports in the dumping POI, the Complainant examined home market pricing in India during calendar year 2016.
192. ICIS pricing is published in US dollars per MT.¹⁸² This pricing was converted to Canadian dollars on a quarterly basis using the quarterly average of daily noon exchange rates published by the Bank of Canada.¹⁸³
193. The average home market price in India from Q1 2016 through Q4 2016 was \$1,161.50/MT.¹⁸⁴

(a) Section 16(2) Cost Test

194. In accordance with subsection 16(2)(b) of SIMA, the Complainant performed an assessment of whether sales made in the Indian home market were at less than the average cost of those goods. Constructed costs for Indian sales were determined as follows.

(i) Direct Materials

195. The Complainant calculated an average per MT direct materials cost for Indian production of PET resin by applying the Complainant's consumption rate of PTA and MEG in the production of Like Goods¹⁸⁵ to the Indian costs for these materials. Indian PTA and MEG costs were determined through import prices for these materials to India in 2016, as

¹⁸² *Ibid.*

¹⁸³ Public Attachment 12: Bank of Canada Daily Noon and Quarterly Average Exchange Rates, 2016.

¹⁸⁴ Converted quarterly at the Bank of Canada's average noon exchange rate: Public Attachment 12: Bank of Canada Daily Noon and Quarterly Average Exchange Rates, 2016.

¹⁸⁵ Public Attachment 9: Statement of Evidence of Adam Davis, para. 6.

reported by UN Comtrade.¹⁸⁶ This is the best information available to the Complainant and reasonably approximates the cost of the actual PTA and MEG used by Indian producers in producing goods for sale in calendar year 2016.

196. The average input cost used for MEG was \$857.58/MT. The average input cost reported for PTA was \$839.78/MT.¹⁸⁷
197. Applying the Complainant's consumption rate to these raw materials costs, $(PTA \times 0.85) + (MEG \times 0.35)$ produces a total Indian direct materials cost of \$1,013.96/MT.¹⁸⁸
198. The Complainant submits that this is a conservative direct materials calculation as it accounts only for PTA and MEG and not for other additives used in the production of PET resin.¹⁸⁹

(ii) Direct Labour

199. To calculate direct labour costs, the Complainant used its own direct labour costs incurred in producing Like Goods,¹⁹⁰ adjusted to account for the difference in labour costs between the two countries. To perform this calculation, the Complainant compared Canada's and India's 2012 labour costs for Plant and Machine Operators and Assemblers (ISCO-08), as reported by the ILO.¹⁹¹ 2012 was the most recent year in which both Canada and India reported labour rates in this category to the ILO.¹⁹²

¹⁸⁶ Confidential Attachment 29: Complainant's Margins of Dumping Calculations: India, tab 5.

¹⁸⁷ *Ibid.*

¹⁸⁸ *Ibid*, tabs 2, 5.

¹⁸⁹ Public Attachment 1: Statement of Evidence of Richard A. Lane Jr. at paras. 22-25.

¹⁹⁰ Confidential Attachment 14: Complainant's PET resin Employment and Employment-related Costs, 2014-Q1 2017.

¹⁹¹ Confidential Attachment 29: Complainant's Margins of Dumping Calculations: India, tab 6.

¹⁹² *Ibid.*

200. On this basis, the Complainant applied a labour reduction rate of 96.4% to arrive at a Indian direct labour cost of \$[]/MT.¹⁹³

(iii) Factory Overhead

201. The Complainant does not have access to the factory overhead costs of Indian producers or a comparable manufacturing operation in India. Therefore, the best information available to the Complainant is its own factory overhead cost in 2016 of \$[]/MT.¹⁹⁴

(iv) General, Sales and Administrative Expenses

202. To calculate GS&A expenses, the Complainant used the public financial statements of JBF Industries Limited (“**JBF**”). JBF is a significant producer of PET resin in India.¹⁹⁵

203. The most recently available financial statements for JBF were for calendar year 2016.¹⁹⁶ JBF’s GS&A costs for this period accounted for 18.3% of its cost of sales in this period.¹⁹⁷

204. The Complainant calculated an amount for GS&A by applying JBF’s GS&A percentage to the section 19 constructed cost of production. On this basis, the Complainant calculated an amount of \$[]/MT for GS&A.¹⁹⁸

¹⁹³ *Ibid*, tab 2.

¹⁹⁴ Confidential Attachment 10: Complainant’s Financial data 2014-Q1 2017. The Complainant’s factory overhead expense includes an allocation based on domestic sales as a proportion of total sales of the following lines in the Complainant’s audited financial statements [

].

¹⁹⁵ Confidential Attachment 2: Excerpts from the PCI Wood Mackenzie PET Supply Demand Database, Q4 2016. In 2016, PCI Wood Mackenzie reports that JBF’s facility has the capacity to produce 230,000 MT of PET resin.

¹⁹⁶ Confidential Attachment 29: Complainant’s Margins of Dumping Calculations: India, tab 4. These calendar year 2016 figures are an amalgamation of JBF’s financial results for fiscal Q4 2015-16 and Fiscal Q1-Q3 2016-17.

¹⁹⁷ Confidential Attachment 29: Complainant’s Margins of Dumping Calculations: India, tab 4.

¹⁹⁸ *Ibid*, tabs 2, 4.

(v) Financial Expense

205. For the same reason above, the Complainant used the financial statements of JBF to estimate financial expenses incurred by Indian producers in selling PET resin on a percentage basis. JBF's financial expenses accounted for 4.9% of its cost of sales in the period discussed above.¹⁹⁹
206. The Complainant calculated an amount for financial expense by applying JBF's financial expense percentage to the Indian constructed cost of production. On this basis, the Complainant used an amount of \$[]/MT for financial expenses.²⁰⁰

(b) Section 15/16 Conclusion

207. The cost test performed in accordance with subsection 16(2) of SIMA demonstrates that India's home market PET resin sales were made at less than the cost of production of the goods and the administrative, selling and all other costs with respect to the goods.²⁰¹
208. Further, the subsidy analysis discussed below indicates that goods exported from India to Canada are benefiting from significant countervailable subsidies. This would suggest that selling prices in the country of export are lower than could be the case without the subsidies and may not be profitable. Estimates of normal values based on market pricing may therefore be unreliable.
209. Therefore, the Complainant calculated normal values for India under section 19 of SIMA.

¹⁹⁹ *Ibid*, tab 4.

²⁰⁰ *Ibid*, tabs 2, 4.

²⁰¹ *Ibid*, tab 2. These calculations show that Indian producers incurred an estimated loss of \$[]/MT on home market sales in 2016.

Section 19

210. Section 19 normal values were calculated for India by accounting for the cost of production of the goods (i), a reasonable amount for administrative, selling and all other costs (ii) and a reasonable amount for profits (iii) in accordance with subsection 19(b).
211. The values referred to in paragraphs 19(b)(i) and 19(b)(ii) were calculated in the same manner as described above, for the purpose of the cost test under subsection 16(2).²⁰²
212. To calculate a reasonable amount for profit, the Complainant used the net profit margin reported by JBF for calendar year 2016. JBF's net profit margin was 2.4% of its cost of sales.²⁰³ The Complainant feels that this is a highly conservative, and therefore reasonable amount for profit for the purpose of this complaint.
213. The Complainant applied this profitability rate of 2.4% to the Indian constructed cost of production, resulting a reasonable amount for profit of \$[]/MT.²⁰⁴
214. On the basis of the above, the section 19 normal value calculated for India is \$[]/MT.²⁰⁵

4. Turkey

Section 15

215. As explained below, the Complainant was unable to calculate normal values based on section 15 of SIMA, as information available to the Complainant indicates that Turkish

²⁰² *Ibid*, tab 3.

²⁰³ *Ibid*, tabs 3, 4.

²⁰⁴ *Ibid*, tab 3.

²⁰⁵ *Ibid*.

home market sales were made at less than the average cost of those goods within the meaning of paragraph 16(2)(b) of SIMA.²⁰⁶

216. The Complainant assessed Turkish home market sales based on pricing published by ChemOrbis.²⁰⁷
217. The Complainant examined home market sales in Turkey based on an assumed lead time of one quarter between when Subject Goods are ordered by a customer in Canada and when they arrive in Canada. Therefore, to conduct a fair comparison between Subject Goods imports in the dumping POI, the Complainant examined home market pricing in Turkey for full year 2016.
218. ChemOrbis pricing is published in US dollars per MT.²⁰⁸ This pricing was converted to Canadian dollars on a quarterly basis using the quarterly average of daily noon exchange rates published by the Bank of Canada.²⁰⁹
219. The average home market price in Turkey for calendar year 2016 was \$1,294.28/MT.²¹⁰

(a) Section 16(2) Cost Test

220. In accordance with subsection 16(2)(b) of SIMA, the Complainant performed an assessment of whether sales made in Turkey were at less than the average cost of those goods. Constructed costs for sales in Turkey were determined as follows.

²⁰⁶ SIMA, ss. 16(2)(b).

²⁰⁷ Confidential Attachment 30: Complainant's Margins of Dumping Calculations: Turkey, tab 1.

²⁰⁸ *Ibid.*

²⁰⁹ *Ibid.*; Public Attachment 12: Bank of Canada Daily Noon and Quarterly Average Exchange Rates, 2016.

²¹⁰ Confidential Attachment 30: Complainant's Margins of Dumping Calculations: Turkey, tab 1.

(i) Direct Materials

221. The Complainant calculated an average per MT direct materials cost for Turkish production of PET resin by applying the Complainant's consumption rate of PTA and MEG in the production of Like Goods²¹¹ to the Turkish costs for these materials. Turkish PTA and MEG costs were determined through import prices for these materials to Turkey, as reported by UN Comtrade.²¹² Annual import prices were available for 2016. This is the best information available to the Complainant and reasonably approximates the cost of the actual PTA and MEG used by Turkish PET resin producers in producing goods for sale in calendar year 2016.
222. The average input cost used for MEG was \$995.62/MT. The average input cost reported for PTA was \$935.78/MT.²¹³
223. Applying the Complainant's consumption rate to these raw materials costs, $(\text{PTA} \times 0.85) + (\text{MEG} \times 0.35)$ produces a total Turkish direct materials cost of \$1,143.89/MT.²¹⁴
224. The Complainant submits that this is a conservative direct materials calculation as it accounts only for PTA and MEG and not for other additives used in the production of PET resin.²¹⁵

²¹¹ Public Attachment 9: Statement of Evidence of Adam Davis, para. 6.

²¹² Confidential Attachment 30: Complainant's Margins of Dumping Calculations: Turkey, tab 5.

²¹³ *Ibid.*

²¹⁴ *Ibid.*

²¹⁵ Public Attachment 1: Statement of Evidence of Richard A. Lane Jr. at paras. 22-25.

(ii) Direct Labour

225. To calculate direct labour costs, the Complainant used its own direct labour costs incurred in producing Like Goods,²¹⁶ adjusted to account for the difference in labour costs between the two countries. Turkish labour costs are not publicly available. Therefore, to perform this calculation, the Complainant compared Canada's 2014 labour costs to Indonesia's 2015 labour costs for Plant and Machine Operators and Assemblers (ISCO-08), as reported by the ILO.²¹⁷ 2014 was the most recent year in which Canada reported labour rates in this category to the ILO.²¹⁸ Indonesia did not report labour rates in 2014, but did report this data in 2015.²¹⁹
226. The Complainant submits that Indonesia is a reasonable proxy for Turkish labour rates in the absence of actual Turkish data. Indonesia is another major emerging economy with a significant workforce and relatively low costs. This is the best information available to the Complainant.
227. On this basis, the Complainant applied a labour reduction rate of 95.6% to arrive at a Turkish direct labour cost of \$[]/MT.²²⁰

(iii) Factory Overhead

228. The Complainant does not have access to the factory overhead costs of Turkish PET resin producers or comparable manufacturing operations in Turkey. Therefore, the best

²¹⁶ Confidential Attachment 14: Complainant's PET resin Employment and Employment-related Costs, 2014-Q1 2017.

²¹⁷ Confidential Attachment 30: Complainant's Margins of Dumping Calculations: Turkey, tab 6.

²¹⁸ *Ibid.*

²¹⁹ *Ibid.*

²²⁰ Confidential Attachment 30: Complainant's Margins of Dumping Calculations: Turkey, tab 2.

information available to the Complainant is its own factory overhead cost in 2016 of \$[]/MT.²²¹

(iv) General, Sales and Administrative Expenses

229. To calculate GS&A expenses, the Complainant used the public financial statements of Indorama Ventures Limited (“IVL”). IVL is a large transnational corporation that operates two PET resin facilities in Turkey.²²² Turkey-specific financial data for PET resin production facilities is not publicly available. The Complainant submits that this is the best information available.

230. The most recently available financial statements for IVL were for the full year ended December 31, 2016. IVL’s GS&A costs accounted for 9.9% of its cost of sales in this period.²²³

231. The Complainant calculated an amount for GS&A by applying IVL’s GS&A percentage to the section 19 constructed cost of production. On this basis, the Complainant used an amount of \$[]/MT for GS&A.²²⁴

(v) Financial Expense

232. For the same reason above, the Complainant used the financial statements of IVL to estimate Turkish producers’ financial expenses in selling PET resin on a percentage basis.

²²¹ Confidential Attachment 10: Complainant’s Financial data 2014-Q1 2017. The Complainant’s factory overhead expense includes an allocation based on domestic sales as a proportion of total sales of the following lines in the Complainant’s audited financial statements [

].

²²² Confidential Attachment 2: Excerpts from the PCI Wood Mackenzie PET Supply Demand Database, Q4 2016. In 2016, PCI Wood Mackenzie reports that JBF’s facility has the capacity to produce 230,000 MT of PET resin.

²²³ Confidential Attachment 30: Complainant’s Margins of Dumping Calculations: Turkey, tab 4.

²²⁴ *Ibid*, tabs 2, 4.

IVL's financial expenses accounted for 1.9% of its cost of sales in the period discussed above.²²⁵

233. The Complainant calculated an amount for financial expense by applying IVL's financial expense percentage to the Complainant's constructed cost of production for Turkey. On this basis, the Complainant used an amount of \$[]/MT for financial expenses.²²⁶

(b) Section 15/16 Conclusion

234. The cost test performed in accordance with subsection 16(2) of SIMA demonstrates that Turkish home market sales were made at less than its cost of production of the goods and the administrative, selling and all other costs with respect to the goods.²²⁷
235. Therefore, the Complainant calculated normal values for Turkey under section 19 of SIMA.

Section 19

236. Section 19 normal values were calculated for Turkey by accounting for the cost of production of the goods (i), a reasonable amount for administrative, selling and all other costs (ii) and a reasonable amount for profits (iii) in accordance with subsection 19(b).
237. The values referred to in paragraphs 19(b)(i) and 19(b)(ii) were calculated in the same manner as described above, for the purpose of the cost test under subsection 16(2).²²⁸

²²⁵ *Ibid*, tab 4.

²²⁶ *Ibid*, tabs 2, 4.

²²⁷ *Ibid*, tab 2. These calculations show that Turkish producers incurred an estimated loss of \$[]/MT on home market sales in 2016.

²²⁸ *Ibid*, tab 2.

238. To calculate a reasonable amount for profit, the Complainant used the profitability of IVL for calendar year 2016. IVL's net profit margin for this period was 7.2% of revenues and 8.4% of costs.²²⁹
239. The Complainant applied this profitability rate of 8.4% to the constructed cost of production for Turkey, resulting a reasonable amount for profit of \$[]/MT.²³⁰
240. On the basis of the above, the section 19 normal value calculated for Turkey is \$[]/MT.²³¹

D. Export Price

241. The Complainant calculated export prices for the Subject Countries based on the Statistics Canada value for duty ("VFD").
242. The following summarizes the export price calculations contained in Confidential Attachment 11 for each country.

1. China

243. During the dumping POI, China exported a total of 12,649 MT of Subject Goods to Canada at a total VFD of \$14,087,882. The weighted average export price for Chinese Subject Goods exports to Canada over this period is \$1,114/MT.²³²

²²⁹ *Ibid*, tab 4.

²³⁰ *Ibid*, tabs 3, 4.

²³¹ *Ibid*, tab 3.

²³² Public Attachment 11: Canadian Import Table, 2014-Q1 2017.

Table 3²³³

	MT	VFD	C\$/MT
Q2 2016	3,203	\$ 3,895,233	\$ 1,216
Q3 2016	4,717	\$ 5,045,931	\$ 1,070
Q4 2016	1,857	\$ 1,491,205	\$ 803
Q1 2017	1,872	\$ 2,855,802	\$ 1,526
Totals	12,649	\$ 14,087,882	\$ 1,114

2. Oman

244. During the dumping POI, Oman exported a total of 11,362 MT of Subject Goods to Canada at a total VFD of \$14,105,601. The weighted average export price for Omani Subject Goods exports to Canada over this period is \$1,241/MT.²³⁴

Table 4²³⁵

	MT	VFD	C\$/MT
Q2 2016	5,296	\$ 6,627,253	\$ 1,251
Q3 2016	3,529	\$ 4,309,306	\$ 1,221
Q4 2016	1,913	\$ 2,356,506	\$ 1,232
Q1 2017	623	\$ 812,536	\$ 1,303
Totals	11,362	\$ 14,105,601	\$ 1,241

3. Pakistan

245. During the dumping POI, Pakistan exported a total of 24,737 MT of Subject Goods to Canada at a total VFD of \$31,061,522. The weighted average export price for Pakistan's Subject Goods exports to Canada over this period is \$1,256/MT.²³⁶

²³³ *Ibid.*

²³⁴ *Ibid.*

²³⁵ *Ibid.*

²³⁶ *Ibid.*

246. The quarterly export prices over the dumping POI are as follows:

Table 5

	MT	VFD	C\$/MT
Q2 2016	6,762	\$ 8,344,913	\$ 1,234
Q3 2016	6,578	\$ 8,201,693	\$ 1,247
Q4 2016	3,406	\$ 4,331,749	\$ 1,272
Q1 2017	5,686	\$ 7,385,879	\$ 1,299
Totals	24,737	\$ 31,061,522	\$ 1,256

4. India

247. During the dumping POI, India exported a total of 6,266 MT of Subject Goods to Canada at a total VFD of \$8,037,552. The weighted average export price for India's Subject Goods exports to Canada over this period is \$1,283MT.

248. The quarterly export prices for the dumping POI are as follows:

Table 6²³⁷

	MT	VFD	C\$/MT
Q2 2016	827	\$ 1,243,153	\$ 1,503
Q3 2016	825	\$ 1,053,048	\$ 1,277
Q4 2016	156	\$ 230,187	\$ 1,476
Q1 2017	3,605	\$ 4,454,774	\$ 1,236
Totals	6,266	\$ 8,037,552	\$ 1,283

²³⁷ *Ibid.*

5. Turkey

249. During the dumping POI, Turkey exported a total of 2,732 MT of Subject Goods to Canada at a total VFD of \$4,073,738. The weighted average export price for Turkey’s Subject Goods exports to Canada over this period is \$1,491/MT.²³⁸
250. The quarterly export prices for the dumping POI are as follows:

Table 7²³⁹

	MT	VFD	C\$/MT
Q1 2016	812	\$ 946,556	\$ 1,166
Q2 2016	858	\$ 1,191,139	\$ 1,388
Q3 2016	503	\$ 773,816	\$ 1,540
Q4 2016	502	\$ 758,133	\$ 1,511
Q1 2017	605	\$ 966,086	\$ 1,596
Totals	2,732	\$ 4,073,738	\$ 1,491

E. Dumping Margins

251. Based upon the sections 15, 16 and 19 analyses discussed above, dumping margins for the Subject Countries were calculated, as shown in Confidential Attachments 13 to 28.
252. The data demonstrates that Subject Goods are being dumped in Canada at estimated margins of:

Table 8²⁴⁰

Country	Section 19	Section 20
China	[%	[]%
India		
Oman		

²³⁸ *Ibid.*

²³⁹ *Ibid.*

²⁴⁰ Confidential Attachments 13, 27, 28, 29, 30: Complainant’s Margins of Dumping Calculations.

Country	Section 19	Section 20
Pakistan		
Turkey]%	

III. Evidence of Subsidizing

A. Introduction

253. The Complainant submits that Subject Good producers located in China, India, Pakistan and Oman benefit from substantial subsidies conferred by federal and sub-federal levels of government. The information reasonably available to the Complainant makes clear that the majority of these subsidies are specifically provided to producers of the Subject Goods and have provided countervailable benefits to PET resin production.
254. The Complainant submits that the President of the CBSA should investigate the subsidization of subject Chinese, Indian, Pakistani and Omani PET resin. Analysis and evidence of subsidy programs is included in Appendix “2” for China, Appendix “3” for India, Appendix “4” for Pakistan and Appendix “5” for Oman.
255. As discussed in Appendices 1 through 3, the subsidies conferred on Chinese, Indian, Pakistani and Omani producers of Subject Goods are not negligible or insignificant and exceed the applicable thresholds set forth in the SIMA and Article 27 of the WTO *Agreement on Subsidies and Countervailing Measures* (the “SCM” Agreement”).
256. The Complainant provides substantial, credible, and reasonably available information relating to the subsidization of PET resin by China, India, Pakistan and Oman. The following sources, among others, are relied upon: past CBSA countervailing duty findings; U.S. Department of Commerce investigations and past countervailing duty findings; steel industry reports; government documents; WTO Trade Policy Review, and general news articles and publications.
257. In situations where information is reasonably available to the Complainant regarding the amount of subsidy, that information is provided in Appendices 1 through 4. In other

circumstances, the Complainant only has general information about subsidy programs that should be further investigated to ascertain the level of subsidization conferred on exports of Subject Goods from China, India, Pakistan and Oman.

258. The Complainant submits, however, that this section and Appendices 1 through 4 do not cover all actionable benefits conferred by the governments of these three countries and requests that CBSA seek further information from the Governments of China, India, Pakistan and Oman including state and local governments, and from exporters in these countries to determine with greater precision the full extent of specific subsidies conferred on Chinese, Indian, Pakistani and Omani producers of Subject Goods.

B. Relevant Provisions of SIMA

259. SIMA section 2(1) defines a subsidy as:

(a) a financial contribution by a government of a country other than Canada in any of the circumstances outlined in subsection (1.6) that confers a benefit to persons engaged in the production, manufacture, growth, processing, purchase, distribution, transportation, sale, export or import of goods, but does not include the amount of any duty or internal tax imposed by the government of the country of origin or country of export on

(i) goods that, because of their exportation from the country of export or country of origin, have been exempted or have been or will be relieved by means of remission, refund or drawback,

(ii) energy, fuel, oil and catalysts that are used or consumed in the production of exported goods and that have been exempted or have been or will be relieved by means of remission, refund or drawback, or

(iii) goods incorporated into exported goods and that have been exempted or have been or will be relieved by means of remission, refund or drawback, or

(b) any form of income or price support within the meaning of Article XVI of the General Agreement on Tariffs and Trade, 1994, being part of Annex 1A to the WTO Agreement, that confers a benefit;

260. SIMA section 2(1.6) prescribes what is a “financial contribution”:

For the purposes of paragraph (a) of the definition “subsidy” in subsection (1), there is a financial contribution by a government of a country other than Canada where

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

261. SIMA section 2(7.2) provides that a subsidy is specific where it is:

- (a) limited, pursuant to an instrument or document referred to in paragraph (7.1)(b), to a particular enterprise within the jurisdiction of the authority that is granting the subsidy; or
- (b) a prohibited subsidy.

262. SIMA section 2(7.3) provides that despite a subsidy not being limited in a manner set out in section 2(7.2) of SIMA, the President of the CBSA may, having regard to the following factors, determine that the subsidy is specific:

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

263. In *Canada — Measures Relating to the Feed-in Tariff Program*, a WTO Panel re-affirmed that a financial contribution confers a benefit within the meaning of Article 1.1(b) of the SCM Agreement if it provides an advantage to its recipient.²⁴¹ The panel also affirmed that

²⁴¹ Public Attachment 31: *Canada — Measures Relating to the Feed-in Tariff Program*, WT/DS412/R, WT/DS426/R (December 19, 2012) at para 7.271.

the existence of an advantage is to be determined by comparison of the recipient with and without the financial contribution. Further, it noted that “the marketplace provides an appropriate basis for [making this] comparison”.²⁴²

264. The Complainant requests that CBSA investigate any allocable, non-recurring subsidies or countervailable benefits granted during the subsidy POI, and any outstanding loans, recurring subsidies provided during this POI.
265. Public Attachment 1 to each subsidy appendix for China, India, Pakistan and Oman lists programs identified in the Complaint as potentially conferring actionable or prohibited subsidies on producers and exporters of PET resin in these countries.
266. The Complainant requests that the CBSA investigate whether these programs confer countervailable subsidies or prohibited subsidies upon Chinese, Indian, Pakistani and Omani PET resin producers.

C. Amount of Subsidization

1. Methodology

267. For each of China, Pakistan, Oman and India, the Complainants have calculated the margin of subsidy as the difference between the estimated total cost of production (materials, labour factory overhead, SG&A and financial expenses) for a particular project and the export price for a particular project.²⁴³

²⁴² *Ibid.*

²⁴³ Confidential Attachments 32 to 35: Complainant’s Estimated Amounts of Subsidy. These attachments contain the summaries of the calculations described below. For the supporting documents, including support for the Comtrade import prices for inputs, support for the labour costs from the ILO and support for the GS&A and financial expenses used, please refer to Confidential Attachments 13 (China), 29 (India), 27 (Oman) and 28 (Pakistan).

Cost of Goods Manufactured: Direct Materials, Direct Labour and Factory Overhead

268. The direct materials, direct labour and factory overhead costs for each Subject Country conferring countervailable subsidies were calculated in the same manner as described above for the purpose of subsection 16(2) and section 19.
269. In summary, direct materials costs were calculated by applying the Complainant's consumption rate of PTA and MEG in the production of Like Goods to the actual cost of these materials in each Subject Country. Direct labour costs were calculated using the Complainant's own direct labour costs incurred in producing Like Goods, adjusted to account for the difference in labour costs between the Subject Country and Canada. Factory overhead costs were calculated on the basis of the Complainant's actual factory overhead costs in 2016. This represents the best information available to the Complainant.

Other Expenses: GS&A, Financial Expenses, Etc.

270. As with the calculations for the purposes of subsection 16(2) and section 19, the Complainant calculated amounts for GS&A and financial expenses for China, Pakistan, Oman and India based on the public financial statements of Subject Goods producers in these countries, using out of country data only where necessary and reasonable to do so. These expenses were calculated on a percentage basis and applied to the constructed cost of production for each country to determine a dollar amount for each expense.
271. For China, amounts for GS&A and financial expenses were determined based on the reported expenses of Hengyi Petrochem and FENC, both producers of Subject Goods in China.²⁴⁴ Other Chinese producers of PET resin, as show in Confidential Attachment 2, do not report financial results publicly.

²⁴⁴ Confidential Attachment 2: Excerpts from the PCI Wood Mackenzie PET Supply Demand Database, Q4 2016.

2. Amount of Subsidization

272. The difference between the export price and cost production demonstrate that Subject Goods from China, Pakistan, Oman and India are being sold into Canada substantially below their cost of production, indicating a significant amount of subsidy (see Confidential Attachments 32 to 34) For all of the reasons above, Selenis Canada requests that the CBSA initiate an investigation into injurious subsidies conferred upon PET resin producers in these countries by their respective governments and government entities.
273. The estimated amount of subsidy on Subject Goods from China is \$[]/MT. the estimated margin of subsidization for China is []%.²⁴⁵
274. The estimated amount of subsidy on Subject Goods from Oman is \$[]/MT. the estimated margin of subsidization for Oman is []%.²⁴⁶
275. The estimated amount of subsidy on Subject Goods from Pakistan is \$[]/MT. the estimated margin of subsidization for Pakistan is []%.²⁴⁷
276. The estimated amount of subsidy on Subject Goods from India is \$[]/MT. the estimated margin of subsidization for India is []%.²⁴⁸

IV. Evidence of Injury

277. Because of the dumped and subsidized Subject Goods, Selenis Canada has suffered material injury in the form of lost sales, price undercutting, price suppression, and reduced market share. As a result, Selenis Canada's PET resin business has been negatively impacted, as reflected in diminished net sales revenues, gross margins and net profits, as

²⁴⁵ Confidential Attachment 32: Complainant's Estimated Amounts of Subsidy: China.

²⁴⁶ Confidential Attachment 33: Complainant's Estimated Amounts of Subsidy: Oman.

²⁴⁷ Confidential Attachment 34: Complainant's Estimated Amounts of Subsidy: Pakistan.

²⁴⁸ Confidential Attachment 35: Complainant's Estimated Amounts of Subsidy: India.

well as reduced employment. The Complainant's income statement in Confidential Attachment 10 demonstrates the extent to which the Subject Goods have caused material injury to Selenis Canada.²⁴⁹

278. As noted above, Selenis Canada accounts for 100% of the Canadian domestic industry.²⁵⁰

279. SIMA defines "domestic industry" to mean "[...] the domestic producers as a whole of the like goods or those domestic producers whose collective production of the like goods constitutes a *major* proportion of the total domestic production [...]" (emphasis added).²⁵¹ Selenis Canada represents 100% of like goods production in Canada. Therefore, the Complainant constitutes a "major proportion" of Canada's domestic like goods production and it alone may stand as the "domestic industry" for the purposes of both a preliminary injury inquiry and final injury inquiry.

280. For those reasons, the Complainant submits that the injury caused to it by dumped Subject Goods imports is indicative of the injury suffered to the domestic industry as a whole.

A. Apparent Canadian Market

281. The public Canadian PET resin import table is attached at Public Attachment 11. The confidential apparent Canadian market table is attached as Confidential Attachment 36.

282. Additional information about Subject Goods is also available to the President through import documentation filed with CBSA. The figures in Attachment are based on Statistics Canada data and may include some non-subject PET resin. Prior to 2017, this may include PCR imported under HS code 3907.60.00.80, or PET resin with an IV that falls outside of the range included in the product definition (i.e. 0.70 to 0.88) imported under HS code

²⁴⁹ Confidential Attachment 10: Complainant's Income Statement 2013-Q3 2016.

²⁵⁰ See para. 52, *supra*.

²⁵¹ SIMA, s. 2(1). Note that a separate definition of domestic industry applies with respect to section 31 of the Act.

3907.60.00.90. As of 2017, this may include PET resin of an IV higher than 0.88 imported under HS code 3907.61.00.00 or PCR imported under HS code 3907.69.00.80.

283. While Selenis Canada does not have the ability to precisely identify the proportion of these figures which is non-subject PET resin, the Complainant believes that the majority would fall within the product definition in this case. Accordingly, the Complainant submits that the Statistics Canada data provides a reasonable indication of the Canadian market for Subject and Like Goods PET resin.
284. Total imports fell by 1.6% in a growing market from 2014 to 2015 and by another 1.9% in 2016. However, this figure is distorted by the significant growth in volume from the Subject Countries in 2016. Annual imports from countries other than the Subject Countries fell by 16.1% in 2016.²⁵²
285. On the other hand, while imports from the Subject Countries dropped by 6.6% in 2015, they grew by 21% in 2016.²⁵³
286. Meanwhile, Selenis Canada was [] in 2015 by [] MT.²⁵⁴ However, these [] in 2016, as imports from the Subject Countries surged. Selenis Canada sold [] volume in Canada in 2016 compared to 2015.²⁵⁵
287. The same import trend can be seen comparing Q1 2016 to Q1 2017. While total imports fell by 4,298 MT (15.8%), Subject Goods imports increased by 2,308 MT (22.9%).²⁵⁶

²⁵² Public Attachment 11: Canadian Import Table, 2014-Q1 2017.

²⁵³ Public Attachment 11: Canadian Import Table, 2014-Q1 2017.

²⁵⁴ Confidential Attachment 36: Canadian Market Table, 2014-Q1 2017.

²⁵⁵ *Ibid.*

²⁵⁶ Public Attachment 11: Canadian Import Table, 2014-Q1 2017.

288. Selenis Canada submits that the domestic industry has lost significant sales and market share as a direct result of the low-priced competition from the dumped and subsidized Subject Goods.

B. Indicators of Injury

1. Price Undercutting and Erosion

289. Subject Goods have captured market share at the expense of the Canadian industry by aggressively undercutting the Canadian producer's pricing. Even with the expense of shipping PET resin long distances, PET resin from the Subject Countries is still priced substantially below the prices offered by the Canadian producers.

290. The table below sets out the average prices for PET resin in Canada in the period between 2014 and Q1 2017.

Table 9
Average Selling prices 2014-Q1 2017 (\$/MT) ²⁵⁷

	2014	2015	2016	Q1 2017
World	1,720	1,677	1,479	1,502
US	1,783	1,812	1,668	1,654
Pakistan	1,605	1,494	1,281	1,299
China	1,590	1,503	1,098	1,526
Oman	1,608	1,564	1,268	1,303
India	1,647	1,358	1,339	1,236
Turkey	2,011	1,342	1,380	1,596
All Subject Countries	1,602	1,490	1,240	1,330
Selenis Canada	[
Market				

²⁵⁷ Confidential Attachment 36: Canadian Market Table, 2014-Q1 2017.

	2014	2015	2016	Q1 2017
Subject Country Undercutting of Domestic Industry				

291. As the above table demonstrates, the aggregated Subject Countries were the lowest priced source in 2014 and were \$[]/MT lower than Selenis Canada’s average price. In 2015, this margin deepened to \$[]/MT lower than Selenis Canada, and then to \$[]/MT in 2016. In 2016, this occurred despite Selenis Canada

[], as the average pricing from the Subject Countries dropped by \$250/MT. In Q1 2017, the margin of undercutting by the Subject Goods grew even more, to \$[]/MT. This is a clear trend of increased undercutting in each period of injury period of inquiry.²⁵⁸

292. Looking at the Subject Countries individually demonstrates a similar pattern of undercutting throughout 2014 to Q1 2017. All countries shipped significant volumes to Canada in 2014 save Turkey. In that year, China, Oman and Pakistan undercut Selenis Canada by between \$[]/MT and \$[]/MT.²⁵⁹ In 2015, India and Turkey undercut Selenis Canada by [], while China, Oman and Pakistan undercut Selenis Canada by \$[]/MT, \$[]/MT and \$[]/MT respectively.²⁶⁰ In 2016, all Subject Countries undercut Selenis Canada, by margins as high as \$[]/MT (China), \$[]/MT (Oman) and \$[]/MT (Pakistan).²⁶¹ These three countries represented 89% of total Subject Country import volume in 2016.²⁶²

²⁵⁸ Confidential Attachment 36: Canadian Market Table, 2014-Q1 2017.

²⁵⁹ *Ibid.*

²⁶⁰ *Ibid.*

²⁶¹ *Ibid.*

²⁶² *Ibid.*

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293. Table 9 above shows that the market price for PET resin in Canada [] in 2016. However, the magnitude of the average undercutting by the Subject Countries in 2016 demonstrates that Selenis Canada's prices did not simply drop according to a general market trend, but were instead dragged down by the dumped imports.
294. Indeed the Subject Countries represented 47.2% of imports in 2016 at \$1,240/MT. The average price of all other imports to Canada (including the US) was \$1,693/MT.²⁶³ In other words, if these countries had not been present in Canada to drag prices downward, there would not have been a such a large drop in market pricing.
295. Further, the Subject Countries dragged prices in the Canadian market down not only by competing with Selenis Canada, but also in competition with each other. It is clear from this data that in 2016, China was the low-price leader in the Canadian market. China's exports to Canada in 2016 were priced roughly \$170/MT lower than the next lowest source of Oman while accounting for 12% of imports over the year.²⁶⁴ In Q1 2017, India led the way with prices that were \$94/MT below the Subject Country average.²⁶⁵ These offshore price leaders force the other Subject Countries to lower their prices to compete for Canadian sales. As these prices get lower, it gets harder and harder for Selenis Canada to remain competitive.
296. When pricing recovered in the first quarter of 2017, [] as raw material costs [].²⁶⁶ However, Selenis Canada was unable to [] as the Subject Countries widened their margin of undercutting. The Subject Countries raised their average price by only \$90/MT in Q1 2017

²⁶³ Public Attachment 11: Public Canadian Import Table, 2014-Q1 2017.

²⁶⁴ *Ibid.*

²⁶⁵ *Ibid.*

²⁶⁶ Confidential Attachment 36: Canadian Market Table, 2014-Q1 2017.

from the 2016 annual average.²⁶⁷ This \$90/MT increase is much lower than the \$210/MT increase in indexed raw materials pricing published by IHS²⁶⁸ and is also lower than the []²⁶⁹.

297. The pervasive price undercutting by the Subject Goods is further demonstrated by the specific examples of lost sales and price undercutting discussed in the Confidential Statement of Evidence of Adam Davis.²⁷⁰

2. Specific Examples of Price Undercutting, Price Depression and Lost Sales

298. The Complainant has been facing drastically increasing price pressures in the Canadian market from imports from the Subject Countries. The degree of price undercutting by these new offshore sources is further demonstrated by examining specific customer accounts. Examples regarding specific customer accounts are included and detailed in the Statement of Evidence of Adam Davis.²⁷¹
299. It should be noted that the import prices discussed in Mr. Davis's statement include inland freight in the subject country, port and handling charges in the subject country, ocean freight from the subject country to Canada, broker margin in Canada where applicable, port and handling charges in Canada and inland freight in Canada. Those prices therefore cannot be accurately compared to the normal values calculated for these countries without adjusting for these costs.

²⁶⁷ Public Attachment 11: Public Canadian Import Table, 2014-Q1 2017.

²⁶⁸ Confidential Attachment 37: Summary of IHS Monthly Average PET RM Costs.

²⁶⁹ Confidential Attachment 36: Canadian Market Table, 2014-Q1 2017.

²⁷⁰ Confidential Attachment 9: Statement of Evidence of Adam Davis, paras. 14-45.

²⁷¹ *Ibid.*

300. Prices in Selenis Canada's communications with customers, whether regarding domestic or Subject Goods prices, are almost always quoted in US dollars. These prices have been converted to Canadian dollars for the purpose of this complaint using the Bank of Canada's monthly average exchange rate prevailing at the relevant time.²⁷²
301. Further, the Complainant would like to emphasize that the examples provided are not meant to provide an account of all import purchases at these accounts since 2014; rather, these are simply the import purchases that Selenis Canada has been able to collect information on. Customers are often hesitant to provide details of their source of supply or the price at which Subject Goods are being offered or sold. This is a practical barrier to Selenis Canada's ability to gather information on import competition at its accounts. The Complainant's communications with [] in January 2016 provide a good example of this. When a representative of the Complainant asked for information on the source of the material it was competing with, the customer was willing to provide the source exporter/country. However, when the Complainant asked for the identity of the distributor, the customer stated, "Unfortunately that is confidential, [*sic.*] we don't want to jeopardize their or our relationships".²⁷³ In other cases, customers simply refer to the material they are being offered as "offshore" or "import" material without even identifying a country of origin.
302. In addition, the Complainant notes that these are just a representative sample of the head-to-head competition that Selenis Canada has faced from Subject Country imports in the recent period. These imports have caused the Complainant to lose sales and have forced it to reduce its pricing, both of which have caused it material injury.

²⁷² Public Attachment 38: Bank of Canada Monthly Average Exchange Rates, 2013-March 2017.

²⁷³ Confidential Attachment 9: Statement of Evidence of Adam Davis, Attachment 9: Support for [] Import Competition Report, Tab 1.

303. Further, it is clear that even an offer, with no actual purchase, can and does have a negative downward effect on pricing in the Canadian market.

304. The Tribunal commented on this in the 2011 expiry review on *Hot-rolled Sheet*:

345. The Tribunal heard testimony that, sometimes, even the presence of “zero volume” is enough to disrupt the domestic market, given that only the threat of an offer priced significantly below the price of Canadian hot-rolled steel sheet is enough to cause prices to cascade downward. To further corroborate this, the Tribunal heard testimony that, given the relative size and the fragility of the Canadian market, import offers such as 5,000 metric tonnes or even 3,000 metric tonnes can affect and devastate pricing in the Canadian market.

346. In such a case, the company to which a low-priced offer was made, whether it be a service centre or an end user, would quickly contact its core supplier and expect it to match the offered price, which can be extremely disruptive to the domestic market. [Footnotes omitted]²⁷⁴

305. These circumstances also exist in the Canadian PET resin market, where the mere fact of an offer can cause a downward spiral in pricing. The Complainant submits that the examples of lost sales, price undercutting and price erosion in Mr. Davis’s statement of evidence provide compelling evidence of injury caused to Selenis Canada by the dumped and subsidized subject goods.

3. Lost sales and lost market share

306. The Complainant has compiled an estimated total market for Subject and Like Goods in Canada by adding Selenis Canada’s sales to Statistics Canada import statistics.²⁷⁵ Based on this aggregation, which the Complainant feels provides a reasonable estimate of market shares, the market share held by Selenis Canada, the Subject Countries and the United States were as follows:

²⁷⁴ *Flat Hot-Rolled Carbon and Alloy Steel Sheet and Strip*, RR-2010-001, Statement of Reasons (August 15, 2011), paras. 345-346.

²⁷⁵ Confidential Attachment 36: Confidential Canadian Market Table, 2014-Q1 2017.

Table 10

	2014	2015	2016	Q1 17
All Imports	[
United States				
Total Subject Countries				
Selenis Canada]

307. As can be seen in this table, Selenis Canada’s market share fell by []% from 2015 to 2016, while the Subject Countries saw a []% increase. The market share held by US producers dropped by []% from 2015.²⁷⁶
308. The Complainant submits that it is especially telling that four of the Subject Countries, Pakistan, China, Oman and Turkey, were the only significant import sources in the Canadian market to see their sales volumes in Canada increase in 2016, as shown in the attached public import table.²⁷⁷
309. In other words, the market share held by the Subject Countries increased at the same time that Selenis Canada suffered a loss in market share. This establishes a correlation between the Complainant’s declining market position and the improving market position of the Subject Countries. The fact that four of the Subject Countries were the only significant sources in the market to see an increase in volume in 2016 necessarily means that Selenis Canada’s lost market share was entirely occupied by dumped and subsidized imports.
310. Further, [

].

²⁷⁶ Confidential Attachment 36: Confidential Canadian Market Table, 2014-Q1 2017.

²⁷⁷ Public Attachment 11: Public Canadian Import Table, 2014-Q1 2017.

311. In the first quarter of 2017, the Complainant []]. This is primarily attributable to []].²⁷⁸ While the [], it is crucial for Selenis Canada to be able to sell [] at sustainable prices. Tellingly, Selenis Canada [] (as discussed further below)²⁷⁹, while the Subject Countries sold more volume at lower prices compared to Q1 2016.²⁸⁰

312. As discussed below, the market share that the domestic industry has been able to maintain has come at the cost of deteriorating and unsustainable financial results.

4. Financial Results

313. The injurious impact of dumped Subject Goods is clearly demonstrated in Selenis Canada's confidential income statement.²⁸¹ This income statement has been reconciled to Selenis Canada's financial statements, as shown in confidential attachment 39.²⁸² Selenis Canada's

²⁷⁸ Confidential Attachment 1: Confidential Statement of Evidence of Richard A. Lane, para. 5.

²⁷⁹ Confidential Attachment 10: Complainant's Income Statement and Cost of Goods Manufactured, 2014-Q1 2017.

²⁸⁰ Public Attachment 11: Public Canadian Import Table, 2014-Q1 2017.

²⁸¹ Confidential Attachment 10: Complainant's Income Statement and Cost of Goods Manufactured, 2014-Q1 2017.

²⁸² Confidential Attachment 39: Selenis Canada's audited financial statements 2014-Q1 2017. The Complainant notes that Confidential Attachment 10 provides a conservative representation of the Complainant's [] in Q1 2017. As shown in the summary of the Complainant's audited financials at Confidential Attachment 39, the Complainant's []

financial statements for 2014 through 2016 have been audited. The financial statement provided for the first quarter of 2017 is an unaudited, internal report.²⁸³

314. Selenis Canada's key financial indicators for domestic sales from 2014 to Q1 2017 are as follows:

].

²⁸³ To provide an income statement specifically for Like Goods sold domestically, the Complainant had to make certain allocations and adjustments as follows:

1) The Complainant's costs for domestic sales of Like Goods were allocated [].

2) The Complainant's audited financials include [].

3) The Complainant's audited financials also include [].

4) The Complainant's audited costs [].

Table 11²⁸⁴

	2014	2015	2016	Q1 2017
Total volume of sales (MT)	[
Total net sales value				
Cost of goods sold				
Gross margin (loss)				
Net income (loss) before taxes				
Net Profit margin (%)]%

315. On a per unit basis, these financial results are as follows:

Table 12²⁸⁵

(C\$/MT)	2014	2015	2016	Q1 17
Net sales	[
Cost of goods sold				
Gross margin (loss)				
Net income (loss) before taxes]

316. As shown above, Selenis Canada has consistently [] at the net income level since 2014. While Selenis Canada was able to [] on account of having to compete

²⁸⁴ Confidential Attachment 10: Complainant's Income Statement and Cost of Goods Manufactured, 2014-Q1 2017.

²⁸⁵ *Ibid.*

with Subject Goods. Further the Complainant's 2015 results were [

].²⁸⁶ If [], the Complainant's
] on the year becomes \$[], or \$[]/MT.²⁸⁷

317. In 2016, the Complainant's []
]. This significant [

]²⁸⁸. While this [] can be attributed in part
to [

] and its COGS [] \$[]/MT.²⁸⁹The Complainant
submits that the remainder of this [] is attributable to the destructive effect of the
Subject Goods, which grew in volume by 21% and dropped in value by \$250/MT year-
over-year.²⁹⁰

318. In the first quarter of 2017, the Complainant [

]. The IHS index shows that the market price for PET resin raw materials
prices increased by \$210/MT in Q1 2017 over the full year 2016 average,²⁹¹ supporting
increased market prices for PET resin. The Complainant's actual costs for raw materials
consumed in Q1 2017 [].] The Complainant was [

²⁸⁶ Confidential Attachment 39: Selenis Canada's audited financial statements 2014-Q1 2017; Confidential Attachment 10: Complainant's Income Statement and Cost of Goods Manufactured, 2014-Q1 2017.

²⁸⁷ *Ibid.*

²⁸⁸ *Ibid.*

²⁸⁹ *Ibid.*

²⁹⁰ Public Attachment 11: Public Canadian Import Table, 2014-Q1 2017.

²⁹¹ Confidential Attachment 37: Summary of IHS Monthly Average PET RM Costs.

].²⁹² However, continued pressure from the dumped and subsidized Subject Goods prevented [].
The Complainant ultimately [].²⁹³

5. Reduced Employment

319. Selenis Canada's number of employees, both direct and indirect, [] from 2014 through the first quarter of 2017.²⁹⁴ The total number of employees directly involved in the production of PET resin has declined from [] in 2014 to [] in 2016 and [] in the first quarter of 2017.²⁹⁵ For direct employment, this reduction resulted in [] fewer hours worked and \$[] less in wages paid in 2016 over 2014.²⁹⁶ The Complainant submits that this trend, in light of the Subject Countries' export volumes and pricing over this period as discussed above, further supports a reasonable indication of material injury caused by the Subject Goods.

V. Evidence of Threat of Injury

320. Subsection 37.1(2) of the SIM Regulations lists the factors the Tribunal may consider in addressing the question of whether dumped and subsidized goods are threatening to cause injury. The Complainant submits that these factors should also be considered by the CBSA

²⁹² Confidential Attachment 10: Complainant's Income Statement and Cost of Goods Manufactured, 2014-Q1 2017

²⁹³ *Ibid.*

²⁹⁴ Confidential Attachment 14: Complainant's PET resin Employment and Employment-related Costs, 2014-Q1 2017. To separate its labour costs into direct labour, indirect labour and labour relating to GS&A, the Complainant used its [

[]. The Complainant then calculated totals for each category and calculated each as a []. To ensure consistency with the audited financials, the Complainant [] to determine dollar amounts for each category.

²⁹⁵ *Ibid.*

²⁹⁶ *Ibid.*

when assessing whether or not a complaint provides a reasonable indication that the alleged dumping of particular goods threaten to injure the domestic industry.

321. Selenis Canada is threatened with further material injury by reason of dumped and subsidized imports from Subject Countries. Imports have increased significantly since 2014 and are almost certain to continue to do so, especially given the unused and growing production capacity in the Subject Countries, their export focus on the Canadian market and the recent U.S. trade remedy findings against three of the five Subject Countries (Oman, India, China).²⁹⁷
322. Increasing imports at prices that substantially undercut domestic producer pricing will continue to depress domestic prices and take market share from Canadian producers. The adverse volume and price effects of increasing dumped imports will cause Selenis Canada to suffer declines in production, employment, market share, prices, operating income, return on investment, and other indicators of material injury.
323. In making its assessment of threat of injury, the Tribunal generally considers a timeframe of 12 to 18 or 12 to 24 months.²⁹⁸

A. Global Market Conditions

324. The largest end use demand for PET resin is bottle application; bottled beverages occupy more than 70% of the market share.²⁹⁹ According to Plastics Insight, Global PET resin production capacity was 27.8 million MT in 2015.³⁰⁰ PCI Wood Mackenzie reports that total global production capacity was 26.197 million MT, with this capacity rising to 27.417

²⁹⁷ Public Attachment 40: US International Trade Commission, *Polyethylene Terephthalate (PET) Resin from Canada, China, India, and Oman*, Investigation Nos. 701-TA-531-532 and 731-TA-1270-1273 (Final).

²⁹⁸ Plate VII, *supra*, para. 185; *Greenhouse Bell Peppers*, NQ-2010-001 at para. 175; *Carbon Steel Welded Pipe*, NQ-2012-003 at para. 156.

²⁹⁹ Public Attachment 41: Plastics Insight, Global PET resin Production Capacity, October 12, 2016, available online: <https://www.plasticsinsight.com/global-pet-resin-production-capacity/>.

³⁰⁰ *Ibid.*

MT in 2016, 29.537 MT in 2017 and 32.643 MT in 2018. As shown in Confidential Attachment 2 and the table below, demand has and will continue to lag these capacity expansions.

Table 13³⁰¹

WORLD				
Total Global Capacity/Demand				
000 MT	2015	2016	2017	2018
Nameplate/Cycle Capacity	26,197	27,417	29,537	32,643
Domestic Demand	21,183	21,941	23,082	24,348
Total Shipments	20,892	21,433	22,569	23,685
Maximum Spare Capacity	4,029	4,662	5,520	7,314
% Utilisation	80%	78%	76%	73%
y-o-y change				
Demand				
Actual		758	1,141	1,266
%		3.6%	5.2%	5.5%
Capacity				
Actual		1,220	2,120	3,106
%		4.7%	7.7%	10.5%

325. Table 13 demonstrates that capacity utilization was 80% in 2015, but has since dropped steadily, to 78% in 2016 and 76% in 2017. In 2018, global capacity utilization will have dropped to 73%. The excess capacity of 7.314 million MT is over [] times the size of the Canadian market in 2016.³⁰² This trend towards increased excess capacity, and the especially stark projected increase in excess capacity by 1.794 million MT in 2018, form recipe for increased global exports and price competition in the next 12 to 18 months.

³⁰¹ Confidential Attachment 2: Excerpts from the PCI Wood Mackenzie PET Supply Demand Database, Q4 2016, tab 3

³⁰² *Ibid*; Confidential Attachment 36: Canadian Market Table, 2014-Q1 2017.

B. Subject Country Market Conditions

1. China

326. According to the IMF, China's GDP growth fell from 7.3% in 2014 to 6.9% in 2015 and 6.7% in 2016. China's GDP growth is expected to fall even further to 6.6% in 2017, 6.2% in 2018 and 5.7% by 2022.³⁰³ The OECD similarly projects that economic growth will edge down from 6.7% in 2016 to 6.5% in 2017 and then to 6.25% in 2018.³⁰⁴ This slowing growth will occur as the GOC manages a transition from consumption to services and an adjustment to its heavy industries.³⁰⁵ According to PCI Wood Mackenzie, this slower economic growth in the Chinese economy is beginning to impact the global beverage industry more broadly.³⁰⁶ The expectation for year-on-year growth in the global beverage industry in 2016 was revised downward in August 2016 as consumption volumes in the first half of the year did not meet expectations.³⁰⁷
327. According to the China Chemical Fiber Group ("CCFGroup"), a prominent Chinese plastics data and news outlet, Chinese PET resin demand totaled 3.45 million MT in January to September 2016 and is assessed at 4.5 million MT for FY 2016, improving somewhat from a year earlier.³⁰⁸ Demand in November 2016 was reported to be mediocre since Chinese exporters continued to face stiff competition from Indian and Middle Eastern PET offers standing at attractive levels.³⁰⁹ In 2017, PET resin demand in China is expected

³⁰³ Public Attachment 42: IMF World Economic Outlook, April 2017, p. 220.

³⁰⁴ Public Attachment 43: OECD Interim Economic Outlook, March 2017, March 7, 2017, pp. 1, 4.

³⁰⁵ *Ibid*, p. 4.

³⁰⁶ Confidential Attachment 44: PCI Wood Mackenzie, "PET Business Report", August 2016 p. 18.

³⁰⁷ *Ibid*, p. 18.

³⁰⁸ Public Attachment 45: CCF Group, PET Bottle Chip Market Outlook in Q4 2016, October 18, 2016.

³⁰⁹ Public Attachment 46: Chem Orbis: Weekly Analysis: China PET Market, November 18, 2016, p.1.

to sustain marginal growth, but at a slower pace than 2016..³¹⁰ As of Q1 2017, the CCF Group reported a quarterly demand of 1.14 million MT, but with Chinese soft drink output growing at a slower rate than the year before.³¹¹ CCF notes that with new capacity coming on in the future and increasing trade barriers for Chinese PET resin, the PET bottle chip market in China may face increasing pressure.³¹²

328. PCI Wood Mackenzie reports demand similar figures for China on an annual basis, with 4.497 MT of PET resin demand in China in 2016, growing to 4.771 million MT in 2017 and 5.090 million MT in 2018.³¹³
329. PET resin production was estimated at 3.49 million MT in the first 3 quarters of 2016, year or year, up 4%.³¹⁴ The complainant does not have access to full year 2016 production figures for PET resin in China.
330. Global PET resin production capacity was 27.417 million MT in 2016, with China accounting for 27% of this capacity.³¹⁵ In 2017, capacity expansions are anticipated for Sanfangxiang (500kt/year), Wankai (550kt/year), Yisheng Hainan (500kt/year), Chengxing (1,200kt/year).³¹⁶ PCI Wood Mackenzie forecasts an increase of 5.3 million

³¹⁰ Public Attachment 47: CCF Group, 6 Spotlights on PET resin discussed in the 4th International PET & RPET Industry Forum, Nov 8, 2016.

³¹¹ Public Attachment 48: CCF Group, "PET Bottle Chip Downstream Roundup in Q1 2017", April 26, 2017.

³¹² *Ibid.*

³¹³ Confidential Attachment 2: Excerpts from the PCI Wood Mackenzie PET Supply Demand Database, Q4 2016.

³¹⁴ Public Attachment 49: CCF Group, PET Bottle Chip Downstream Roundup in Jan-Sep 2016, Nov 15, 2016, p. 1.

³¹⁵ Confidential Attachment 2: Excerpts from the PCI Wood Mackenzie PET Supply Demand Database, Q4 2016.

³¹⁶ Public Attachment 47: CCF Group, 6 Spotlights on PET resin discussed in the 4th International PET & RPET Industry Forum, Nov 8, 2016.

MT in PET resin production capacity from 2016 to 2018.³¹⁷ This amounts to a 71% increase in production capacity over two years.

331. The significant PET capacity expansion projects in China in the near future, coupled with the slowdown in beverage consumption domestically, suggest that China will increase its exports to Canada in the next 12 to 18 months. Given China's propensity to ship large volumes of low-priced PET resin to Canada over the past three full years and first quarter of 2017, this poses an imminent and foreseeable threat to the domestic industry.

2. Oman

332. Octal is the world's largest single-site PET resin producer, with a total system output of over 1 million metric tons (2.2 billion pounds) of PET resin.³¹⁸ Octal tripled its production capacity for PET resin in 2012.³¹⁹ Although this pre-dates the period of inquiry for injury, the Complainant submits that it demonstrates the importance that Octal has placed on becoming a major player in the global PET resin industry.
333. Given that petroleum activities are the principal source of government revenue for Oman (79.9% in 2015)³²⁰, fluctuations in the world price of oil have been the major contributing factor to Oman's economic performance. Reflecting the persistent low crude oil prices in the global markets and sluggish global growth, Oman experienced a slowdown in economic activity during 2015.³²¹ According to the IMF, Oman's GDP, which was at 4.2% in 2015,

³¹⁷ Confidential Attachment 2: Excerpts from the PCI Wood Mackenzie PET Supply Demand Database, Q4 2016.

³¹⁸ Public Attachment 3: Octal: Who we are, Octal Website, available online: <http://www.octsal.com/About-Us/Who-We-Are>.

³¹⁹ Public Attachment 50: Muscat Daily, "Octal Triples PET resin Production Capacity", October 8, 2012.

³²⁰ Public Attachment 51: Prospectus, Government of the Sultanate of Oman represented by the Ministry of Finance, June 13, 2016, p. 28.

³²¹ *Ibid*, p. 3.

slowed to 3.1% 2016 and is projected to drop to 0.4% in 2017. This 2017 growth will be the lowest since Oman's economy contracted in 2011.³²²

334. In its April 2017 economic outlook for the GCC, the World Bank noted that protracted low oil prices continue to weigh on Oman's economy. The World Bank forecasts that an agreement by the Organization of Petroleum Exporting Countries ("OPEC") to cut oil production in 2017 as well as austerity measures by the Omani Government are likely to depress growth further.³²³ However, oil is not the only underperforming sector in the Omani economy. According to the World Bank, non-hydrocarbon GDP growth dropped to 2% in 2016 from 7% in 2015, as declining public spending depressed investment and consumption.³²⁴ The Omani Government has planned a 2017 budget cut of 8%, leading to a budgeted deficit of 10.6% of GDP that could reach 13.9% in 2017.³²⁵
335. Oman's short-term economic development is coordinated through a series of five-year development plans.³²⁶ Vision 2020, Oman's 9th five-year economic development plan, states as one of its objectives the diversification of the economic base by moving away from traditional oil products.³²⁷ The economy's vulnerability to oil price movements has led the Government of Oman to heavily promote investment and development in the non-oil sectors of the economy.³²⁸ Specifically, the Government of Oman has identified "five

³²² Public Attachment 42: IMF World Economic Outlook, April 2017, p. 221.

³²³ Public Attachment 52: World Bank, GCC: Economic Outlook – April 2017, available online: <http://www.worldbank.org/en/country/gcc/publication/economic-outlook-april-2017>.

³²⁴ *Ibid.*

³²⁵ *Ibid.*

³²⁶ Public Attachment 51: Prospectus, Government of the Sultanate of Oman represented by the Ministry of Finance, June 13, 2016, p. 3.

³²⁷ *Ibid.*

³²⁸ *Ibid.*

key non-oil and gas industries...targeted to provide increased growth”: Manufacturing, transportation and logistics, tourism, fisheries and mining.³²⁹

336. The Government of Oman aims to increase the manufacturing sector’s share of GDP to 15% of total GDP by 2020.³³⁰ While plastics are derived from petrochemicals, the Government of Oman has made clear that it considers them to be part of the key “non-oil” sector of manufacturing. In fact, the Government of Oman’s “major ongoing project within the [manufacturing] sector” is the Liwa Plastics Industries Complex, which is expected to commence operations producing polyethylene in 2019.³³¹
337. In the private sector, the Oman International Petrochemical Industry Company L.L.C. (“Ompet”), a joint venture of Oman Oil Co., LG International and Takamul, is developing a PTA and PET project planned for Sohar, Oman.³³² This is an estimated USD 600-million project to produce 1.1-million MT per year of PTA and 250,000 MT per year of PET.³³³ Completion and the start of operations are targeted by 2018. According to OMPET’s website, the facility should be operational and commencing sales in 2017.³³⁴ OMPET specifically states that its goal is to produce PET for bottles.³³⁵
338. The Gulf Petrochemicals and Chemicals Association (“GPCA”) reports that Chinese investors recently signed a landmark deal to invest US 10 billion to establish an industrial

³²⁹ *Ibid*, p. 4.

³³⁰ *Ibid*.

³³¹ *Ibid*.

³³² Public Attachment 53: Omani International Petrochemical Industries Company L.L.C (OMPET), Company Profile, available online: <http://www.ompet.om/pages.php?id=35>.

³³³ Public Attachment 54: Dr. Gupta Verlag, Oman: Ompet Joint Venture makes progress on Planned Sohar PTA/PET Project, April 11, 2015

³³⁴ Public Attachment 53: Omani International Petrochemical Industries Company L.L.C (OMPET), Company Profile, available online: <http://www.ompet.om/pages.php?id=35>.

³³⁵ *Ibid*.

city in Duqm, Oman, which the GPCA lists as a “polymer conversion industrial city”.³³⁶ It is unclear at this time whether production of PET resin is planned for this industrial city.

339. Between 2005 and 2015, the GCC States’ plastic resin production capacity tripled, reaching 26.6 million MT in 2015; a growth rate of 11.7% per year.³³⁷ In 2016, the GCC’s polymer industry expanded by another 5%, reaching 27.1 million MT.³³⁸ Omani polymers production capacity reportedly saw 10.7% CAGR per annum in the period from 2006 to 2016.³³⁹ GCC production of engineering and specialty polymers was 2.5 million MT in 2016, with PET accounting for 1.7 MT or 69% of that output.³⁴⁰ The GPCA reports that PET consumption accounted for one third of total PET output in the region, supporting an export focus in the region.³⁴¹
340. Overall, the GCC plastics industry is forecasted to continue its production capacity growth trajectory over the next five years, with a CAGR of 3% through to 2020.³⁴² Growth in Oman is projected to be 22% from 2016 through 2022.³⁴³
341. Given the Government’s and the private sector’s focus on expanding PET production capacity in Oman, a similar focus in the GCC region more broadly, and Oman’s demonstrated propensity to ship large volumes of low priced PET resin to Canada, these

³³⁶ Public Attachment 55: Gulf Petrochemicals and Chemicals Association, GCC Plastic Industry Indicators 2016, p. 39.

³³⁷ Public Attachment 56: Gulf Petrochemical and Chemicals Association, GCC Plastics Industry Indicators 2015, available online: https://issuu.com/www.gpca.org.ae/docs/gcc_plastics_industry_indicators 20, p.10.

³³⁸ Public Attachment 55: Gulf Petrochemicals and Chemicals Association, GCC Plastic Industry Indicators 2016, p. 7.

³³⁹ *Ibid*, p. 8.

³⁴⁰ *Ibid*, p. 11.

³⁴¹ *Ibid*, p. 23.

³⁴² *Ibid*, p. 35.

³⁴³ *Ibid*.

market conditions in Oman pose an imminent and foreseeable threat to the domestic industry.

3. Pakistan

342. As noted above, Novatex Limited (along with Gatron (Industries) Limited) is the only PET resin Bottle Grade manufacturer in Pakistan.³⁴⁴ These companies operate what appears to be a joint venture PET resin producer under the brand name Gatronova. According to Gatronova website, this facility has a PET resin production capacity of 345,000 MT/annum, divided almost equally between Local & Export Market.³⁴⁵
343. The attached Global Supply and Demand Database³⁴⁶ similarly shows that Gatron/Novatex has 345,000 MT production capacity. The Gatronova production capacity increased in 2016 by 105,000 MT, or by 44%.³⁴⁷
344. While the Gatronova production capacity is now slated to remain constant for the foreseeable future, another project in Pakistan is slated to add 50,000 MT of production capacity in 2017 and 70,000 MT in 2018 and the years following.³⁴⁸ While the supply databased does not identify the owner of this project, it appears to be referring to PSL: PSL notified the Pakistan Stock Exchange on October 3, 2016 that it had commenced commercial production of PET resin on October 1, 2016.³⁴⁹ According to its website, PSL

³⁴⁴ Public Attachment 4: Gatronova Website, "Overview of PET Capabilities".

³⁴⁵ Public Attachment 4: Gatronova Website, "Overview of PET Capabilities".

³⁴⁶ Confidential Attachment 2: Excerpts from the PCI Wood Mackenzie PET Supply Demand Database, Q4 2016.

³⁴⁷ *Ibid.*

³⁴⁸ *Ibid.*

³⁴⁹ Public Attachment 5: Pakistan Synthetics Limited, Letter to the General Manager of the Pakistan Stock Exchange Limited, October 3, 2016.

has activated this production capacity by converting an existing polyester stable fibre manufacturing plant.³⁵⁰

345. The result of this added capacity is that Pakistan's PET resin production capacity will increase by 15% in 2017 year over year and by 20.3% in 2018 compared to 2016 levels.³⁵¹
346. Demand growth in Pakistan will not be sufficient to absorb this additional production. Demand for virgin PET resin in Pakistan will increase by only 14,000 MT in 2017 and by another 13,000 MT in 2018.³⁵² Between 2015 and 2018, Pakistani PET resin production capacity will have increased by 175,000 MT, or 73%, while demand will have increased by only 41,000 MT.³⁵³

4. India

347. In India, although economic activity remains buoyant, the growth forecast for 2017 has been trimmed by 0.4%, primarily because of a negative consumption shock as a result of a currency exchange initiative that led to payment disruptions and cash shortages.³⁵⁴ GDP in India fell from 7.9% in 2015 to 6.8% in 2016, and is expected recover some of this lost ground in 2017 at 7.2% growth.³⁵⁵
348. The "Make in India" initiative was launched by the Prime Minister in September 2014 to transform India into a manufacturing hub, with one of the main sectors of focus being petrochemicals. Another major initiative taken by the government to encourage investment in the petrochemical sector is the Petroleum, Chemicals & Petrochemical Investment

³⁵⁰ Public Attachment 57: Pakistan Synthetics Limited, Company Profile.

³⁵¹ Confidential Attachment 2: Excerpts from the PCI Wood Mackenzie PET Supply Demand Database, Q4 2016.

³⁵² Confidential Attachment 2: Excerpts from the PCI Wood Mackenzie PET Supply Demand Database, Q4 2016.

³⁵³ Confidential Attachment 2: Excerpts from the PCI Wood Mackenzie PET Supply Demand Database, Q4 2016.

³⁵⁴ Public Attachment 42: IMF World Economic Outlook, April 2017, p. 17.

³⁵⁵ *Ibid*, table A4 (p. 202).

Regions (PCPIRs).³⁵⁶ PCPIRs, of which five were approved as of 2015, are designed to spread across 250 sq. km and are focussed on supporting the manufacture of petroleum, chemical and petrochemical products for the local and export markets.³⁵⁷ The PCPIRs encompass public utilities, production units, logistics, environmental protection mechanisms, residential areas and administrative services.³⁵⁸ Through the PCPIRs, India is aiming to boost its petrochemical manufacturing by focusing on key areas including feedstock, supply chain and research and development.³⁵⁹ All PCPIRs are anchored by government-owned oil companies.³⁶⁰

349. India's supply and demand fundamentals for PET resin are reportedly as follows:

Table 14
PET resin Market Fundamentals: India³⁶¹

(000 MT)	2014-15	2015-16	2016-17 (E)	Growth 14-15 to 16-17
Capacity	1,140	1,765	1,815	
Capacity Growth (%)		55%	3%	58%
Production	880	1,280	1,450	
Production Growth (%)		45%	13%	59%
Exports	330	595	660	
Export Growth (%)		80%	11%	91%

³⁵⁶ Public Attachment 58: Government of India: Department of Chemicals & Petrochemicals, Policy Resolution for Promotion of Petroleum, Chemicals and Petrochemical Investment Regions (PCPIRs).

³⁵⁷ *Ibid*; Public Attachment 59: IndustryArc, Impending Petroleum, Chemicals and Petrochemicals Investment Regions (PCPIR) & Plastic Parks will deliver Advanced Infrastructure for Chemical & Petrochemical Sector in India, March 3, 2016.

³⁵⁸ *Ibid*.

³⁵⁹ *Ibid*.

³⁶⁰ *Ibid*.

³⁶¹ Public Attachment 7: Asia Petrochemical Industry Conference 2016, Indian Petrochemical Industry: Country Paper from India, available online: <http://cpmaindia.com/pdf/apic-country-2016/apic2016-india-report.pdf>, p. 28

(000 MT)	2014-15	2015-16	2016-17 (E)	Growth 14-15 to 16-17
Apparent Demand	700	770	850	
Demand Growth (%)		10%	10%	20%
Excess Capacity	260	485	365	
Capacity Utilization	77%	73%	80%	3%

350. As can be seen in the above table, India saw PET resin demand growth of 10% in both 2015-16 and 2016-17, amounting to 20% growth over two years. Increasing replacement of traditional packaging materials with PET resins, rising disposable income, growing urbanization and extensive industrialization are expected to drive the growth of India's PET resin market during 2016-2025.³⁶² However, India's demand growth has been dwarfed by growth in production, production capacity and exports. Production capacity grew by 58%, production grew by 59% and exports grew by 91% over these two years. Overall, production grew by 570,000 MT, with exports accounting for 58% of that increase.
351. Even looking only at growth in 2015-16 over the previous year, production capacity grew by 55%, production grew by 45%, exports grew by 80% and demand grew by only 10%.
352. In 2015-16, India's Reliance Industries Ltd. commissioned a 650,000 tonne/year PET facility,³⁶³ which will be one of the largest bottle grade PET resin capacity at a single location globally.³⁶⁴

³⁶² Public Attachment 60: BusinessWire, India PET resins Market Study, 2011-2025: Research and Markets, November 18, 2016

³⁶³ Public Attachment 61: ICIS News, India's Reliance Commissions new PTA, PET Plants in Dahej, April 13, 2015.

³⁶⁴ Public Attachment 7: Asia Petrochemical Industry Conference 2016, Indian Petrochemical Industry: Country Paper from India, available online: <http://cpmaindia.com/pdf/apic-country-2016/apic2016-india-report.pdf>, p. 28,

353. With new capacity additions and growing demand for consumer goods and government's various initiatives such as "Make in India" and PCPIR to encourage domestic manufacturing, overall demand growth has been significantly outpaced by production capacity growth. PCI Wood Mackenzie data demonstrates that India is forecast to maintain a level of production capacity that exceeds demand for the next 18 months, through the end of 2018.³⁶⁵
354. Such aggressive growth in the recent past poses a distinct threat of future injury to the Canadian industry, as the supply and demand fundamentals indicate that India is not only gearing up to service growing domestic demand but also to be an increasingly prominent exporter. This poses a distinct threat of injury to the Canadian industry in the coming 12 to 24 months.

5. Turkey

355. Turkey's economy experienced a significant slowdown in 2016 after the failed coup d'état. According to the World Bank, GDP growth was an estimated 2.1% in 2016, down from 6.1% in 2015.³⁶⁶ In Q3 of 2016, Turkey's economy actually shrank by 2.7% quarter over quarter, on a seasonally adjusted basis. The only meaningful positive growth was in government spending, while private consumption fell by 2.6% over the prior quarter.³⁶⁷ The fourth quarter did not see broad-based recovery in consumer spending. The World Bank expects only 2.7% growth in 2017.³⁶⁸

³⁶⁵ Confidential Attachment 2: Excerpts from the PCI Wood Mackenzie PET Supply Demand Database, Q4 2016.

³⁶⁶ Public Attachment 62: The World Bank, "Turkey Regular Economic Note – February 2017".

³⁶⁷ *Ibid.*

³⁶⁸ *Ibid.*

356. The IMF similarly reports that Turkey’s GDP growth dropped from 6.1% in 2015 to 2.9% in 2016.³⁶⁹ Turkey’s GDP growth is expected to fall even further to 2.5% in 2017, before meekly recovering to 3.3% in 2018.³⁷⁰ The IMF is expecting Turkey’s annual growth to remain well below 2010 to 2015 levels for the foreseeable future, with growth remaining subdued at 3.4% by 2022.³⁷¹
357. Meanwhile, PET resin production capacity in Turkey has been ramping up. As shown below, in 2014, Turkey’s total production capacity was 386,000 MT. by 2016, this had increased to 686,000 MT. This will continue in 2017, with an increase of 70,000 MT to 756,000 MT.³⁷²

Table 15³⁷³

000 Tons	2014	2015	2016	2017	2018
Turkey					
Turkey Production Capacity	386	586	686	756	756
YoY increase (%)		52%	17%	10%	0%

358. These significant increases in production capacity are driven largely by Indorama projects, with one Indorama facility (Indorama Turkey) increasing its capacity by 70,000 MT in 2017 and another (Indorama Polypex) beginning commercial production in March 2015, with between 200,000 MT (PCI Wood Mackenzie) and 252,000 MT (Platts) of production

³⁶⁹ Public Attachment 42: IMF World Economic Outlook, April 2017, p. 220.

³⁷⁰ *Ibid*, p. 220.

³⁷¹ *Ibid*, p. 220.

³⁷² Confidential Attachment 2: Excerpts from the PCI Wood Mackenzie PET Supply Demand Database, Q4 2016.

³⁷³ *Ibid*.

capacity³⁷⁴ This facility then increased its production capacity to 300,000 MT in 2016.³⁷⁵ The capacity increase of 27% over 2016 and 2017 is clearly at odds with the weak economic growth reported by the World Bank and discussed above.

359. These aggressive production capacity increases are not justified by Turkey's projected demand for virgin PET. While Turkey added/is adding 370,000 MT of production capacity between 2014 and 2017, its demand growth over this period is projected to have increased by only 87,000 MT.³⁷⁶ Therefore, these increases have and will continue to be largely diverted to export markets. In 2015, Platts reported that Turkey was a net importer of PET resin in 2013 (199,349 MT) and 2014 (26,104 MT) before becoming a net exporter in the first quarter of 2015.³⁷⁷
360. This threat posed by the significant available capacity in the Subject Countries is magnified by a growing global excess capacity problem discussed above (see para V.A), which is likely to cause oversupply and price pressure in export markets around the world. The fact that the Subject Countries are actively selling in Canada, and therefore have existing channels of distribution makes the risk of continued and increased sales of dumped and subsidized Subject Goods even more likely.
361. As discussed below, there are a number of factors that suggest that volumes of dumped and subsidized goods from the Subject Countries will continue to injure the domestic industry in the near to medium term.

³⁷⁴ Confidential Attachment 2: Excerpts from the PCI Wood Mackenzie PET Supply Demand Database, Q4 2016; Public Attachment 63: Platts, "New Polyethylene Terephthalate Capacity Strengthens Turkey's Net Export Position", May 15, 2015.

³⁷⁵ Confidential Attachment 2: Excerpts from the PCI Wood Mackenzie PET Supply Demand Database, Q4 2016.

³⁷⁶ Confidential Attachment 2: Excerpts from the PCI Wood Mackenzie PET Supply Demand Database, Q4 2016.

³⁷⁷ Public Attachment 63: Platts, "New Polyethylene Terephthalate Capacity Strengthens Turkey's Net Export Position", May 15, 2015.

C. Commodity Nature of PET resin and the Production Imperative

362. In addition to the above considerations, PET resin is a commodity product and price is therefore the primary factor in purchasing decisions.
363. The PET resin industry is capital intensive and producers have an incentive to protect their capital investment by maintaining production volumes if they can continue producing at their marginal cost of production.
364. The CITT has recognized this production imperative in the context of commodity steel products:

... there remains a strong production imperative in the steel industry in light of the capital-intensive nature of hot-rolled steel sheet production. The evidence shows that the situation that exists today is the same as that which existed in the first expiry review, where the Tribunal concluded that “. . . the production of hot-rolled [steel] sheet is highly capital-intensive, with a pressing need for high utilization rates to cover high fixed costs. This creates a production imperative that encourages foreign mills to export at prices low enough to find a market for their excess production.”³⁷⁸

D. Product Shifting

365. Subsection 37.1(2)(d) of the SIM Regulations prescribes that a factor to be considered in determining whether or not the domestic injury faces a threat of injury from the importation of dumped goods is the potential for production shifting.
366. Selenis Canada notes that all PET resin producers are able to produce both textile grade and Like Goods bottle grade PET resin. Both of these grades of PET are produced using AMPET. To produce bottle grade PET resin, the AMPET is subjected to the SSP process in order to increase its IV. Put otherwise, while textile grade PET is not itself substitutable for bottle grade PET resin, the same input is used to produce both products. Therefore, production capacity that is dedicated to producing AMPET for textile grade PET can be re-dedicated to produce Subject Goods if SSP capacity is available in the country.

³⁷⁸ *Certain Hot-Rolled Sheet*, Expiry Review No. RR-2010-001, at para 132.

367. Further, a producer of textile grade PET may choose to convert its textile-grade PET production facility to a PET resin facility by investing in SSP equipment. As demonstrated by PSL's recent project in Pakistan, producers can and have chosen to convert facilities used to produce other polyesters to PET resin production facilities where warranted by market conditions (see discussion above).³⁷⁹

E. Substantial Production Capacity in the Subject Countries

368. Subsection 37.1(2)(c) of the SIM Regulations prescribes that a factor to be considered in determining whether or not the domestic injury faces a threat of injury from the importation of dumped goods is whether there is freely disposable capacity or an imminent, substantial increase in the capacity of an exporter.

369. The Subject Countries have significant PET resin production capacity, as shown in Confidential Attachment 2, which provides reasonably available information on Subject Goods production capacities and demand in the Subject Countries and globally. Indeed, the Subject Countries in this case accounted for 40% of global production capacity in 2016, and are projected to account for a 51% share by 2018.³⁸⁰ The Complainant submits that these figures, discussed further with respect to the individual Subject Countries in section B above, clearly demonstrate that producers in the Subject Countries are trending towards significant increases in in production capacity over the next 12 to 18 months.

370. The following table shows the individual and aggregated demand and production capacity for PET resin in the Subject Countries.³⁸¹

³⁷⁹ Public Attachment 57: Pakistan Synthetics Limited, Company Profile.

³⁸⁰ Confidential Attachment 2: Excerpts from the PCI Wood Mackenzie PET Supply Demand Database, Q4 2016

³⁸¹ Confidential Attachment 2: Excerpts from the PCI Wood Mackenzie PET Supply Demand Database, Q4 2016.

Table 16

000 MT	2015	2016	2017	2018
Oman				
<i>Capacity</i>	850	850	850	850
Turkey				
<i>Demand</i>	408	434	464	492
<i>Capacity</i>	586	686	756	756
Pakistan				
<i>Demand</i>	175	189	203	216
<i>Capacity</i>	240	345	395	415
India				
<i>Demand</i>	1057	1244	1435	1645
<i>Capacity</i>	1594	1814	1814	1814
China				
<i>Demand</i>	4189	4497	4771	5090
<i>Capacity</i>	7,340	7,390	8,765	12,690
TOTAL³⁸²				
<i>Demand</i>	5829	6364	6873	7444
<i>Capacity</i>	9,760	10,235	11,730	15,675
<i>Capacity increases (MT)</i>		475	1,495	3,945
<i>Capacity increases (%)</i>		5%	15%	34%
<i>SCs as % of Global Capacity</i>	41%	40%	43%	51%

371. This table shows that the production capacity of the Subject Countries is roughly [] times the size of the Canadian market in 2016.³⁸³ Further, in 2018, the Subject Countries will increase this production capacity by 34%, compared to a demand increase in these countries of 8%.

³⁸² These total figures exclude Oman, as demand figures were not available for that country. To ensure proper comparability, production capacity for Oman was also excluded.

³⁸³ Confidential Attachment 36: Canadian Market Table, 2014-Q1 2017.

372. China in particular is on track to see a significant expansion in production capacity. Tecnon Orbichem, a chemical industry consulting firm, reports that in 2017 there will be PET resin production capacity increases the following facilities in China:

- Jiangsu Sangfangxiang,
- Zhejiang Wankai New Material,
- Hainan Yisheng Petrochemical,
- Jiangyin Chengsheng (Chengao) and
- Sichuan Shengda Chemical.³⁸⁴

373. These production capacity increases in an already oversupplied market will incentivize Chinese producers to export more PET resin to markets without trade restrictions, putting volume and price pressure on exporters from the other Subject Countries. This threatens the domestic industry in Canada with material injury.

F. Likely Volumes of Dumped Goods

374. As discussed above, Canada is an attractive market for producers facing difficult market conditions in their home markets and ordinary export markets. Consequently, Selenis Canada expects that the Subject Countries will continue to export significant volumes of dumped and subsidized goods to Canada and that these dumped and subsidized goods will cause injury to the domestic industry.

1. Export-orientation of the Subject Countries

China

375. China exported 504,500 tonnes of PET resin in the first quarter of 2016, a marginal decrease of 2,400 tonnes compared to Q4 2015, but an increase of 34,500 tonnes (7.3%)

³⁸⁴ Public Attachment 64: Tecnon Orbichem Blog, After the Calm...a Surge of New PET resin Capacity Additions in 2017, available online: <https://orbichem.wordpress.com/2017/01/31/after-the-calm-a-surge-of-new-pet-resin-capacity-additions-in-2017/>.

compared to the first quarter of 2015.³⁸⁵ China exported 566,700 tonnes of PET resin in Q2 2016, an increase of 62,200 tonnes (12%) on Q1 2016, and an increase of 86,200 tonnes (18%) on the same quarter in 2015.³⁸⁶ Overall, PET resin exports totalled 1.57 million tons in the first three quarters of 2016, climbing more than 13% on an annual basis.³⁸⁷ PET resin exports are assessed at approximately 2.05 million tons for FY 2016.³⁸⁸ China Resources, Far Eastern, Sangangxiang, Yisheng, Indorama and Wankai are major exporters with monthly average export volumes all exceeding 20kt in the first 8 months of 2016.³⁸⁹

Oman

376. As noted above, Oman's short-term economic development is coordinated through five-year development plans. Vision 2020, Oman's 9th five-year economic development plan, states as one of its objectives the diversification of the economic base by moving away from traditional oil products. The economy's vulnerability to oil price movements has led the Government of Oman to heavily promote investment and development in the non-oil sectors of the economy.³⁹⁰ This strategy of economic diversification is based on, among other things, adopting an export led growth.³⁹¹ Specifically, Vision 2020 identifies export goals on the short, medium and long terms, with a focus on increases to exports of Omani

³⁸⁵ Confidential Attachment 65: PCI Wood Mackenzie, "PET Business Report", May 2016, p. 16.

³⁸⁶ Confidential Attachment 44: PCI Wood Mackenzie, "PET Business Report", August 2016, p. 20.

³⁸⁷ Public Attachment 49: CCF Group, PET Bottle Chip Downstream Roundup in Jan-Sep 2016, Nov 15, 2016, p. 1.

³⁸⁸ Public Attachment 45: CCF Group, PET Bottle Chip Market Outlook in Q4 2016, October 18, 2016.

³⁸⁹ Public Attachment 66: CCF Group, China PET Bottle Chip Export Challenged by Japan Anti-dumping Investigation.

³⁹⁰ Public Attachment 51: Prospectus, Government of the Sultanate of Oman represented by the Ministry of Finance, June 13, 2016, p. 3.

³⁹¹ Public Attachment 67: Trade Policy Review Report by Oman, WTO Trade Policy Review Body, WT/TPR/G/295, March 18, 2014, page 4.

non-oil products. The numerical objective is to increase the share of the non-oil sector to 15 % of GDP.³⁹²

377. For instance, whereas the total exports of Oman increased by 38% from 2008 to 2012, the increase of non-oil exports during the same period was 83%.³⁹³ Five key non-oil and gas industries, including manufacturing, have been targeted. The GCC's regional plastics industry exported 20.6 million tons of product in 2015 and growth is expected to continue in 2016.³⁹⁴ Only 18% of the plastics produced in the region are consumed regionally, with the remaining 82% being exported.³⁹⁵

Pakistan

378. Pakistan's Budget 2016/2017 brought forward special initiatives to boost exports, with a strong focus on export promotion.³⁹⁶ Pakistan's Strategic Trade Policy Framework 2015-18 aims to achieve, by June 2018, an increase in annual exports to USD \$35 billion and an overall improvement in export competitiveness.³⁹⁷ According to a press release issued by Pakistan's Ministry of Finance, Pakistan's Minister for Finance, Ishaq Dar, recently stated that:

³⁹² *Ibid*, page 3.

³⁹³ *Ibid*, page 4.

³⁹⁴ Public Attachment 56: Gulf Petrochemical and Chemicals Association, GCC Plastics Industry Indicators 2015, available online: https://issuu.com/www.gpca.org.ae/docs/gcc_plastics_industry_indicators_20.

³⁹⁵ *Ibid*, page 5.

³⁹⁶ Public Attachment 68: Government of Pakistan, Ministry of Commerce, Strategic Trade Policy Framework 2015-18, available online: http://www.commerce.gov.pk/?page_id=5.

³⁹⁷ Public Attachment 68: Government of Pakistan, Ministry of Commerce, Strategic Trade Policy Framework 2015-18, available online: http://www.commerce.gov.pk/?page_id=5.

The government is fully cognizant of the need to boost the country's exports in order to achieve higher, sustainable and inclusive export-led GDP growth.³⁹⁸

and:

He highlighted that the government announced the Prime Minister's Package of Incentives for Exporters worth Rs. 180 billion earlier this year to this end.³⁹⁹

379. China is one of Pakistan's top export destinations – accounting for close to 20 percent of overall trade. According to the World Economic Outlook, the Chinese economy is projected to slow further to 6 percent in 2016 and 2017 from its current 6.8% growth, so Pakistan's exports to China, which have declined by about 10% during H1 2016 compare to the same period in 2015, are likely to decline further. This means that Pakistan will be looking to new markets for exports.⁴⁰⁰
380. According to Gatronova's website, the country's 345,000 MT of capacity is almost equally divided between local sales and export sales.⁴⁰¹ Therefore, approximately 172,500 MT of PET resin from Pakistan are destined for export markets. This is likely to spike in 2017 and 2018 as the additional 50,000 to 70,000 of PET resin supply from PSL's new facility enters the market.⁴⁰²

³⁹⁸ Public Attachment 69: Government of Pakistan: Ministry of Finance, "Secretary Commerce presents budget, tax related proposals for trade and commerce sector", PR No. 2144, May 21, 2017.

³⁹⁹ *Ibid.*

⁴⁰⁰ Public Attachment 70: Pakistan Development Update: From Stability to Prosperity, World Bank Group, April 2016, p. 13.

⁴⁰¹ Public Attachment 4: Gatronova Website, "Overview of PET Capabilities".

⁴⁰² See Confidential Attachment 2: Excerpts from the PCI Wood Mackenzie PET Supply Demand Database, Q4 2016.

India

381. The Make in India initiative includes export incentives, such as: the export promotion capital goods scheme; the duty drawback scheme; the merchandise export from India scheme; and the service exports from India scheme.⁴⁰³ These incentives are specifically applicable to chemicals and petrochemicals.⁴⁰⁴
382. The Plastics Export Promotion Council (“PLEXCONCIL”) is the government body responsible for the promotion of plastic exports. According to PLEXCONCIL’s website, exports from the Indian plastic industry reached US\$7.7 billion in 2015-16.⁴⁰⁵ PLEXCONCIL is targeting a massive 30% increase in the value of plastics exports for 2016-17, aiming to reach US\$10 billion in value.⁴⁰⁶ Coupled with the significant increase in India’s PET resin production capacity over the injury period of inquiry⁴⁰⁷, this poses a significant threat to the domestic industry over the next 12 to 18 months.

Turkey

383. The Turkish government expressly pursues a policy of “export-led growth” and has been doing so since 1980.⁴⁰⁸ The Turkish Government clearly aims to continue on this path, with

⁴⁰³ Public Attachment 71: Make in India: Chemicals and Petrochemicals, available online: <http://www.makeinindia.com/sector/chemicals>.

⁴⁰⁴ *Ibid.*

⁴⁰⁵ Public Attachment 72: “About PLEXCONCIL”, The Plastics Export Promotion Council, available online: <http://plexconcil.co.in/about.htm>.

⁴⁰⁶ Public Attachment 72: “About PLEXCONCIL”, The Plastics Export Promotion Council, available online: <http://plexconcil.co.in/about.htm>.

⁴⁰⁷ See Confidential Attachment 2: Excerpts from the PCI Wood Mackenzie PET Supply Demand Database, Q4 2016.

⁴⁰⁸ Public Attachment 73: Republic of Turkey: Ministry of Foreign Affairs, “Economic Outlook of Turkey”, available online: <http://www.mfa.gov.tr/prospects-and-recent-developments-in-the-turkish-economy.en.mfa>.

a goal of reaching US 500 billion in annual exports by its 100th anniversary in 2023, up from US 351 million in 2015.⁴⁰⁹

384. As noted above, the Turkish economy suffered from a significant slowdown in 2016.⁴¹⁰ Turkey's economy is not expected to recover to 2015 levels in the next 12 to 18 months.⁴¹¹ However, the growth that Turkey does achieve will be supported by growing exports as opposed to domestic demand. In February 2017, the World Bank reported that it expects growth in 2017 to be driven by public spending and net exports, rather than domestic consumption and investment.⁴¹² Indeed, according to the Turkish Exporters Assembly, Turkish exports started 2017 at a record high, increasing 15% in January⁴¹³ This growth in exports continued through May 2017, with exports growing by 10% over the first 5 months of the year and by 15.8% in the month of May 2017. When these figures were announced, the Turkish Minister of the economy stated "2017 exports will meet the 153 billion dollars target and surpass it, maybe even reach historic levels".⁴¹⁴
385. With respect to PET resin in particular, Turkey became a net exporter in 2015, having previously been a net importer of this product.⁴¹⁵ Turkish increases in PET resin production capacity have outpaced increases in domestic demand, creating conditions that support

⁴⁰⁹ *Ibid.*

⁴¹⁰ See above, paragraphs 355-356.

⁴¹¹ See above, paragraphs 355-356.

⁴¹² Public Attachment 74: World Bank, "Growth in Turkey to Recover in 2017 Thanks to Improving Exports, Says World Bank", Press Release, February 2, 2017.

⁴¹³ Public Attachment 75: Turkish Exporters Assembly, "Exports Started 2017 with a 49 Months-High Increase", February 1, 2017. The complainant understands this to be a year-over-year calculation of growth.

⁴¹⁴ Public Attachment 76: Turkish Exporters Assembly, "Turkey's Exports Increased by 15.8% in May, Reaching 12 Billion 472 Million Dollars!", June 6, 2017.

⁴¹⁵ Public Attachment 63: Platts, "New Polyethylene Terephthalate Capacity Strengthens Turkey's Net Export Position", May 15, 2015.

increasing exports.⁴¹⁶ These supply and demand fundamentals, coupled with the trend and policy direction towards increased exports in general, are likely to lead to increased exports of PET resin. This is an imminent and foreseeable threat of injury to the domestic industry.

G. Anti-Dumping Measures by Canada and Other Countries in Respect of Goods of the same description or in Respect of Similar Goods

386. Subsection 37.1(2)(g.2) of the SIM Regulations prescribes that a factor to be considered in determining whether or not the domestic injury faces a threat of injury from the importation of dumped goods is “evidence of the imposition of anti-dumping ... measures by the authorities of a country other than Canada in respect of goods of the same description or in respect of similar goods”.⁴¹⁷

387. Certain producers have a propensity to dump PET resin in export markets, as evidenced by the anti-dumping measures imposed by other countries against this product. The following table shows that seven WTO members have at least initiated, and in many cases affirmatively concluded, investigations into dumping and subsidizing of PET resin from the Subject Countries.⁴¹⁸

Table 17

Member imposing	Partner affected	Initiation	In force	AD/ CVD	6 digit HS	Year (imp)
	China	25-Apr-12	24-Oct-13	AD	390760	2012
Argentina	India	25-Apr-12	24-Oct-13	AD	390760	2012
	China	22-Jun-15		AD	390760	
Brazil	India	22-Jun-15		AD	390760	
	China	02-Jul-14		CVD	390760	2011
Egypt	China	25-Aug-14		AD	390760	2011

⁴¹⁶ Confidential Attachment 2: Excerpts from the PCI Wood Mackenzie PET Supply Demand Database, Q4 2016.

⁴¹⁷ *Special Import Measures Regulations*, s. 37.1(2)(g.2).

⁴¹⁸ Public Attachment 77: WTO Integrated Trade Intelligence Portal, HS 3907.60: Anti-Dumping and Countervailing Measures Imposed in Listed WTO Member Countries, Report Queried March 14, 2017.

Member imposing	Partner affected	Initiation	In force	AD/ CVD	6 digit HS	Year (imp)
	India	02-Jul-14		CVD	390760	2011
	India	25-Aug-14		AD	390760	2011
	Oman	02-Jul-14		CVD	390760	2011
	Oman	25-Aug-14		AD	390760	2011
	Pakistan	02-Jul-14		CVD	390760	2011
	Pakistan	25-Aug-14		AD	390760	2011
	China	22-May-03	19-Aug-04	AD	390760	
EU	India	06-Nov-99	30-Nov-00	CVD	390760	2011
Malaysia	China	17-Jun-14	14-Mar-15	AD	390760	2008
South Africa	India	08-Apr-05	30-May-06	AD	390760	
	China	06-Apr-15	06-May-16	AD	390760	
	China	06-Apr-15	06-May-16	CVD	390760	
	India	06-Apr-15	06-May-16	AD	390760	
	India	06-Apr-15	06-May-16	CVD	390760	
USA	Oman	06-Apr-15	06-May-16	AD	390760	

1. PET resin and Similar Products

388. Furthermore, producers in the Subject Countries have been found to be dumping and subsidizing exports of PET film, sheet and strip by various WTO member countries. PET resin and PET film, sheet and strip share significant inputs, equipment and production processes. Therefore, trade barriers applied to PET film, sheet and strip from presents a threat that production capacities for producing this product in the Subject Countries will be diverted to the production of PET resin for export to Canada.
389. Exports of PET film, sheet and strip from the Subject Countries are currently subject to trade remedies restrictions in the following countries.

Table 18
Subject Country PET resin exports Subject to
Anti-dumping and Countervailing Duty Orders in Other Countries⁴¹⁹

Member imposing	Partner affected	Initiation	In force	AD/ CVD	Product description	HS	Year (imp)
Brazil	China	30-Jun-14	22-May-15	AD	PET films	392062	2012
	India	30-Jun-14	22-May-15	AD	PET films	392062	2012
	India	24-Nov-14	22-Apr-16	CVD	PET film	392062, 392063, 392069	2012
S. Korea	Turkey	23-Nov-10	01-Mar-12	AD	PET film	392062	2012
	China	05-Sep-07	27-Oct-08	AD	PET film	392062, 392069	2011
	India	05-Sep-07	27-Oct-08	AD	PET film	392062, 392069	2011
Turkey	India	06-Feb-08	22-Mar-09	CVD	PET Films	392062190000, 392069000000, 392190190000	
USA	China	26-Oct-07	10-Nov-08	AD	PET Film, Sheet, and Strip	392062	
	India	13-Jun-01	01-Jul-02	AD	PET Film, Sheet, and Strip	392062	
	India	13-Jun-01	01-Jul-02	CVD	PET Film, Sheet, and Strip	39206200	

2. Likelihood that Measures Taken by Other Countries Will Cause Diversion of Dumped Goods to Canada

390. In light of these trade measures, producers from the Subject Countries who are planning to dump PET resin production will seek markets without anti-dumping measures, such as Canada. This diversion threatens to cause injury to the domestic industry. This threat is

⁴¹⁹ Public Attachment 78: WTO Integrated Trade Intelligence Portal, HS 3920: Anti-Dumping and Countervailing Measures Imposed in Listed WTO Member Countries, Report Queried March 14, 2017.

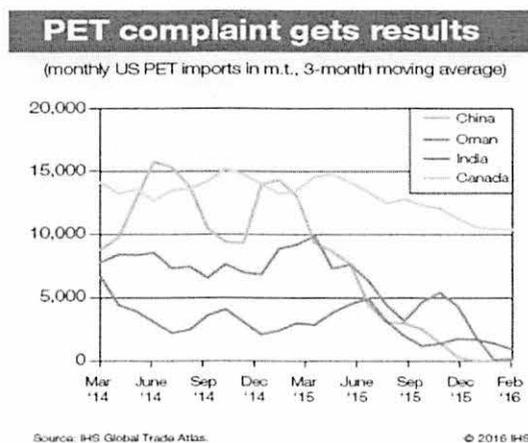
especially acute with respect to the finding in the US against three of the five Subject Countries in this case.⁴²⁰

391. In fact, IHS Chemical Week reported in April 2016 that PET imports from China, Oman and India had decreased drastically as a result of the US finding:

The effect of the complaint became evident even before the ruling was finalized. Total PET imports grew an average 16%/year between 2010 and 2014 but did not increase at all in 2015, and volume from the countries under investigation declined. Import growth out of Canada fell from an annual average 38% during the previous four years to 7% in 2015; out of Oman from 119% to 23%, out of China from 52% to 66%, and out of India from 33% to 31%. Volumes fell throughout 2015, but the biggest declines were in the fourth quarter, after US Customs began requiring deposits based on the Commerce Department’s preliminary determination in October.⁴²¹

392. The following graph shows the effect of the US case in reducing imports from the Subject Countries.

Figure 5⁴²²



⁴²⁰ Public Attachment 40: US International Trade Commission, *Polyethylene Terephthalate (PET) Resin from Canada, China, India, and Oman*, Investigation Nos. 701-TA-531-532 and 731-TA-1270-1273 (Final).

⁴²¹ Public Attachment 79: C. Boswell, “New PET Dumping Duties Unlikely to Reduce US Imports”, *IHS Chemical Week*, April 18, 2016.

⁴²² *Ibid.*

393. Oman, China and India relied on the US market for significant export volumes prior to anti-dumping and countervailing duties being imposed.⁴²³ The US is a large market, and with trade actions in place there is a high likelihood that the dumped goods that were previously shipped to the US will now be diverted to Canada. The Complainant submits that, if duties are not imposed in Canada, these countries are likely to seek to grow their exports to Canada to recover some of the volumes lost in the US.

H. Increase in Volume and Likely prices

1. Increase in Volume

394. Subsection 37.1(2)(b) of the SIM Regulations prescribes that a factor to be considered in determining whether the domestic injury faces a threat of injury from the importation of dumped goods is “whether there has been a significant rate of increase of dumped goods imported into Canada, which rate of increase indicates a likelihood of substantially increased imports into Canada of the dumped ... goods”.⁴²⁴

395. As shown in the Complainant’s market table, imports from the Subject Countries increased significantly in 2016, despite a shrinking Canadian market:

Table 19

Change 2016 over 2015		
	MT	%
World	-2,283	-1.9%
World other than SCs	-11,920	-16.1%
US	-5,716	-9.4%
Total Subject Countries	9,637	21%
Selenis Canada	[

⁴²³ Public Attachment 40: US International Trade Commission, *Polyethylene Terephthalate (PET) Resin from Canada, China, India, and Oman*, Investigation Nos. 701-TA-531-532 and 731-TA-1270-1273 (Final), p. 21.

⁴²⁴ *Special Import Measures Regulations*, s. 37.1(2)(b).

Change 2016 over 2015	
Market]

396. While the market shrunk by []% in 2016, the Subject Countries saw their exports to Canada grow by 21%. The Subject Country imports increased by 9,637 MT, while Selenis Canada saw its sales fall by [] MT, or []%.⁴²⁵
397. The expansion of Subject Goods in the Canadian market continued in Q1 2017. The Subject Countries grew their volume into Canada by 2,308 MT, or 22.9% compared to Q1 2016.⁴²⁶
398. The Complainant submits that the increase in imports from the Subject Countries in 2016 and Q1 2017 represents a “significant rate of increase of dumped goods imported into Canada” within the meaning of Subsection 37.1(2)(b) of the SIM Regulations.
399. Without SIMA duties in place, Selenis Canada submits that the Subject Goods will continue to increase their volume of exports to Canada at the expense of the domestic industry. Recent data demonstrates that the Subject Countries will do so even in circumstances where total market demand is contracting.

2. Price Undercutting

400. Subsection 37.1(2)(e) of the SIM Regulations prescribes that a factor to be considered in determining whether or not the domestic injury faces a threat of injury from the importation of dumped goods is “whether the goods are entering the domestic market at prices that are likely to have a significant depressing or suppressing effect on the price of like goods and are likely to increase demand for further imports of the goods”.⁴²⁷

⁴²⁵ Confidential Attachment 36: Canadian Market Table, 2014-Q1 2017.

⁴²⁶ Public Attachment 11: Canadian Import Table, 2014-Q1 2017.

⁴²⁷ *Special Import Measures Regulations*, s. 37.1(2)(e).

401. In 2016, the Subject Goods entered Canada at extremely low prices, depressing Selenis Canada's and Canadian market prices. Below are some of the key figures:

Table 20

	2016	Change	2015
World	\$1,479	\$(198.66)	\$1,677
US	\$1,668	\$(144.76)	\$1,812
Pakistan	\$1,281	\$(213.13)	\$1,494
China	\$ 1,098	\$ (404.90)	\$ 1,503
Oman	\$ 1,268	\$ (295.94)	\$ 1,564
Turkey	\$ 1,380	\$ 38.28	\$ 1,342
India	\$ 1,339	\$ (18.98)	\$ 1,358
Total Subject Countries	\$ 1,240	\$ (249.67)	\$ 1,490
All other countries	\$ 1,894	\$ 187.93	\$ 1,706
Selenis Canada	\$ [
Market]

402. As shown in the table above, the Subject Countries dropped their prices by \$250/MT year over year in 2016. Prices would be expected to drop in 2016, as raw material prices fell by \$89/MT according to IHS.⁴²⁸ However, the drop in Subject Country pricing is in stark contrast to even the pricing of other imports, which includes those from the US (which fell by \$145/MT) and imports from all other countries (which increased by \$188/MT).⁴²⁹ This makes it clear that the Subject Countries dragged down the market price in Canada in 2016. China, Oman and Pakistan were clearly leaders in depressing market prices, with unit price drops of \$405, \$296 and \$213 respectively.⁴³⁰

⁴²⁸ Confidential Attachment 37: Confidential Summary of IHS Monthly Average PET RM Costs.

⁴²⁹ Public Attachment 11: Public Canadian Import Table 2014-Q1 2017.

⁴³⁰ *Ibid.*

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403. This data also shows that Selenis Canada saw its prices [] in 2016. The Complainant submits that the evidence in this complaint shows that this [] in average prices was caused in significant part by the price-depressing effect of the Subject Goods. This is demonstrated in the customer-specific injury examples discussed above at section IV.B.2. This is also demonstrated in the Complainant's evidence regarding the erosion of its prices relative to [] discussed above at section IV.B.1.
404. This trend has continued and worsened in the first quarter of 2017, with Subject Goods pricing actually falling relative to both Q1 2016 and 2016 as a whole, despite a significant rise in raw materials costs in the market.⁴³¹ This unwillingness of the Subject Countries to adjust along with market conditions preventing Selenis Canada [].
405. This on-going aggressive low-pricing of imports from the Subject Countries provides a clear indication that the injurious dumping of such low-priced imports will continue if an anti-dumping finding is not made.
406. As indicated by Richard A. Lane, following DAK's purchase of Selenis Canada it intends to continue to invest in Selenis Canada's production facility to enhance and expand its operations.⁴³² DAK has the experience, technology and knowledge of the global PET market to do so.⁴³³ However, Mr. Lane notes that the case for supporting such investments becomes more difficult when Selenis Canada is competing head to head with dumped and subsidized PET resin, at the prices and volumes discussed in this Complaint.⁴³⁴

⁴³¹ Confidential Attachment 37: Summary of IHS Monthly Average PET RM Costs.

⁴³² Public Attachment 1: Statement of Evidence of Richard A. Lane, paras. 4-6.

⁴³³ *Ibid*, para 4.

⁴³⁴ *Ibid*, para 6.

407. If the Subject Countries are permitted to continue eroding the price for PET resin in the Canadian market, and setting prices at dumped and subsidized levels in large swaths of the market, Selenis Canada's prospects for improving its financial performance and market share are grim. Especially in light of its supportive new ownership, Selenis Canada is in a position to thrive on a level playing field going forward. However, it cannot contribute to growth in Canada's economy and labour market while competing with dumped and subsidized goods. Selenis Canada is therefore seeking the protection of SIMA from these unfair and illegal trade practices.

VI. Conclusion

408. Based on the information presented in this Complaint, the Complainant submits that Subject Goods imported from China, Oman, Pakistan, India and Turkey are being dumped and that Subject Goods from China, India, Pakistan and Oman are being subsidized, and that such dumping and subsidization is causing or threatening to cause injury to the domestic industry producing Like Goods. The Complainant therefore requests that the President initiate investigations into the injurious impact of the dumping and subsidization of the Subject Goods.

All of which is respectfully submitted,

June 29, 2017



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List of Attachments
Shaded rows indicate Confidential attachments

Tab #	Description
Confidential Attachment 1	Statement of Evidence of Richard A. Lane, Jr. of DAK Americas LLC
Confidential Attachment 2	Excerpts from the PCI Wood Mackenzie PET Supply Demand Database, Q4 2016
Public Attachment 3	Octal: Who we are, Octal Website, available online: http://www.octsal.com/About-Us/Who-We-Are
Public Attachment 4	Gatronova Website, "Overview of PET Capabilities"
Public Attachment 5	Pakistan Synthetics Limited, Letter to the General Manager of the Pakistan Stock Exchange Limited, October 3, 2016
Public Attachment 6	Petition, DOC Investigation Nos. A-122-855, A-570-024, A-533-861, A-523-810, C-570-025, C-533-862; C-523-811, Volume 1: General and Injury Section, Exhibit GEN-3: Foreign Producers/Exporters of PET resin
Public Attachment 7	Asia Petrochemical Industry Conference 2016, Indian Petrochemical Industry: Country Paper from India
Confidential Attachment 8	Potential Importers of PET resin from the Subject Countries
Confidential Attachment 9	Statement of Evidence of Adam Davis
Confidential Attachment 10	Complainant's Financial data 2014-Q1 2017
Public Attachment 11	Canadian Import Table, 2014-Q1 2017
Public Attachment 12	Bank of Canada Daily Noon and Quarterly Average Exchange Rates, 2016
Confidential Attachment 13	Complainant's Margins of Dumping Calculations: China
Confidential Attachment 14	Complainant's PET resin Employment and Employment-related Costs, 2014-Q1 2017
Public Attachment 15	BBC News, Hong Kong Profile, September 27, 2015
Public Attachment 16	<i>Tianjin Pipe (Group) Corporation v. Tenaris Algoma Tubes Inc.</i> , 2009 FCA 164, May 20, 2009
Public Attachment 17	Katherine Koleski, Staff Research Report: The 13th Five-Year Plan, <i>U.S.-China Economic and Security Review Commission</i> , February 14, 2017

Tab #	Description
Public Attachment 18	CNCIC, Production Pattern of EG in China has Changed Significantly, available online: http://en.chemconsulting.com.cn/cnt_140.html
Public Attachment 19	Bloomberg Business, Company Overview of China North Chemical Industries Corp.; China North Industries Corp website, available online: http://www.cccme.org.cn/shop/cccme0012/index.aspx .
Public Attachment 20	Excerpt from ChinaCoalChem, Monthly Report, Issue Nov. 2010 and Research Bank: Henan Coal & Chemical Industry Group Co. Ltd. Company Profile
Public Attachment 21	ICIS News, China's Yongjin Chemical to Start Third MEG Plant in end-Nov, 26 November 2016
Public Attachment 22	Hualu Holdings Co. Ltd., Profile, available online: http://en.hualuholdings.com/
Public Attachment 23	Xinjiang Tianye (Group) Co. Ltd., Company Profile
Public Attachment 24	Chen Aizhu, "FACTBOX – China's PX Production Capacity in the Petrochemical Sector", <i>Reuters Oil Report</i> , April 21, 2014
Public Attachment 25	Chen Aizhu, "Exclusive: China's Sinopec in Talks to buy \$3 billion Chemical Plant shut over Safety – Sources", <i>Reuters</i> , October 20, 2015
Public Attachment 26	BBC News, Taiwan Country Profile, June 14, 2017
Confidential Attachment 27	Complainant's Margins of Dumping Calculations: Oman
Confidential Attachment 28	Complainant's Margins of Dumping Calculations: Pakistan
Confidential Attachment 29	Complainant's Margins of Dumping Calculations: India
Confidential Attachment 30	Complainant's Margins of Dumping Calculations: Turkey
Public Attachment 31	Canada — Measures Relating to the Feed-in Tariff Program, WT/DS412/R, WT/DS426/R (December 19, 2012)
Confidential Attachment 32	Complainant's Estimated Amounts of Subsidy: China
Confidential Attachment 33	Complainant's Estimated Amounts of Subsidy: Oman
Confidential Attachment 34	Complainant's Estimated Amounts of Subsidy: Pakistan
Confidential Attachment 35	Complainant's Estimated Amounts of Subsidy: India
Confidential Attachment 36	Canadian Market Table, 2014-Q1 2017

Tab #	Description
Confidential Attachment 37	Summary of IHS Monthly Average PET RM Costs
Public Attachment 38	Bank of Canada Monthly Average Exchange Rates, 2013-March 2017
Confidential Attachment 39	Selenis Canada's audited financial statements 2014-Q1 2017
Public Attachment 40	US International Trade Commission, <i>Polyethylene Terephthalate (PET) Resin from Canada, China, India, and Oman</i> , Investigation Nos. 701-TA-531-532 and 731-TA-1270-1273 (Final)
Public Attachment 41	Plastics Insight, Global PET Resin Production Capacity, October 12, 2016, available online: https://www.plasticsinsight.com/global-pet-resin-production-capacity
Public Attachment 42	IMF World Economic Outlook, April 2017
Public Attachment 43	OECD Interim Economic Outlook, March 2017, March 7, 2017
Confidential Attachment 44	PCI Wood Mackenzie, "PET Business Report", August 2016
Public Attachment 45	CCF Group, PET Bottle Chip Market Outlook in Q4 2016, October 18, 2016
Public Attachment 46	Chem Orbis: Weekly Analysis: China PET Market, November 18, 2016
Public Attachment 47	CCF Group, 6 Spotlights on PET Resin discussed in the 4th International PET & RPET Industry Forum, Nov 8, 2016
Public Attachment 48	CCF Group, "PET Bottle Chip Downstream Roundup in Q1 2017", April 26, 2017
Public Attachment 49	CCF Group, PET Bottle Chip Downstream Roundup in Jan-Sep 2016, Nov 15, 2016
Public Attachment 50	Muscat Daily, "Octal Triples PET Resin Production Capacity", October 8, 2012
Public Attachment 51	Prospectus, Government of the Sultanate of Oman represented by the Ministry of Finance, June 13, 2016
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Tab #	Description
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Tab #	Description
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Confidential Attachment 80	Sales Volumes by Customer

Glossary

Exhibits

AMPET: amorphous PET.....	13
CHDM: CycloHexaneDiMethanol.....	12
DEG: Diethylene Glycol.....	12
DMT: dimethyl terephthalate.....	10
IPA: Purified Isophthalic Acid.....	12
MEG: Monoethylene Glycol.....	10
PET resin: polyethylene terephthalate resin (“PET resin”).....	5
PIA: Purified Isophthalic Acid.....	12
PTA: Purified Terephthalic Acid.....	10
PTT: poly trimethylene terephthalate (“PTT”).....	6
SSP: solid-state polymerization.....	13
TPA: terephthalic acid.....	11