



OTTAWA, January 5, 2021

**UDS 2020 IN**

## **STATEMENT OF REASONS**

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

### **CERTAIN UPHOLSTERED DOMESTIC SEATING ORIGINATING IN OR EXPORTED FROM CHINA AND VIETNAM**

## **DECISION**

Pursuant to subsection 31(1) of the *Special Import Measures Act*, the Canada Border Services Agency initiated investigations on December 21, 2020, respecting the alleged injurious dumping and subsidizing of certain upholstered domestic seating originating in or exported from China and Vietnam.

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

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## SUMMARY

[1] On October 16, 2020, the Canada Border Services Agency (CBSA) received a written complaint from Palliser Furniture Ltd. (Winnipeg, MB) (hereinafter, “the complainant”) alleging that imports of certain upholstered domestic seating (UDS) originating in or exported from the People’s Republic of China (China) and the Socialist Republic of Vietnam (Vietnam) (hereinafter “named countries”) have been dumped and subsidized. The complainant alleged that the dumping and subsidizing have caused injury and are threatening to cause injury to Canadian producers of UDS.

[2] On November 6, 2020, pursuant to paragraph 32(1)(a) of the *Special Import Measures Act* (SIMA), the CBSA informed the complainant, the Government of China (GOC), and the Government of Vietnam (GOV) that a properly documented complaint had been received. The GOC and GOV were also provided with non-confidential versions of the subsidy complaint and were invited for consultations pursuant to Article 13.1 of the *Agreement on Subsidies and Countervailing Measures*, prior to the initiation of the subsidy investigation. The CBSA did not receive any requests for consultations.

[3] SIMA provides that, under normal circumstances, the decision whether to initiate investigations shall be made within 30 days of the date of the properly documented complaint. However, on November 30, 2020, the CBSA informed the complainant, the GOC, and the GOV that it had made the decision to extend this period to 45 days, pursuant to subsection 31(6) of SIMA.

[4] On December 16, 2020, the CBSA received representations from the GOV with respect to the evidence presented in the non-confidential version of the subsidy complaint. The CBSA considered the representations made by the GOV in its analysis.

[5] The complainant provided evidence to support the allegations that certain UDS from the named countries have been dumped and subsidized, as well as evidence that discloses a reasonable indication that the dumping and subsidizing have caused injury or are threatening to cause injury to the Canadian industry producing like goods.

[6] On December 21, 2020, pursuant to subsection 31(1) of SIMA, the CBSA initiated investigations respecting the dumping and subsidizing of certain UDS from China and Vietnam.

## **INTERESTED PARTIES**

### **Complainant**

[7] The name and address of the complainant is as follows:

Palliser Furniture Ltd.  
70 Lexington Park  
Winnipeg, Manitoba  
R2G 4H2

[8] Palliser was founded in 1944. Palliser manufactures, distributes and sells UDS to retailers throughout Canada. Palliser manufactures UDS at its Canadian facility located in Winnipeg, Manitoba.<sup>1</sup>

### **Other Producers**

[9] The complainant identified 14 additional producers of UDS in Canada:<sup>2</sup>

| <b>Company Name</b>       | <b>Address</b>   |
|---------------------------|--|
| EQ3 Ltd.                  | 70 Lexington Park<br>Winnipeg, Manitoba<br>R2G 4H2               |
| Fornirama Inc.            | 9100 Boulevard Maurice-Duplessis<br>Montréal (Quebec)<br>H1E 7C2 |
| El Ran                    | 2751 Transcanada Highway<br>Pointe-Claire (Quebec)<br>H9R 1B4    |
| Jaymar Furniture          | 75 rue Jaymar<br>Terrebonne (Quebec)<br>J6W 1M5                  |
| Décor-rest Furniture Ltd. | 511 Chrislea Rd.<br>Woodbridge, Ontario<br>L4L 8N6               |
| Superstyle Furniture Ltd. | 123 Ashbridge Circle<br>Woodbridge, Ontario<br>L4L 3R5           |
| Edgewood Furniture Inc.   | 2-7933 Huntington Rd.<br>Woodbridge, Ontario<br>L4H 0S9          |

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<sup>1</sup> Exhibit 2 (NC) - Complaint - paras. 14-15

<sup>2</sup> Exhibit 2 (NC) - Complaint - paras. 144-146

|                                      |  |
|--------------------------------------|--|
| Brentwood Classics Ltd.              | 57 Adesso Dr.<br>Vaughan, Ontario<br>L4K 3C7                 |
| Dynasty Furniture Manufacturing Ltd. | 3344 54th Avenue SE<br>Calgary, Alberta<br>T2C 0A8           |
| Stylus Made to Order Sofas           | 7885 Riverfront Gate<br>Burnaby, British Columbia<br>V5J 5L6 |
| Van Gogh Designs                     | 19178 34A Avenue<br>Surrey, British Columbia<br>V3Z 1A7      |
| Leather Living Furniture             | 1A-2001 Drew Rd.<br>Mississauga, Ontario<br>L5S 1S4          |
| Leathercraft Furniture               | 40 Ronson Dr. Units 6 & 7<br>Toronto, Ontario<br>M9W 1B3     |
| Stratum Designs Inc.                 | 180 Norelco Dr.<br>Toronto, Ontario<br>M9L 1S4               |

[10] Fornirama Ltd. (Fornirama), El Ran, and Jaymar Furniture (Jaymar) support the complaint.<sup>3</sup> Additionally, EQ3 Ltd. (EQ3), a related company to Palliser, supports the complaint.<sup>4</sup> The complainant did not indicate if it was aware of any domestic producers who would oppose the complaint.

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<sup>3</sup> Exhibit 2 (NC) - Complaint - Appendix 19B – Letters of Support

<sup>4</sup> Exhibit 2 (NC) - Complaint - Appendix 19B – Letters of Support

[11] In addition, through its own research, the CBSA identified 36 other potential Canadian producers of UDS. As a result, on November 6, 2020, 50 potential producers of UDS in Canada were sent a Standing Request for Information (RFI) primarily to identify whether they produce like goods, the amount of like goods produced in Canada, and whether they support, oppose, or are neutral to the complaint. The CBSA received six complete responses to the Standing RFI, four from the previously mentioned supporting producers and two from the following producers:

Creative Custom Furnishings  
350 Oakdale Road  
Toronto, Ontario  
M3N 1W5

Huppé Meubles Inc.  
225 Rue de la Jacques Cartier  
Victoriaville (Quebec)  
G6T 1Y1

[12] Additionally, four companies confirmed that they do not produce like goods in Canada. As a result, there are seven confirmed producers and 40 other potential producers of UDS in Canada.

### **Trade Union**

[13] The complainant stated that there are no known trade unions that represent persons employed in the production of UDS in Canada.<sup>5</sup>

### **Exporters**

[14] The CBSA identified 671 potential exporters of the subject goods from CBSA import documentation and from information submitted in the complaint. All of the potential exporters were asked to respond to the CBSA's Dumping and Subsidy Requests for Information (RFI).

### **Importers**

[15] The CBSA identified 1989 potential importers of the subject goods from CBSA import documentation and from information submitted in the complaint. All of the potential importers were asked to respond to the CBSA's Importer RFI.

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<sup>5</sup> Exhibit 2 (NC) - Complaint – para. 154

## **Governments**

[16] Upon initiation of the investigations, the Governments of China and Vietnam were sent the CBSA's Government Particular Market Situation RFI and the CBSA's Government Subsidy RFI.

[17] For the purposes of these investigations, the GOC and GOV refer to all levels of government, i.e., federal, central, provincial/state, regional, municipal, city, township, village, local, legislative, administrative or judicial, singular, collective, elected or appointed. It also includes any person, agency, enterprise, or institution acting for, on behalf of, or under the authority of, or under the authority of any law passed by, the government of that country or that provincial, state or municipal or other local or regional government.

## **PRODUCT INFORMATION**

### **DEFINITION**

[18] For the purpose of these investigations, subject goods are defined as:<sup>6</sup>

*Upholstered seating for domestic purposes originating in or exported from the People's Republic of China and the Socialist Republic of Vietnam, whether motion (including reclining, swivel and other motion features) or stationary, whether upholstered with a covering of leather (either full or partial), fabric (including leather-substitutes) or both, including, but not limited to seating such as sofas, chairs, loveseats, sofa-beds, day-beds, futons, ottomans, stools and home-theatre seating.*

*Excluding:*

- (a) Stationary (i.e. non-motion) seating upholstered only with fabric (rather than leather), even if the fabric is a leather-substitute (such as leather-like or leather-look polyurethane or vinyl);*
- (b) dining table chairs or benches (with or without arms) that are manufactured for dining room end-use, which are commonly paired with dining table sets;*
- (c) upholstered stools with a seating height greater than 24 inches (commonly referred to as "bar stools" or "counter stools"), with or without backs, and/or foldable;*
- (d) seating manufactured for outdoor use (e.g. patio or swing chairs);*
- (e) bean bag seating; and*
- (f) foldable or stackable seating.*

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<sup>6</sup> Exhibit 2 (NC) - Complaint – paras. 39-40

*For greater certainty, the product definition includes:*

- (a) Upholstered motion seating with reclining, swivel, rocking, zero-gravity, gliding, adjustable headrest, massage functions or similar functions;*
- (b) seating with frames constructed from metal, wood or both;*
- (c) seating produced as sectional items or parts of sectional items;*
- (d) seating with or without arms, whether part of sectional items or not; and*
- (e) foot rests and foot stools (with or without storage).*

#### **ADDITIONAL PRODUCT INFORMATION<sup>7</sup>**

[19] The term “upholstered” refers to leather, leather-like and/or fabric cover material, which may be used in combination with padding and springs, to make a soft covering for the frame. This covering may be permanently (e.g. sewn) or semi-permanently (e.g. with Velcro or ties) attached to the frame of the seating. Similarly, some or all the soft covering may also be removable from the frame of the seating in the form of loose cushions designed as an integral part of the seating, whether those cushions are on the seat, back or both parts of the chair.

[20] The subject goods may be commercially described in a variety of ways based on various factors such as shape, style or purpose, including as “wedge chairs”, “lounge chairs”, “saucer chairs”, “bergere chairs”, “side chairs” and other non-standard descriptions. The subject goods may be described as “occasional chairs”, which typically (though not always) means that they are living room chairs that are styled differently from a matching furniture set.

[21] Other than “occasional chairs”, these descriptions do not have any industry standard meaning. These descriptive marketing terms may be used by manufacturers and retailers in different ways, such as one retailer calling a chair by one description, whereas another retailer calls a very similar chair by a different description. Conversely, two retailers may apply the same descriptive word to two relatively different chairs.

[22] These descriptive words generally do not indicate any material differences in the nature of the goods or detract from the goods being subject goods. Notwithstanding the various descriptions, if the goods have the essential elements of the above definition (e.g. upholstered, seating, for domestic purposes, not expressly excluded), they are within the scope of subject goods.

#### **For Domestic Purposes**

[23] Subject goods are intended for domestic (i.e. residential) purposes and use. “For domestic purposes” in the product description is defined in the same way as “for domestic purposes” under Chapter 94 of the Customs Tariff Schedule and in accordance with Canadian International Trade Tribunal (CITT) jurisprudence.

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<sup>7</sup> Exhibit 2 (NC) - Complaint – paras. 41-60

[24] While the subject goods are primarily intended by producers and retailers for residential use as opposed to commercial applications, some subject goods may be occasionally used in commercial establishments by customers. The occasional end-use of the subject goods within commercial settings does not detract from the primary intended use in domestic or residential settings, and such goods remain subject goods.

[25] To determine whether the subject goods are primarily intended for domestic purposes, factors including the design, characteristics, marketing and pricing of the goods must be considered, which accords with CITT practice in interpreting the “for domestic purposes” qualification.

[26] A key distinction between residential and commercial seating goods is that goods intended for commercial use are generally built to a higher specification in the types of materials used, such as the urethane quality and fabric durability, to withstand heavier use in busier settings like airports and concert halls. Additionally, producers and retailers market the subject goods online and on showroom floors as intended for home rather than business use and are priced lower relative to goods intended for business use.

[27] Goods clearly designed and marketed for non-domestic (i.e. commercial use purposes), such as in offices, business reception areas, restaurants, studios and other non-residential applications, are not covered by these investigations.

#### UDS product use and characteristics

[28] The subject goods are designed for sitting or sleeping in residential settings. While the subject goods have common functions, there are some variations in their uses. For example, sofas that convert into sofa-beds are designed for sleeping in their fold-out or extended configuration, whereas sofas, arm-chairs and HTS are not specifically designed for sleeping purposes.

[29] The subject goods are made of wood and/or steel tubular frames, with urethane foam inner material or padding that is covered in either fabric; genuine leather; a manufactured leather-substitute; a combination of genuine leather and leather-substitute (known as leather-match).

[30] The subject goods generally consist of the following components:

- (1) Wood or metal frame - The goods are of either metal or wood frames. Metal frames are steel and/or aluminum. Material for wood frames includes solid wood, plywood or engineered materials such as oriented strand board (“OSB”) and particleboard.
- (2) Urethane foam - Foam is used for internal upholstery padding and can have various characteristics or be composed of several materials to create comfort inside the outer upholstery cover.
- (3) Cover material - The upholstery covering on the exterior of the seating is made up of leather or a leather-like good, fabric, or a combination of leather and fabric.
- (4) Motion components - Complicated metal components and mechanisms are made from hot-rolled coil (“HRC”) and cold-rolled coil (“CRC”) steel used in motion furniture.
- (5) Miscellaneous parts and components - These items vary and may include webbing, fiber, springs, legs, zippers, etc. and are globally sourced.

[31] Particularly, leather or leather-like cover material may consist of the following materials:

- (a) Leather - Genuine leather is commercially known as ‘top grain’. The outer surface of the hide is processed with varying degrees of finish but based on the original outer surface.
- (b) Split leather - Leather processed in a tannery is typically split into the outer layer and a second layer known as ‘split’. This is genuine leather but given a manufactured surface. Split leather is less strong structurally, is less expensive and may be used on the sides or back of furniture where strength is not a factor.
- (c) Bicast - Split leather that is covered with a film of some kind of plastic to provide a look and a more durable surface.
- (d) Bonded leather - This is a leather-substitute such as polyurethane that has leather shavings glued to the back. The leather shavings cannot be seen or felt, and add very little to the cost compared to a pure leather substitute product. The shavings are used as a marketing strategy to allow for the use of the word ‘leather’.
- (e) Leather-match - An upholstered product that combines the use of real or top grain leather together with a leather-substitute such as vinyl or polyurethane on the same item. Normally the leather is used on surfaces that can be touched by the consumer or are more visible. The leather-substitute will be produced to look as identical as possible to genuine leather and is used on the side or back of the product. This combination is done to reduce cost and leather-match products are typically less expensive than comparable pure leather products.
- (f) Leather-substitutes - These are covering materials constructed from polyurethane, vinyl or other chemicals that may be constructed as a sheet of material or as a textile but in all case designed to create the feel or visual look of leather. They are typically less expensive than a comparable product containing any degree of leather.

[32] “Leather” cover material goods refer to goods falling into categories (a) – (e), and “leather-like” goods is synonymous with leather-substitutes in category (e). Most customers cannot readily distinguish between leather and leather-like goods.

[33] Fabric cover material goods refer to goods that may consist of wool, cotton, nylon, polyester, acrylic, rayon or a combination thereof, which may be in any colour.

[34] The subject goods and domestically produced like goods (together “Upholstered Domestic Seating”) may be ordered to be custom-built for a customer, which usually includes the choice of cover material and sometimes some technical features in motion furniture.

#### **PRODUCTION PROCESS<sup>8</sup>**

[35] There are common production methods involved in combining components to produce UDS, whether produced in the named countries or in Canada.

[36] For wood-framed domestic seating, typically plywood, OSB and/or particleboard are used for the frames. Additional wood-based products that may be used for the framing structure include hardwood, medium-density fibreboard usually in smaller dimensions around 3 mm (MDF), and wood legs and tables used for upholstery. The complainant believes that the named countries source their wood frames from China, Vietnam, Uruguay, Brazil and Russia.

[37] Wood frames are cut into shape and meet certain specifications using large specialized equipment such as computer numerical control machines (CNC). Springs and webbing are typically attached to the frames. The complainant believes that producers in the named countries source these components domestically from both Vietnam and China.

[38] The wood frame may be produced in the plant where final assembly occurs or may be purchased externally, either as parts or an assembled frame. The complainant believes that producers in the named countries also typically manufacture their wood frames in-house, although it may be possible that some outsource their frame production.

[39] The urethane foam is primarily produced from a mix of toluene diisocyanate (TDI) and some catalyst chemicals, then poured and assembled into lines to be cut into shape. As with the wood, the urethane foam may be sourced as components externally or cut into parts inside the plant where final assembly occurs. The complainant believes that producers in the named countries domestically purchase and cut urethane components in-house and some of the larger, vertically-integrated producers will also pour their own foam from domestically-sourced chemicals.

[40] Urethane foam may be used in combination with conjugated fiber products and dacron fiber rolls to form the soft padding or cushion for seating products. The complainant believes that the producers in the named countries domestically source both of these components.

[41] Leather is a labour-intensive, more expensive cover material to handle and process because every cow hide is a different size and texture. First, the hides are dehaired, degreased, desalted and soaked in water for a period of time. Next, the hides are tanned to enhance durability and to possibly alter the colour.

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<sup>8</sup> Exhibit 2 (NC) - Complaint – paras. 62-74

[42] The complainant believes that producers in the named countries source most of their leather cover material from Argentina and Brazil, among many other countries globally. Further, the complainant believes that they typically purchase and transport cow hides at their most basic, unprocessed (salted) forms to be fully processed at local tanneries. The leather tanning and processing requires significant use of chemicals, including chrome, aniline, polyurethane pigment and acrylic.

[43] The cover material may also be fabric. The complainant believes that producers in the named countries source the fabric material for their covers from China, or possibly the US, with the US supply being mostly for furniture orders that are customized by cover material and/or style.

[44] The leather, leather-like or fabric cover material is cut by hand or in an automated process. Cover material for a large order which requires more repetitive cut processes, are typically cut together in many layers at the same time. The cover material pieces are then gathered in a roll and moved to a separate sewing station to be sewn together. Cut and sew processes of leather compared to fabric cover material are more expensive and requires more expertise to evaluate quality and shade. The complainant believes that producers in the named countries typically perform cut and sew operations at their assembly facilities, and/or at the same facilities as their leather tanning/processing operations, as many of their production facilities are vertically integrated incorporating various elements of the supply chain.

[45] For motion seating (e.g. recliners), the mechanisms, components and frames are made up of about 60-70 pounds of steel, either hot or cold rolled. The complainant believes that producers in the named countries domestically source this steel and often produce the mechanisms.

[46] The complainant believes that the final assembly of frame, foam, cover material and mechanical parts (where applicable for motion seating) usually occurs in the same plants as where the leather processing and cut and sew operations have taken place.

#### **CLASSIFICATION OF IMPORTS**

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

9401.40.00.00  
9401.61.10.10  
9401.61.10.90  
9401.71.10.10  
9401.71.10.90

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

## LIKE GOODS AND CLASS OF GOODS

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

[50] With respect to the definition of like goods, the complainant stated that like goods are those goods described in the product definition. That is, domestically produced UDS, which meets the product definition. Therefore, it does not include domestically produced goods which are specifically excluded from the product definition. The complainant also submits that subject goods and like goods form a single class of goods.

[51] The complainant indicated that the producer’s intended use of an upholstered seating good and the customer’s actual end-use of that good within a particular setting do not always align. For example, an office chair produced for commercial use may in fact be used by a customer in a residential setting (or vice-versa). However, the more specialized products built to a higher specification for heavier use within a commercial setting are excluded from the product definition because they are not “for domestic purposes”.<sup>9</sup>

[52] For the purposes of this analysis, like goods consist of domestically produced UDS described in the product definition.

[53] With respect to physical characteristics, the complainant stated that the subject goods and like goods are all composed of the same materials, with wooden or metal frames, foam, and a cover composed of leather or fabric. The goods are generally similar in appearance, in particular with sofas, loveseats and chairs often being effectively larger or smaller versions of each other.<sup>10</sup>

[54] In terms of market characteristics, the complainant stated that the distribution channels are the same for the goods. The end-use of the goods is all the same: they are intended for a person to sit on. There is sufficient substitutability and pricing similarities across the range of subject goods and like goods such that the goods should all be considered a single class of goods.<sup>11</sup>

[55] After considering questions of use, physical characteristics and all other relevant factors, the CBSA is of the opinion that subject goods and like goods constitute only one class of goods.

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<sup>9</sup> Exhibit 2 (NC) - Complaint – para 138

<sup>10</sup> Exhibit 2 (NC) - Complaint – para 135

<sup>11</sup> Exhibit 2 (NC) - Complaint – para 136

## **THE CANADIAN INDUSTRY**

[56] In addition to the complainant, there are six other confirmed producers of UDS in Canada and 40 other potential producers of UDS in Canada that were identified by the complainant and the CBSA.

[57] The complainant provided letters of support from producers EQ3, Fornirama, El Ran, and Jaymar.<sup>12</sup>

[58] The CBSA received six complete responses to the Standing RFIs from EQ3, Jaymar, Fornirama, El Ran, Creative Custom Furnishings, and Huppé Meubles Inc., which included information on their total production of like goods in Canada. EQ3, Jaymar, Fornirama, El Ran, and Creative Custom Furnishings indicated that they support the complaint, while Huppé Meubles Inc. indicated that it is neutral to the complaint.

## **ESTIMATES OF DOMESTIC PRODUCTION**

[59] The complaint included the annual production of like goods for the complainant from January 1, 2017 through June 30, 2020, as well as annual production of like goods for the producers who provided letters of support for the calendar year of 2019.<sup>13</sup> Based on these estimates, the complainant estimated that together they account for over 60% of domestic production of like goods in Canada.<sup>14</sup>

[60] Although the complainant provided the volume (in pieces) and value of its own production of like goods, it only provided the value for the production of like goods by other producers of like goods in Canada and proposed using value in dollars as the metric for volume. Its rationale is as follows:

*“Please note that this Complaint measures production based on the value of goods rather than the volume of goods or the number of furniture “pieces”. Upholstered Domestic Seating widely varies in size and style and therefore, the value of the goods most accurately represents furniture production and sales. For completeness, Palliser has included its production both by value and pieces in Appendix 33, though pieces have minimal, if any, use in analysis of this industry.”<sup>15</sup>*

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<sup>12</sup> Exhibit 2 (NC) - Complaint – Appendix 19B – Letters of Support

<sup>13</sup> Exhibit 1 (PRO) - Complaint – Appendix 33

<sup>14</sup> Exhibit 2 (NC) - Complaint – para. 27

<sup>15</sup> Exhibit 2 (NC) - Complaint – Footnote 11

*“In the upholstered domestic seating industry, unit counts or unit prices are not used when considering market share, and rarely used for any purpose. This is because of the non-commodity nature of Upholstered Domestic Seating and the associated wide range of products. There are thousands, if not tens of thousands of different styles and configurations currently available in Canada of sofas, loveseats, chairs, recliners and so forth. Some Upholstered Domestic Seating can also be custom-ordered. In this context, unit counts or average prices per unit are not meaningful, and the relevant metric is the value in dollars. All of Palliser’s market size and share analysis will be on the basis of dollar value.”<sup>16</sup>*

[61] Based on the complaint as well as information received in the Standing RFI responses, for the period of August 1, 2019 to July 31, 2020, the complainant and supporting producers account for 97.3% of the production of UDS in Canada. Additionally, the complaint is supported by domestic producers whose production represents 100% of the total production of like goods by those domestic producers who express either support or opposition to the complaint.

### **Standing**

[62] Pursuant to subsection 31(2) of SIMA, the following conditions must be met in order for an investigation to be initiated:

- (a) the complaint is supported by domestic producers whose production represents more than 50% of the total production of like goods by those domestic producers who express either support for or opposition to the complaint, and
- (b) the production of the domestic producers who support the complaint represents 25% or more of the total production of like goods by the domestic industry.

[63] Based on an analysis of information provided in the complaint, as well as the information gathered by the CBSA, the CBSA is satisfied that the standing requirements of subsection 31(2) of SIMA have been met.

### **THE CANADIAN MARKET**

[64] The complainant estimated the domestic market by supplementing their own internal sales information with the information provided by EQ3, Fornirama, Jaymar, and El Ran, as well as Statistics Canada for the period of January 1, 2017 to June 30, 2020.<sup>17</sup>

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<sup>16</sup> Exhibit 2 (NC) - Complaint – para. 157

<sup>17</sup> Exhibit 2 (NC) - Complaint – Tables 8 & 9

[65] The CBSA conducted its own independent review of imports of UDS from the CBSA's (Facility Information Retrieval Management (FIRM)) database using the tariff classification numbers under which the subject goods are imported from the named countries. In addition, the CBSA reviewed its Accelerated Commercial Release Operations Support System (ACROSS) data to correct any errors and remove non-subject imports, which resulted in substantial changes to the import statistics.

[66] Detailed information regarding the sales from domestic production by each producer and the volume of imports of subject goods cannot be divulged for confidentiality reasons. The CBSA, however, has prepared the following tables to show the estimated import share of subject goods in Canada as well as the Canadian market as a whole from January 1, 2017 to July 31, 2020 as well as the 12-month period from August 1, 2019 to July 31, 2020.

**TABLE 1**  
**CBSA'S ESTIMATES OF UPHOLSTERED DOMESTIC SEATING IMPORTS**  
**(EXPRESSED AS % BASED ON VALUE)**

|                     | <b>2017<br/>%</b> | <b>2018<br/>%</b> | <b>2019<br/>%</b> | <b>Jan to<br/>July<br/>2020<br/>%</b> | <b>Aug<br/>2019 to<br/>July<br/>2020 %</b> |
|---------------------|-------------------|-------------------|-------------------|---------------------------------------|--|
| China               | 41%               | 43%               | 55%               | 61%                                   | 59%  |
| Vietnam             | 13%               | 18%               | 11%               | 8%                                    | 8%   |
| US                  | 40%               | 32%               | 24%               | 19%                                   | 20%  |
| All Other Countries | 6%                | 7%                | 10%               | 12%                                   | 13%  |
| Total Imports       | 100%              | 100%              | 100%              | 100%                                  | 100%                                       |

\*Some percent totals may not add to 100% due to rounding

**TABLE 2**  
**CBSA'S ESTIMATES OF UPHOLSTERED DOMESTIC SEATING IMPORTS**  
**(EXPRESSED AS % BASED ON VOLUME (PIECES))**

|                     | <b>2017<br/>%</b> | <b>2018<br/>%</b> | <b>2019<br/>%</b> | <b>Jan to<br/>July<br/>2020<br/>%</b> | <b>Aug<br/>2019 to<br/>July<br/>2020 %</b> |
|---------------------|-------------------|-------------------|-------------------|---------------------------------------|--|
| China               | 57%               | 57%               | 52%               | 87%                                   | 71%  |
| Vietnam             | 9%                | 13%               | 20%               | 3%                                    | 11%  |
| US                  | 27%               | 22%               | 21%               | 5%                                    | 12%  |
| All Other Countries | 7%                | 8%                | 7%                | 5%                                    | 7%   |
| Total Imports       | 100%              | 100               | 100%              | 100%                                  | 100%                                       |

\*Some percent totals may not add to 100% due to rounding

**TABLE 3**  
**CBSA'S ESTIMATE OF THE CANADIAN MARKET**  
**(BASED ON PERCENTAGE OF VALUE)**

|   | 2017<br>%   | 2018<br>%   | 2019<br>%   | Jan to<br>July<br>2020<br>% | Aug<br>2019 to<br>July<br>2020 % |
|---|-------------|-------------|-------------|-----------------------------|----------------------------------|
| China                                     | 32%         | 33%         | 45%         | 49%                         | 49%                              |
| Vietnam                                   | 10%         | 14%         | 9%          | 7%                          | 6%                               |
| <b>Total Named<br/>Countries Imports</b>  | <b>42%</b>  | <b>47%</b>  | <b>54%</b>  | <b>56%</b>                  | <b>55%</b>                       |
| US  | 31%         | 25%         | 19%         | 16%                         | 17%                              |
| All Other Countries                       | 5%          | 6%          | 9%          | 10%                         | 10%                              |
| <b>Total Imports</b>                      | <b>78%</b>  | <b>78%</b>  | <b>82%</b>  | <b>82%</b>                  | <b>82%</b>                       |
| Canadian Producers                        | 22%         | 22%         | 18%         | 18%                         | 18%                              |
| <b>Total Apparent<br/>Canadian Market</b> | <b>100%</b> | <b>100%</b> | <b>100%</b> | <b>100%</b>                 | <b>100%</b>                      |

\*Some percent totals may not add to 100% due to rounding

[67] The CBSA will continue to gather and analyze information on the volume of imports during the dumping POI of June 1, 2019 to November 30, 2020 and the subsidy POI of June 1, 2019 to November 30, 2020 as part of the preliminary phase of the dumping and subsidy investigations and will refine these estimates.

### **EVIDENCE OF DUMPING**

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

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

[70] The complainant alleges, pursuant to section 11.2(2) of the *Special Import Measures Regulations* (SIMR), that a Particular Market Situation (PMS) exists in the UDS industry in China and Vietnam due to the distortion of the cost of inputs for the industry and the level of regulation and subsidization of the industry. However, for the purposes of the complaint, the complainant estimated normal values based on their own costs of production adjusted to reflect conditions in China and Vietnam as well as publicly available information on costs and profits in China and Vietnam.

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

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

## **NORMAL VALUE**

### Complainant's Estimates of Normal Value

#### *Section 15 - China*

[73] The complaint included estimates of normal values for two models pursuant to the methodology of section 15 of SIMA for goods from China. The complainant provided two examples of Chinese domestic pricing from a retail store in China. The complainant claims that a producer/exporter of subject goods operates these stores under an agreement with the retailer. The two models were a set of a motion sofa and a stationary chair and a motion sofa with chaise. The complainant obtained pricing for these models in late May 2020.<sup>18</sup>

#### *Section 15 - Vietnam*

[74] The complainant was unable to locate a source of pricing of like goods in the domestic market of exporters in Vietnam.<sup>19</sup> As a result, the complainant was unable to estimate normal values pursuant to the methodology of section 15 of SIMA.

#### *Paragraph 19(b) - China and Vietnam*

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

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<sup>18</sup> Exhibit 1 (PRO) - Complaint – paras. 202-205

<sup>19</sup> Exhibit 2 (NC) - Complaint – para. 202

### Complainant's Estimate of Cost of Production - China

[76] As information from Chinese producers on their costs of production of subject goods was not available to the complainant, the complainant estimated the cost of production of the subject goods from China, based on 18 benchmark models produced by the complainant including stationary and motion sofas, chairs, love seats, sofa beds, and chaises in full leather, leather-match, or fabric (where subject) coverings, using:

- The complainant's direct material costs for the production of UDS.<sup>20,21</sup>
- The complainant's direct labour costs for the production of UDS, adjusted downward based on a ratio of comparable Canadian and Chinese wage rates in 2015, as reported in the Wall Street Journal.<sup>22</sup>
- The complainant's factory overhead costs for the production of UDS, adjusting the portion for indirect labour costs in the same manner as direct labour costs.<sup>23</sup>

### Complainant's estimate of Cost of Production – Vietnam

[77] As information from Vietnamese producers on their costs of production of subject goods was not available to the complainant, the complainant estimated the cost of production of the subject goods from Vietnam, on 18 benchmark models including stationary and motion sofas, chairs, love seats, sofa beds, and chaises in full leather, leather-match, or fabric (where subject) coverings, using:

- The complainant's direct material costs for the production of UDS.<sup>24,25</sup>
- As information on Vietnamese labour costs was not available in the Wall Street Journal article, the complainant relied on information comparing Vietnamese manufacturing labour costs to Chinese manufacturing labour costs per a 2019 report by HIS Markit.<sup>26</sup>
- The complainant's factory overhead costs for the production of UDS, adjusting the portion for indirect labour costs in the same manner as direct labour costs.

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<sup>20</sup> Exhibit 2 (NC) - Complaint – paras. 210 and 212

<sup>21</sup> Exhibit 1 (PRO) - Complaint – Appendix 13 (the detailed costs are confidential)

<sup>22</sup> Exhibit 2 (NC) - Complaint – para. 216

<sup>23</sup> Exhibit 2 (NC) - Complaint – para. 218

<sup>24</sup> Exhibit 2 (NC) - Complaint – para. 228

<sup>25</sup> Exhibit 1 (PRO) - Complaint – Appendix 13 (the detailed costs are confidential)

<sup>26</sup> Exhibit 2 (NC) - Complaint – paras. 229-230

### Complainant's estimates of expenses and profits - China

[78] To estimate a reasonable amount for administrative, selling, and all other costs and a reasonable amount for profits for the subject goods from China, the complainant used the average of publicly available financial results for 2019 from two producers of UDS in China, including: Man Wah and Jason Furniture.<sup>27</sup> Using this information, the complainant estimated an amount of 33.7%<sup>28</sup> of cost of goods sold as a reasonable amount for administrative selling and all other costs and 14.6% of cost of goods sold as a reasonable amount for profits.<sup>29</sup>

### Complainant's estimates of expenses and profits - Vietnam

[79] To estimate a reasonable amount for administrative, selling, and all other costs and a reasonable amount for profits for the subject goods from Vietnam, the complainant used the average of publicly available financial results for 2019 from two producers of UDS in Vietnam, including: Man Wah and Nitori.<sup>30</sup> Using this information, the complainant estimated an amount of 35.1%<sup>31</sup> of cost of goods sold as a reasonable amount for administrative selling and all other costs and 16.7% of cost of goods sold as a reasonable amount for profits.<sup>32</sup>

### CBSA's Estimate of Normal Value

[80] Based on the CBSA's review of import information found in FIRM and ACROSS, the CBSA was unable to find any imports of the models types that matched the models used in the complainant's estimate of section 15 normal values. As those models were not sold to an importer in Canada, the CBSA is unable to estimate normal values following the methodology described in section 15 of SIMA. With respect to the complainant's allegations of a PMS in China and Vietnam, the CBSA will endeavor to gather additional information from exporters, the GOC, the GOV, and other relevant sources in order to enable the CBSA to form an opinion as to whether a PMS exists in the domestic market for UDS in China and/or Vietnam and whether the domestic sales in China and/or Vietnam permit a proper comparison with the sale to the importer in Canada.

[81] For the purposes of initiation, the CBSA estimated normal values using a constructed cost approach based on the methodology in paragraph 19(b) of SIMA.

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<sup>27</sup> Exhibit 2 (NC) - Complaint – paras. 219 and 225

<sup>28</sup> Exhibit 2 (NC) - Complaint – para. 223

<sup>29</sup> Exhibit 2 (NC) - Complaint – para. 226

<sup>30</sup> Exhibit 2 (NC) - Complaint – paras. 231 and 235

<sup>31</sup> Exhibit 2 (NC) - Complaint – para. 234

<sup>32</sup> Exhibit 2 (NC) - Complaint – para. 235

## Methodology - China

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

- Used the direct material costs estimated by the complainant for subject goods from China.
- Estimated direct and indirect labour costs with more recent data available from 2019 on Chinese manufacturing labour costs.<sup>33</sup> This resulted in a downward adjustment based on a ratio of comparable Chinese and Canadian labour costs.
- Estimated a reasonable amount for selling, administrative and all other costs based on the financial information provided in the complaint for the two Chinese companies mentioned earlier and financial information found by the CBSA regarding an additional exporter<sup>34</sup> to estimate such costs. Using the information from the three companies, the CBSA estimated a reasonable amount for selling, administrative and all other costs, resulting in a lower estimate than what was provided by the complainant.
- Estimated a reasonable amount for profits based on the profits made by the three above-mentioned exporters. Using the profit information from the three exporters, the CBSA estimated a reasonable amount for profits, resulting in a lower estimate than what was provided by the complainant.
- Established normal values for five of the benchmark models supplied by the complainant (including covering material variations to three of the benchmark models) based on import information available in ACROSS.

## Methodology - Vietnam

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

- Used the direct material costs estimated by the complainant for subject goods from Vietnam.
- Estimated direct and indirect labour costs using the same ratio of Vietnamese manufacturing labour costs to Chinese manufacturing labour costs, as used by the complainant, but applied to the CBSA adjusted Chinese manufacturing labour cost.
- Estimated a reasonable amount for selling, administrative and all other costs based on the financial information provided in the complaint for the two Vietnamese companies mentioned earlier and financial information found by the CBSA regarding two additional exporters<sup>35&36</sup> to estimate such costs. Using the information from the four companies, the CBSA estimated a reasonable amount for selling, administrative and all other costs, resulting in a lower estimate than what was provided by the complainant.

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<sup>33</sup> <https://tradingeconomics.com/country-list/wages-in-manufacturing>

<sup>34</sup> Exhibit 11 (PRO) - Complaint Analysis

<sup>35</sup> Exhibit 11 (PRO) - Complaint Analysis

<sup>36</sup> Exhibit 11 (PRO) - Complaint Analysis

- Estimated a reasonable amount for profits on the profits made by the four above-mentioned exporters. Using the profit information from the four exporters, the CBSA estimated a reasonable amount for profits, resulting in a lower estimate than what was provided by the complainant.
- Established normal values for seven of the benchmark models supplied by the complainant (including covering material variations to three of the benchmark models) based on import information available in ACROSS.

## **EXPORT PRICE**

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

[85] The complainant estimated export prices of the subject goods based on numerous sources, including:

- A confidential price list of an exporter in China and Vietnam;<sup>37</sup>
- Commercial documents from a Chinese exporter;<sup>38</sup>
- Commercial intelligence of Chinese and Vietnamese exporters;<sup>39</sup> and
- Adjusted prices obtained from Canadian retailer web sites with stated origins from China and Vietnam.<sup>40</sup>

[86] The CBSA estimated export prices for each named country based on the value for duty as declared on the customs entry documentation and reported in FIRM for each individual shipment imported into Canada during the 12-month period of August 1, 2019 to July 31, 2020. In the CBSA's review of information from ACROSS for UDS entering Canada, adjustments were made to the FIRM data to correct any errors respecting the quantity and value for duty as necessary.

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<sup>37</sup> Exhibit 1 (PRO) - Complaint – para 343

<sup>38</sup> Exhibit 1 (PRO) - Complaint – para 346

<sup>39</sup> Exhibit 1 (PRO) - Complaint – para 348-349

<sup>40</sup> Exhibit 2 (NC) - Complaint – para 350

## ESTIMATED MARGINS OF DUMPING

[87] The CBSA estimated the margins of dumping for the named countries by comparing the total estimated normal values with the total weighted average estimated export prices. Based on this analysis, it is estimated that the subject goods imported into Canada from each of the named countries were dumped. The estimated margin of dumping for each country is listed in the table below.

**TABLE 4**  
**ESTIMATED MARGINS OF DUMPING**  
**(Expressed as a percent of export price)**

|         | <b>Estimated Margin<br/>of Dumping</b> |
|---------|--|
| China   | 35.85%                                 |
| Vietnam | 28.45%                                 |

## PARTICULAR MARKET SITUATION

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

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

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

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

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

[93] The complainant made the allegation that a particular market situation exists in China and Vietnam which does not permit a proper comparison between the like goods with the sale of the goods to the importer in Canada.

[94] The complainant submitted that a PMS exists with respect to China for the following reasons:

- The GOC exercises a high degree of government control and influence over the domestic steel industry which is a major input to UDS;
- The CBSA has recently and repeatedly recognized that Chinese prices for steel products are established in a non-market economy (and the circumstances upon which those decisions were made have not changed);
- Major producers of Chinese steel products are state-owned enterprises (SOE);
- Chinese domestic prices for steel products are significantly lower than prices in market economies because of government influence.
- The GOC exerts a high degree of control and influence over the Chinese forestry industry through state-ownership, preferential tax treatment, and by regulating production and imports;
- Chinese furniture manufacturers benefit from subsidized wood inputs;
- The input costs for wood in China are heavily distorted through the widespread illegal trade in wood from Russia and the inadequate practices related to certification standards for wood; and
- GOC ownership, subsidization and influence on the chemicals and petrochemicals sector distorts the prices of toluene diisocyanate (TDI), anilines and synthetic fibres; that are used in furniture manufacturing in China

[95] The complainant submitted that a PMS exists with respect to Vietnam for the following reasons:<sup>41</sup>

- The GOV exercises a high degree of government control and influence over the domestic steel industry which is a major input to UDS;
- The CBSA has recognized that domestic Vietnamese steel prices are established in a non-market economy in recent decisions (and the circumstances upon which those decisions were made continue to exist);
- The biggest Vietnamese steel producer is a SOE;
- Vietnam imports significant quantities of low-priced steel products from China, which is facilitated by the distorted low prices of steel in China;
- Vietnamese domestic prices for steel products are significantly lower than in market economies;
- Government influence on the forestry sector and the illegal logging market distort the prices of wood products that are used in furniture manufacturing in Vietnam, with the result that the acquisition costs of the materials used to produce the subject goods are artificially low; and
- The significant reliance on chemical imports from China, where prices are distorted, coupled with GOV influence through regulation of imports into industrial zones, results in artificially low prices of key chemicals such as TDI that are used in furniture manufacturing in Vietnam.

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<sup>41</sup> Exhibit 2 (NC) - Complaint – paras. 262, 319, and 340

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

### **EVIDENCE OF SUBSIDIZING**

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

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

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

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

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

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

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

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

#### SUBSIDY PROGRAMS IN CHINA

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

[104] The complaint provided evidence of 27 different programs that producers of subject goods in China may have benefited from.

[105] The complainant primarily referred to the CBSA’s investigations in regards to the subsidizing of *Unitized Wall Modules*, *Photovoltaic modules*, *Thermoelectric Containers*, and *Decorative and Other Non-Structural Plywood*. Subsidy information was also referred from the USDOC’s subsidy investigations of *Hardwood Plywood* from China, *Wooden Cabinets and Vanities* from China, and *Mattresses* from China.

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

[107] The CBSA reviewed the relevant public reports for the subsidy programs identified in the complaint. The CBSA also reviewed the descriptions of subsidy programs provided in reports for other investigations, in particular for other programs found by the USDOC.

[108] As a result, based on the information available, the CBSA identified 26 potentially actionable subsidy programs that may have benefited Chinese UDS producers/exporters. Many of these are programs that the CBSA has already countervailed in respect of previous subsidy investigations concerning goods from China. These programs have been grouped into the following five categories:

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

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

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

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

#### SUBSIDY PROGRAMS IN VIETNAM

[112] The complainant alleged that subject goods originating in or exported from Vietnam have been subsidized and that exporters of subject goods from Vietnam have benefitted from actionable subsidies provided by the GOV.

[113] The complainant identified 54 subsidy programs which may have conferred benefits to the producers/exporters of subject goods in Vietnam, and in turn resulted in the actionable subsidizing of exports of subject goods to Canada.

[114] In alleging that actionable subsidies were applicable to the subject goods imported from Vietnam, the complainant relied on Vietnam's most recent notification of active subsidy programs to the WTO pursuant to *Article XVI:1 of the GATT 1994 and Article 25 of the Agreement on Subsidies and Countervailing Measures* from February 2020, two CBSA subsidy investigations with respect to Vietnamese products (*Cold-Rolled Steel and Copper Pipe Fittings 2*), a USDOC subsidy investigation regarding *Certain Laminated Woven Sacks* from Vietnam, as well as on other publically available information on GOV subsidies.

[115] The CBSA reviewed the public reports for the relevant investigations referred to by the complainant and other documentation submitted in the complaint, including the latest subsidy notification to the WTO.

[116] Generally speaking, the reference material examined by the CBSA provided support for the complainant's allegation that the subject goods from Vietnam have been subsidized.

[117] Further, the CBSA found that a number of programs appeared to be either duplicates or they were very similar. Finally, some of the program names identified by the complainant were modified by the CBSA for consolidation purposes.

[118] As a result, the CBSA reorganized the 54 subsidy programs listed by the complainant into 15 potentially actionable subsidy programs. Most of these programs have been investigated and countervailed or found to be potentially actionable subsidies by the CBSA. These programs have been grouped into the following six categories:

1. Relief from import tax and duty
2. Relief from land rent, tax and levy
3. Preferential loans and loan guarantees
4. Preferential tax programs
5. Grants and grants equivalents
6. Goods/services provided by the government at less than fair market value

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

[120] Please refer to the Appendix for a description of the alleged subsidy programs to be investigated by the CBSA.

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

#### **CBSA'S CONCLUSION**

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

## **ESTIMATED AMOUNT OF SUBSIDY**

[123] The complainant was unable to estimate the amounts of subsidy on a program basis for the subject goods imported from China and Vietnam. Instead, the complainant estimated the amount of subsidy as being equal to the difference between its estimated total cost of production and the export price for Chinese and Vietnamese UDS.<sup>42</sup>

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

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

[126] The CBSA's analysis of the information indicates that subject goods imported into Canada during the period of January 1, 2019 to July 31, 2020, which was examined for subsidy purposes, were subsidized and that the estimated amount of subsidy is 17.73% and 11.73% of the export price, for China and Vietnam, respectively.

## **EVIDENCE OF INJURY**

[127] The complainant alleges that the subject goods have been dumped and subsidized and that such dumping and subsidizing have caused and are threatening to cause material injury to the UDS industry in Canada.

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

[129] In support of their allegations, the complainant provided evidence of: the volume of dumped and subsidized imports, lost market share, lost sales, price undercutting, price depression, impacted financial performance, reduced capacity utilization and reduced return on investments.<sup>43</sup>

## **VOLUME OF DUMPED AND SUBSIDIZED IMPORTS**

[130] The complainant states that volume of imports from named countries have increased since 2017 by offering UDS at low prices that are injurious to the domestic industry.

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<sup>42</sup> Exhibit 2 (NC) - Complaint – paras. 383 and 401.

<sup>43</sup> Exhibit 2 (NC) - Complaint – pages 115-139.

[131] Based on the complainant's data, imports from China and Vietnam increased by 11.5% from 2017 to 2019, and accounted for 69% of total imports in 2020 H1 from 62% in 2017.<sup>44</sup>

[132] The information estimated by the CBSA demonstrates that total volume of imports of UDS from the named countries collectively increased by 60.3% from 2017 to 2019 and accounted for 69% of total imports in 2020 H1 from 54% in 2017.

[133] The CBSA's analysis of import data supports the allegation that the import volumes of the allegedly dumped goods have increased significantly.

### **LOST MARKET SHARE**

[134] The complainant states that the named countries have increased their Canadian market share since 2017 through unfair pricing allowing exceptionally low prices to take away sales from domestic producers.<sup>45</sup>

[135] The complainant's estimates of the Canadian market demonstrate that subject imports' market share grew from 50% to 58% from 2017 to 2020 H1<sup>46</sup>, while the domestic market share shrunk each period from 2017 to 2020 H1.<sup>47</sup>

[136] The CBSA's analysis of the Canadian market demonstrates a decrease in the market share of the domestic industry from 2017 to 2019, and from 2017 to H1 2020. In contrast, the named countries collectively increased their share from 2017 to 2019, and from 2017 to H1 2020.

[137] Based on the CBSA's analysis of the information contained in the complaint, as well as the CBSA's estimates and analysis of imports, the CBSA finds the complainant's claims of loss of market share to be reasonable and well supported. As such, the CBSA is of the opinion that this injury factor is sufficiently supported and linked to the volume of imports of allegedly dumped and subsidized goods.

### **LOST SALES, PRICE UNDERCUTTING AND PRICE DEPRESSION**

[138] The complainant alleges that lower priced imports of subject goods from the named countries have altered the Canadian vendor-retailer relationship, reduced their access to retail floor space and undercut product lines, which caused lost sales and the complainant to erode and depress their prices, negatively impacting profitability.<sup>48</sup>

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<sup>44</sup> Exhibit 2 (NC) - Complaint – pages 117-118, Tables 8 and 9.

<sup>45</sup> Exhibit 2 (NC) - Complaint – para. 422.

<sup>46</sup> Exhibit 2 (NC) - Complaint – para. 418.

<sup>47</sup> Exhibit 1 (PRO) - Complaint – paras. 419-420.

<sup>48</sup> Exhibit 2 (NC) - Complaint – page 124, paras. 428-431.

[139] To support these allegations, the complainant provided account specific examples of lost sales, price undercutting and price depression due to competition from subject goods priced well below that of the complainant. Additionally, through the account specific examples, the CBSA observed a downward trend in subject goods being continuously priced lower between 2017 through 2020 H1.

[140] Based on the CBSA's analysis of the information provided in the complaint, the CBSA finds the claims of lost sales, price undercutting and price depression to be supported and sufficiently linked to the allegedly dumped and subsidized goods.

#### **IMPACTED FINANCIAL RESULTS**

[141] The complainant alleges that the injurious impact of the dumped and subsidized goods is demonstrated by its financial results. To support this allegation, the complainant provided its financial results for 2017 through to 2020 H1.

[142] The CBSA has reviewed the complainant's financial results and found a downward trend on an annual basis from 2017 to 2019 with respect to revenue and profitability.

[143] Based on the CBSA's analysis of the complainant's financial results, the CBSA finds that the complainant's claim of impacted financial results to be supported and sufficiently linked to the allegedly dumped and subsidized goods.

#### **REDUCED CAPACITY UTILIZATION AND REDUCED RETURN ON INVESTMENTS**

[144] The complainant stated its capacity utilization started to reduce when subject goods first entered the Canadian market. The complainant stated it is currently underutilizing its facility. Data on capacity utilization was provided by the complainant supporting the complainant's capacity utilization information.<sup>49</sup>

[145] The CBSA has analyzed the information provided in the complaint and notes that production decreased from 2017 to H1 2020. The CBSA also finds that the underutilization of its current production capacity has led to a lost return on facility investments.

[146] Based on the information provided in the complaint, the CBSA finds that there is a reasonable link between the allegedly dumped goods from the named countries and the complainant's underutilization of production capacity and reduced return on investments.

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<sup>49</sup> Exhibit 1 (PRO) - Complaint – page 139, paras. 499-501.

## **OTHER FACTORS AFFECTING THE CANADIAN INDUSTRY**

### **ACCENTUATION OF INJURY DUE TO COVID-19**

[147] The complainant stated the reduction of market size in H1 2020 and growing shift to e-commerce platforms are due to COVID-19 and further exacerbate injury for the Canadian industry. The complainant provided evidence of impacted operations and sales in H1 2020 and effects of the pandemic on the supply chains of producers of UDS, leading to bankruptcies and ceased operations.

[148] The CBSA has reviewed the information provided in the complaint and agrees the reduction of the UDS market size and growing shift to e-commerce platforms are reasonably linked to the pandemic. Based on its own research, the CBSA also finds that the complainant's market share decreased from 2017 to H1 2020, while named countries' market share continued to grow in H1 2020.

[149] Based on the CBSA's analysis of information provided in the complaint and its own research, the CBSA finds that the complainant's claim of injury accentuation due to the pandemic is reasonable and well supported.

### **CBSA'S CONCLUSION – INJURY**

[150] Overall, based on the evidence provided in the complaint, and supplementary data available to the CBSA through its own research and customs documentation, the CBSA finds that the evidence discloses a reasonable indication that the dumping and subsidizing of the subject goods from the named countries have caused injury to the domestic UDS industry in Canada. The nature of the injury is well documented with respect to the volume of dumped and subsidized imports, lost market share, lost sales, price undercutting, price depression, impacted financial performance, reduced capacity utilization and reduced return on investments.

### **THREAT OF INJURY**

[151] The complainant alleges that the dumped and subsidized goods threaten to cause further material injury to the domestic producers of UDS. The complainant provided the following information to support the allegation that imports of subject goods threaten to cause further injury to the Canadian industry.

### **NAMED COUNTRIES ARE EXPORT ORIENTED**

[152] The complaint provided evidence that a large portion of Chinese and Vietnamese domestic production of UDS is exported and these volumes of exports are increasing thereby threatening injury.

[153] The complainant provided evidence that Vietnam is the second largest exporter of furniture after China in the Asia-Pacific region and the fifth largest in the world, and evidence that 95% of Vietnamese upholstered furniture is exported.

[154] The complainant provided evidence that Chinese exports of upholstered seating increased by 14% from 2016 to 2018, whereas exports to Canada increased by 25% for that same period.<sup>50</sup> The complainant also provided evidence that Vietnamese exports of upholstered seating increased by 146% from 2016 to 2018.<sup>51</sup>

[155] Based on the CBSA's analysis of the evidence provided and import trends of UDS from named countries, the CBSA agrees that the named countries are export-oriented and finds that increasing volumes of exports could lead to additional exports of UDS from China and Vietnam to Canada.

#### **DIVERSION OF CHINESE SUBJECT GOODS TO CANADA DUE TO US SECTION 301 TARIFFS**

[156] The complainant estimated US\$550 million worth of subject goods were diverted out of the US market following the US imposition of section 301 tariffs on Chinese furniture imports, and stated the diversion of Chinese subject goods is posing an imminent and foreseeable threat to the Canadian UDS industry.<sup>52</sup>

[157] The complainant provided US Customs data noting that while Chinese exports to the US shrunk, Chinese exports of subject goods continued to grow<sup>53</sup> and are likely to continue to grow.<sup>54</sup>

[158] The CBSA agrees that the recent imposition of US section 301 tariffs on residential furniture from China may have contributed to Chinese furniture being diverted from the US into Canada and could lead to increased volumes of Chinese exports of subject goods into Canada in the future.

#### **RAPID CAPACITY EXPANSION IN VIETNAM**

[159] The complainant submits that UDS production capacity in Vietnam is rapidly expanding in response to US tariffs. The complainant provided evidence that Chinese producers of subject goods have been shifting operations from China to Vietnam to evade US tariffs.

[160] The CBSA reviewed the company specific expansion examples provided by the complainant and finds the evidence supports the fact that multiple corporations in the furniture business have recently expanded, are expanding and/or are planning to further expand their manufacturing capacity in Vietnam.

[161] The CBSA agrees that UDS capacity expansion in Vietnam is rapidly increasing, which may lead to an increased volume of subject imports from Vietnam into Canada.

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<sup>50</sup> Exhibit 2 (NC) - Complaint – page 143-144, paras. 516-517 and Public Appendix 24.

<sup>51</sup> Exhibit 2 (NC) - Complaint – page 143-144, paras. 516-518 and Public Appendix 24.

<sup>52</sup> Exhibit 2 (NC) - Complaint – page 145, para. 523.

<sup>53</sup> Exhibit 2 (NC) - Complaint – page 145, para. 524 and Public Appendix 09, Tab 2.

<sup>54</sup> Exhibit 2 (NC) - Complaint – page 145, para. 524 and Public Appendix 04, page 148.

## **REMOVAL OF CANADIAN TARIFFS ON VIETNAMESE SUBJECT IMPORTS**

[162] The complainant submitted that the *Comprehensive and Progressive Agreement for Trans-Pacific Partnership* (“CPTPP”) planned tariff elimination on Vietnamese imports to zero by 2023 will exacerbate the effects of injurious undercutting and price depression caused by subject imports.<sup>55</sup> The complainant also stated such preferential tariffs are encouraging Vietnamese producers to invest in facilities and logistics to meet increased export demand.<sup>56</sup>

[163] The complainant provided evidence of the tariff elimination schedule and noted the agreement was welcome by Vietnamese official and is expected to improve Vietnam’s global competitiveness for local residential furniture companies.<sup>57</sup>

[164] The CBSA agrees that the planned gradual elimination of the tariffs by 2023 may lead to an increased volume of exports of subject goods to Canada.

## **THE CONTINUATION OF RECENT TRENDS THREATEN THE EXISTENCE OF CANADIAN PRODUCERS OF LIKE GOODS**

[165] The complainant submitted that the continuous increase of subject imports will force the complainant and remaining Canadian producers out of the higher-value end part of the market and completely destroy the Canadian industry.

[166] The complainant provided information on past furniture mass market trends and an example of a large Canadian furniture maker filing for bankruptcy earlier this year in large part due to the rising of offshore competition.

[167] The CBSA agrees that the evidence of an increase of offshore produced goods, particularly from China has led to a reduced market share for the Canadian industry since the early 2000s in the mass market segment, and the recent increase of subject imports, particularly in the high-end furniture market segment, is likely to further reduce Canadian producers’ share of the market.

## **DUMPED GOODS EXACERBATE INJURY TO CANADIAN INDUSTRY DURING ECONOMIC MARKET DOWNTURN**

[168] The complainant stated that subject imports exacerbate injury in COVID-19 context given that furniture is extremely sensitive to economic changes. The complainant cited the CITT, noting they continued two separate dumping findings in cases of economic downturn out of fear that fragile markets would be exacerbated by dumped or unfairly priced goods.

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<sup>55</sup> Exhibit 2 (NC) - Complaint – pages 149-150, paras. 541-542 and Public Appendix 01, pages 263-264.

<sup>56</sup> Exhibit 2 (NC) - Complaint – page 150, para. 545 and Public Appendix 04, page 19.

<sup>57</sup> Exhibit 2 (NC) - Complaint – page 150, para. 544 and Public Appendix 04, page 19.

[169] The CBSA agrees that imports of unfairly priced goods would exacerbate the already fragile domestic Canadian market of UDS and that subject imports in the context of COVID-19 are likely to further negatively impact Canadian producers.

#### **CBSA'S CONCLUSION – THREAT OF INJURY**

[170] The complaint contains reasonable evidence regarding the threat of injury to the UDS industry in Canada. The information in the complaint indicates that the increasing volumes of subject imports from export-oriented named countries, the diversion of Chinese subject goods to Canada due to US section 301 tariffs, the rapid capacity expansion in Vietnam, the removal of Canadian tariffs on Vietnamese subject imports, the continuation of recent trends and alleged dumping of subject goods during economic market downturn, as described above, are collectively posing a threat to the Canadian industry.

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

[171] The CBSA finds that the complainant has sufficiently linked the injury it has suffered to the alleged dumping and subsidizing of subject goods imported into Canada. The injury includes volume of dumped and subsidized imports, lost market share, lost sales, price undercutting, price depression, impacted financial performance, reduced capacity utilization and reduced return on investments.

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

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

#### **CONCLUSION**

[174] Based on information provided in the complaint, other available information, and the CBSA's customs documentation, the CBSA is of the opinion that there is evidence that UDS originating in or exported from China and Vietnam have been dumped and subsidized. Further, there is evidence that discloses a reasonable indication that such dumping and subsidizing have caused and are threatening to cause injury to the Canadian domestic industry. As a result, pursuant to subsection 31(1) of SIMA, dumping and subsidy investigations were initiated on December 21, 2020.

#### **SCOPE OF THE INVESTIGATIONS**

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

[176] The CBSA has requested information from all potential exporters and importers to determine whether or not subject goods imported into Canada during the CBSA's POI of June 1, 2019 to November 30, 2020 were dumped. The information requested will be used to determine the normal values, export prices and margins of dumping, if any.

[177] The CBSA also requested information from the GOC and the GOV with respect to the possibility of a particular market situation.

[178] The CBSA has also requested information from the GOC and the GOV and all potential producers/exporters to determine whether or not subject goods imported into Canada during the POI of June 1, 2019 to November 30, 2020, were subsidized. The information requested will be used to determine the amounts of subsidy, if any.

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

### **FUTURE ACTION**

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

[181] If the CITT finds that the evidence discloses a reasonable indication of injury to the Canadian industry and the CBSA's preliminary investigations reveal that the goods have been dumped and/or subsidized, the CBSA will make preliminary determinations of dumping and/or subsidizing within 90 days after the date of the initiation of the investigations, by March 22, 2021. Where circumstances warrant, this period may be extended to 135 days from the date of the initiation of the investigations.

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

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

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

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

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

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

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

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

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

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

### **UNDERTAKINGS**

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

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

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

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

## **PUBLICATION**

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

## **INFORMATION**

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

[197] To be given consideration in these investigations, all information should be received by the CBSA by April 30, 2021, at noon.

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

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

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

[201] This *Statement of Reasons* is available through the CBSA's website at the address below. For further information, please contact the officers identified as follows:

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

**Telephone:** Kevin Lambertsen 613-954-7341  
Ansa Mohammad 613-960-6096

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

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



(for) Doug Band  
Director General  
Trade and Anti-dumping Programs Directorate

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

Evidence provided by the complainant and obtained by the CBSA suggests that the Governments of China and Vietnam may have provided support to exporters/producers of subject goods in the following manner.

### **CHINA**

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

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

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

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

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

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

##### ***Program 2: Loan Guarantee through the GOC/SOE banks/public bodies***

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

The CBSA has previously countervailed this program in *Large Diameter Carbon and Alloy Steel Line Pipe*, *FISC*, and *Line Pipe*.

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

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

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

The CBSA has previously countervailed this program in *Certain Seamless Casing*.

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

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

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

This program may constitute a financial contribution pursuant to paragraph 2(1.6)(b) of SIMA; i.e., amounts that would otherwise be owing and due to the government are exempted or deducted or amounts that are owing and due to the government are forgiven or not collected. The above confers a benefit to the exporter by way of reducing its financial costs upon obtaining loans from a financial institution, and the benefit is equal to the amount of the exemption/deduction. The program may be considered specific pursuant to subsection 2(7.3) of SIMA in that the manner in which discretion is exercised by the granting authority indicates that the subsidy may not be generally available.

**Category 2: Grants and Grant Equivalents**

***Program 5: Insurance Grants***

Local and Provincial Government Reimbursement Grants on Credit Insurance Fees. The CBSA has previously countervailed this program in *Galvanized Steel Wire*, *Certain Seamless Casing*, *Certain Oil Country Tubular Good*, *Certain Pup Joints*, *Stainless Steel Sinks*, *Line Pipe*, and *Large Diameter Carbon and Alloy Line Pipe*.

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

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

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

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

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

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

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

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

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

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

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

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

The CBSA has previously countervailed this program in *Certain Seamless Casing, Aluminum Extrusions, Certain Oil Country Tubular Goods, Certain Pup Joints, Copper Tube, and Line Pipe*.

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

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

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

The CBSA has previously countervailed this program in *Stainless Steel Sinks, Unitized Wall Modules, Certain Photovoltaic Modules and Laminates, Certain Seamless Casing, Certain Oil Country Tubular Goods, Certain Pup Joints, and Certain Carbon and Alloy Line Pipe*.

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

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

Based on the information available to the CBSA, this program was provided in several provinces, such as Guangdong, Shanghai and Jiangsu.

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

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

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

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

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

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

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

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

In United States – *Certain Hardwood Plywood Products from the People’s Republic of China*, this program was found to be countervailable.<sup>58</sup> The CBSA was unable to unearth a description of this program, however, this program appears to be specific to the forestry sector and potentially to UDS and has been countervailed in a recent investigation by the USDOC

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

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<sup>58</sup> United States Department of Commerce, “Countervailing Duty Investigation of Certain Hardwood Plywood Products from the People’s Republic of China: Issues and Decision Memorandum for the Final Affirmative Determination”, (6 November 2017), C-570-052.

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

In United States – *Certain Hardwood Plywood Products from the People’s Republic of China*, this program was found to be countervailable.<sup>59</sup> The CBSA was unable to unearth a description of this program, however, this program appears to be specific to the forest sector and potentially to UDS and has been countervailed in a recent investigation by the USDOC.

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

***Program 14: Grants for the Retirement of Capacity***

The GOC’s 12th Five-Year Plan for Energy Conservation and Emission Reduction calls for accelerating and eliminating “backward production capacity” in certain industrial sectors, including the elimination of 48 million metric tonnes of steel production. In 2013, the State Council issued the “Guiding Opinion on Resolving the Problem of Severe Excess Capacity,” which called for establishing special funds to accelerate the elimination of backwards capacity and to also support industries with excess production capacity.

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

***Program 15: Grants for the Retirement of Capacity***

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

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

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<sup>59</sup> United States Department of Commerce, “Countervailing Duty Investigation of Certain Hardwood Plywood Products from the People’s Republic of China: Issues and Decision Memorandum for the Final Affirmative Determination”, (6 November 2017), C-570-052.

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

#### ***Program 16: Corporate Income Tax Exemption and/or Reduction in Special Economic Zones (SEZs) and Other Designated Areas***

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

Under this program, it is alleged that an eligible enterprises may receive a reduced corporate income tax rate of 15%.

The complainant has alleged that several UDS manufacturers are located in SEZs, including the Dalian Free Trade Zone, Jiangyin Economic Development Zone, Anhui Province, Fujian Province, Shenzhen Special Economic Zone, and the Guangzhou Special Economic Zone.

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

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

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

#### ***Program 17: Corporate Income Tax Reduction for New High Tech Enterprises (“NHTE”)***

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

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

In a recent investigation by the USDOC into *Hardwood Plywood* from China, it appears that they countervailed this program as the following: Income Tax Reductions under Article 28 of the Enterprise Income Tax.

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

***Program 18: Municipal/Local Income or Property Tax Reductions***

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

In a recent investigation by the USDOC into *Hardwood Plywood* from China, it appears that they countervailed this program as the following: Local Income Tax Exemption and Reduction Programs for “Productive” Foreign Invested Enterprises.

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

***Program 19: Preferential Tax Policies for Foreign-Invested Enterprises (FIEs)***

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

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

In a recent investigation by the USDOC into *Hardwood Plywood* from China, it appears that they countervailed this program as the following: Income Tax Reductions for Export-Oriented Foreign-Invested Enterprises.

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

***Program 20: Preferential Tax Policies related to Research and Investment***

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

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

In a recent investigation by the USDOC into *Hardwood Plywood* from China, it appears that they countervailed this program as the following: Tax Offsets for Research and Development under the Enterprise Income Tax; and Tax Offsets for Research and Development by Foreign-Invested Enterprises.

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

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

***Program 21: Offsets to Taxable Income Related to Purchases of Domestic Machinery***

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

The CBSA has previously countervailed this program in *Certain Aluminum Extrusions*, *Certain Photovoltaic Modules and Laminates*, *Certain Seamless Casing*, *Certain Oil Country Tubular Goods* and *Certain Pup Joints*.

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

***Program 22: Exemption or Refund of Tariff and Import Value-Added Tax (VAT) for Imported Technologies and Equipment***

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

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

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

***Program 23: Relief from Duties and Taxes on Imported Material and Other Manufacturing Inputs***

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

The CBSA has previously countervailed this program in *Certain Photovoltaic Modules and Laminates, Certain Seamless Casing, Certain Oil Country Tubular Goods and Certain Pup Joints*.

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

***Program 24: Deed Tax Exemption for SOEs Undergoing Mergers or Restructuring***

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

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

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

***Program 25: Acquisition of Government Inputs/Utilities at Less than Fair Market Value***

The complainant alleges that exporters may avail themselves of input materials or utilities from SOE at below fair market value. They have identified the following inputs that may be provided to UDS manufacturers at less than fair market value:

- Electricity
- Water
- Timber
- Urea/Formaldehyde

The CBSA has previously countervailed this program in *Certain Seamless Casing, Certain Oil Country Tubular Goods, Stainless Steel Sinks, Steel Piling Pipe, Large Diameter Carbon and Alloy Steel Line Pipe*, and *Certain Pup Joints*.

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

***Program 26: Provision of Land for Less than Adequate Remuneration by Government***

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

The CBSA has previously countervailed this program in *Line Pipe and Large Diameter Carbon and Alloy Steel Line Pipe*.

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

## VIETNAM

### **Category 1: Relief From Import Tax and Duty**

#### ***Program 1: Exemptions of Import Tax and Duty***

Due to similarities, the following programs identified by the complainant will be grouped into one program to be investigated: Exemptions of Import Tax and Duty.

1. Preferential policies on import tax
2. Import Duty Exemptions for Supporting Industries
3. Import Duty Exemptions for Enterprises within Economic Zones, Industrial Parks or Other Designated Areas
4. Exemption of Import Tax on Equipment and Machinery Imported to Create Fixed Assets
5. Import Duty Exemptions on Imports of Raw Materials for Exporting Goods
6. Import Duty Exemption on Imports of Spare Parts and Accessories for Companies in Industrial Zones
7. Import Duty Exemptions for Foreign-Invested Entities
8. Import Duty Exemptions on Imported Raw Materials for Export Processing Enterprises and Export Processing Zones

These programs grant tax and/or duty exemptions on certain imported goods to certain companies, including on goods imported for manufacture of domestic exports and a five-year exemption from import duties on raw materials, supplies and components as described in Articles 12 and 15 of *Decree No. 134/2016/ND-CP*<sup>60</sup> respectively.

The programs of import duty exemptions are made available pursuant to the *Law No. 107/2016/QH13* dated April 6, 2016, on export and import duties (*Law No. 107*) and *Decree No. 134/2016/ND-CP* dated September 1, 2016, on guidelines for the law on export and import duties (*Decree No. 134*). *Law No. 107* replaced the *Law on Export and Import Tax No. 45/2005/QH11* dated June 14, 2005, on detailing a number of articles of the law on export and import duties (*Law No. 45*). *Decree 134* replaced *Decree No. 87/2010/ND-CP* dated August 13, 2010, guiding the implementation of a number of articles of the *Law on Export Tax and Import Tax* (*Decree No. 87*).

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<sup>60</sup> Exhibit 2 (NC) - Complaint – Public Appendix 25, pages 18-58.

These programs are considered to be a financial contribution pursuant to paragraph 2(1.6)(b) of SIMA, in that amounts that would otherwise be owing and due to the Government are reduced and/or exempted, and confer a benefit to the recipient equal to the amounts of the reductions and exemptions.

These programs may be considered specific pursuant to subsection 2(7.2) of SIMA because they are limited to either enterprises in certain geographic areas or investment projects specified in Appendix 1 and Appendix 2 of *Decree No. 118/2015/ND-CP* dated November 12, 2015, guiding the implementation of a number of articles of the law on investment.

### ***Program 2: Refunds of Import Duties***

Due to similarities, the following programs identified by the complainant will be grouped into one program to be investigated: Refunds of Import Duties

- Import Duty Refund for Supporting Industries
- Import Duty Refund for Enterprises within Economic Zones, Industrial Parks or Other Designated Areas

These programs allow a refund of duties on certain imported goods, including on certain re-exported imports as described in Article 34 of *Decree No. 134/2016/ND-CP*, to enterprises located in certain geographic areas.<sup>61</sup>

The import duty refund programs are made available pursuant to the *Law No. 107/2016/QH13* dated April 6, 2016, on export and import duties (Law No. 107) and *Decree No. 134/2016/ND-CP* dated September 1, 2016, on guidelines for the law on export and import duties (Decree No. 134). Law No. 107 replaced the *Law on Export and Import Tax No. 45/2005/QH11* dated June 14, 2005, on detailing a number of articles of the law on export and import duties (Law No. 45). Decree 134 replaced *Decree No. 87/2010/ND-CP* dated August 13, 2010, guiding the implementation of a number of articles of the *Law on Export Tax and Import Tax* (Decree No. 87). Duty refund is stipulated in Article 19 of Law No. 45 and Law No. 107 and specified in Article 15 of Decree No. 87 and Article 33 to 37 of Decree No. 134.

The CBSA recently investigated this program in *Corrosion-Resistant Steel Sheet 2* and identified it as a potentially actionable subsidy program.<sup>62</sup>

This program is considered to be a financial contribution pursuant to paragraph 2(1.6)(b) of SIMA, in that amounts that would otherwise be owing and due to the Government are reduced and/or exempted, and confer a benefit to the recipient equal to the amounts of the refund.

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<sup>61</sup> Exhibit 2 (NC) - Complaint – Public Appendix 25, pages 46-44

<sup>62</sup> CBSA, CORROSION-RESISTANT STEEL SHEET – Final Determination – *Statement of Reasons*, Appendix 3 for Vietnam.

The program may be considered specific pursuant to subsection 2(7.2) of SIMA because it is limited to enterprises located in certain geographic areas or contingent upon export performance and, therefore, may constitute a prohibited subsidy as defined in subsection 2(1) of SIMA.

## **Category 2: Relief From Land Rent, Tax and Levy**

### ***Program 3: Incentives On Non-Agricultural Land Use Tax***

This program grants tax exemptions and reductions for non-agricultural land use. The complainant stated upholstered furniture production is considered a non-agricultural land use.<sup>63</sup>

The CBSA determined this program is an actionable subsidy in *Corrosion-Resistant Steel Sheet 2*.<sup>64</sup>

Based on CBSA research, non-agricultural land use tax is regulated by *Law No. 48/2010/QH12* dated June 17, 2010, on non-agricultural land use tax (Law No. 48); *Decree 53/2011/ND-CP* dated July 1, 2011, guiding the implementation of this Law No. 48; and *Circular No. 153/2011/TT-BTC* dated November 11, 2011, guiding on non-agricultural land use tax (Circular No. 153). Articles 9 and 10 of Law No. 48 provide for tax exemption and reduction for non-agricultural land use.

Appendix 1 of *Decree No. 118/2015/ND-CP* dated November 12, 2015, guiding the implementation of the Law on Investment (Decree No. 118), defines domains eligible for investment promotion and domains eligible for special investment preferences. Appendix 2 of Decree No. 118 defines areas with extreme socio-economic difficulties, areas with socio-economic difficulties eligible for investment preferences.

This program is considered a financial contribution pursuant to paragraph 2(1.6)(b) of SIMA, in that amounts that would otherwise be owing and due to the Government are reduced and/or exempted, and confers a benefit to the recipient equal to the amount of the reduction/exemption.

The program may be considered specific pursuant to subsection 2(7.2) of SIMA because it is limited to industries located in the regions prescribed.

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<sup>63</sup> Exhibit 2 (NC) - Complaint – page 111, para. 395.

<sup>64</sup> CBSA, *Corrosion-Resistant Steel Sheet 2 – Final Determinations – Statement of Reasons*, Appendix 3 for Vietnam.

#### ***Program 4: Exemptions/Reductions of Land Rent, Tax and Levy***

Due to similarities, the following programs identified by the complainant will be grouped into one program to be investigated: Exemptions/Reductions of Land Rent, Tax and Levy.

- Preferences in leases of land and water surface
- Preference for SMEs in land rents and water surface rents
- Preferences on Land Rents for Enterprises within Economic Zones, Industrial Parks or Other Designated Areas
- Land-Use Levy Exemption/Reduction
- Land Rent Exemption/Reduction
- Land Rent Exemptions for Exporters
- Land Rent Exemptions for Foreign-Invested Enterprises
- Land Rent Exemptions for Enterprises Located in Special Zones

This program grants exemptions or reductions of land rents, taxes and levy to enterprises operating in certain domains and regions entitled to investment incentives.

The CBSA determined this program is an actionable subsidy in *Corrosion-Resistant Steel Sheet 2*.<sup>65</sup>

Land used for production and business purposes is governed by *Law No. 45/2013/QH13* dated June 21, 2013, on Land (Law No. 45); *Decree No. 46/2014/ND-CP* dated May 15, 2014, on regulating the collection of land rents and water surface rents (Decree No. 46); *Circular No. 77/2014/TT-BTC* dated June 16, 2014, guiding *Decree No. 46/2014/ND-CP*; and *Circular No. 333/2016/TT-BTC* dated December 26, 2016, amending and supplementing a number of articles of *Circular No. 77/2014/TT-BTC*. Land rent exemption and reduction in land rent are provided in Articles 19 and 20 of Decree No. 46.

The land-use levy exemption/reduction program was terminated on July 1, 2014, as the effective date of the *Law No. 45/2013/QH13* dated June 21, 2013, on Land (Law No. 45), replaced Law No. 13. Although this program was terminated on July 1, 2014, companies that were eligible for the program could have benefited from the subsidy while it was in effect. Depending on the size of the benefits, the benefits could potentially be amortized over the following subsequent years.

This program may be considered to be a financial contribution pursuant to paragraph 2(1.6)(b) of SIMA, in that amounts that would otherwise be owing and due to the Government are reduced and/or exempted, and confers a benefit to the recipient equal to the amounts of the reductions and exemptions.

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<sup>65</sup> CBSA, Corrosion-Resistant Steel Sheet 2– Final Determinations – *Statement of Reasons*, Appendix 3 for Vietnam.

The program may be considered specific pursuant to subsection 2(7.2) of SIMA because it is limited to the List of domains entitled to investment incentives and the List of regions entitled to investment incentives as specified in Article 110 of the Law on Land 2013; Section II, Chapter II of Decree No. 46; and Appendix II of Decree 118/2015/ND-CP.

### **Category 3: Preferential Loans and Loan Guarantees**

#### ***Program 5: Export And Import Support In Forms Of Preferential Loan, Guarantee And Factoring***

Due to similarities, the following programs identified by the complainant will be grouped into one program to be investigated: Export and Import Support in Forms of Preferential Loan, Guarantee and Factoring

- Preference in Crediting for Supporting Industries
- Export and Import Support in Forms of Preferential Loan, Guarantee and Factoring
- Preferential Lending and Export Credits from the Vietnam Development Bank
- Preferential Lending to Exporters
- Interest Rate Support Program
- Export Factoring
- Financial Guarantees for Export Activities

This program provides financial support to enterprises exporting/importing goods in the forms of preferential loans, guarantees and factoring.<sup>66</sup>

The CBSA has recently investigated this program in *Cold-Rolled Steel* and in *Corrosion-Resistant Steel Sheet 2*. In *Cold-Rolled Steel*, there was no participation from the GOV nor exporters hence the CBSA did not specifically countervail this program at the end of the investigation.<sup>67</sup> In *Corrosion-Resistant Steel Sheet 2*, the CBSA concluded that this program did not benefit any of the responding exporters during the POI.<sup>68</sup>

As the CBSA collected information on this program in one proceeding only, and the current investigation concerns goods produced in a different export sector, the CBSA will investigate this program at initiation.

Investment credit and export credit are made available pursuant to *Decree No. 75/2011/ND-CP* dated August 30, 2011, on state investment credit and export credit (Decree No. 75) and *Decree No. 151/2006/ND-CP* dated December 20, 2006, on state investment credit and export credit (Decree No. 151).

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<sup>66</sup> Exhibit 2 (NC) - Complaint – page 111, para. 395.

<sup>67</sup> CBSA, CRS 2018 IN – Final Determinations – *Statement of Reasons*, Appendix 2.

<sup>68</sup> CBSA, COR2 2029 IN – Final Determinations – *Statement of Reasons*, Appendix 3 for Vietnam.

Investment credit is stipulated in Chapter II and Appendix I of Decree No. 75 and in Chapter II and List of Eligible Projects for Investment Credit of Decree No. 151. Export credit is stipulated in Chapter III and Appendix II of Decree No. 75 and in Chapter III and List of Eligible projects for export credit of Decree No. 151. The regulation of guarantee operation is detailed in the Circular 28/2012/TT-NHNN issued by the State Bank of Vietnam.

This program may be considered to be a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA as a direct transfer of funds from the Government and confers a benefit to the recipient equal to the amount of the grant.

The program may be considered specific pursuant to paragraph 2(7.2)(b) of SIMA as it is contingent upon export performance and, therefore, constitute a prohibited subsidy as defined in subsection 2(1) of SIMA.

#### **Category 4: Preferential Tax Programs**

##### ***Program 6: Enterprise Income Tax Preferences, Exemptions And Reductions***

Due to similarities, the following programs identified by the complainant will be grouped into one program to be investigated: Enterprise Income Tax Preferences, Exemptions And Reductions

- Preferential policies on corporate income tax
- Preference in Environmental Protection for Supporting Industries
- Corporate Income Tax Exemptions/Reductions for Enterprises within Economic Zones, Industrial Parks or Other Designated Areas
- Establishments Dealing with Exported Goods
- Tax Exemptions and Reductions for Investment in Disadvantaged Regions
- Tax Exemptions and Reductions for Encouraged Sectors
- Enterprise Income Tax Exemption/Reduction for Business Expansion and Intensive Investment Projects
- Tax Preferences for Investors Producing and/or Dealing in Export Goods
- Establishments Dealing with Exported Goods
- Preferential Income Tax Rates for Enterprises Within Economic Zones or Industrial Parks
- Tax Exemptions and Reductions for Foreign-Invested Enterprises
- Income Tax Preferences to Companies in Special Zones
- Income Tax Preferences for Exporters
- Income Tax Preferences for Small And Medium-Sized Enterprises
- Income Tax Exemptions and Reductions for Business Expansion and Intensive Investment
- Preferential Income Tax Programs for Foreign Invested Entities

This program provides corporate income tax preferences and benefits in the form of preferential rates, exemptions and/or reductions to certain types of enterprises either involved in specific operations or located in specific geographical areas.

The CBSA investigated corporate income tax preferences, exemptions and reductions in *Copper Pipe Fittings 2*, *Cold-Rolled Steel* and *Corrosion-Resistant Steel Sheet 2*.

Corporate income tax and tax benefits are governed by *Law No. 14/2008/QH12* dated June 3, 2008, on Enterprise Income Tax 2008 (Law No. 14); *Law No. 32/2013/QH13* dated June 19, 2013, on amending and supplementing a number of articles of Law on Enterprise Income Tax 2008 (Income Tax 2008 Amending); *Law No. 71/2014/QH13* dated December 8, 2014, on amending and supplementing a number of articles of the laws on taxes (Law No. 71); *Decree No. 218/2013/ND-CP* dated December 26, 2013, on detailing and guiding the implementation of law on corporate income tax (Decree No. 218) and *Decree No. 12/2015/ND-CP* dated February 12, 2015, on elaboration of the law on amendments to tax laws (Decree No. 12). Income tax rate preference is provided in Article 15 of Decree No. 218 and tax exemptions and reductions is provided in Article 16 of Decree No. 218.

Article 20.2 of Decree 218 allows the continuation of the application of corporate income tax preferences granted before the Decree's effective date as of February 15, 2014, if those preferences are more advantaged than those granted under Decree 218.

According to Article 15 of *Law No. 67/2014/QH13* dated November 26, 2014, on the Law on Investment (Law No. 67), corporate income tax preferences apply to: (1) Economic zone, high-tech zone established by Decision of the Prime Minister in area with difficult socio-economic conditions; (2) Industrial, processing zone established by Decision of the Prime Minister in areas with special difficult socio-economic conditions specified in Attachment II to *Decree No. 118/2015/ND-CP* dated November 12, 2015, on guidelines for some articles of the law on Investment (Decree No. 118).

This program is considered a financial contribution pursuant to paragraph 2(1.6)(b) of SIMA, in that amounts that would otherwise be owing and due to the Government are reduced and/or exempted, and confers a benefit to the recipient equal to the amount of the reduction/exemption.

The program may be considered specific pursuant to subsection 2(7.2) of SIMA because it is limited to investment projects within certain eligible geographic areas as specified in Article 15 of Law No. 67.

### ***Program 7: Vat Preferences, Exemptions and Reductions***

Due to similarities, the following programs identified by the complainant will be grouped into one program to be investigated: Vat Preferences, Exemptions and Reductions.

- Preference in VAT for Supporting Industries
- Preference in VAT Exemptions/Reductions for Enterprises within Economic Zones, Industrial Parks or Other Designated Areas

This program provides VAT preferences in the form of preferential rates, exemptions and/or reductions to individuals and organizations of supporting industries or to enterprises located within certain eligible geographic areas.

This program is considered to be a financial contribution pursuant to paragraph 2(1.6)(b) of SIMA, in that amounts that would otherwise be owing and due to the government are reduced and/or exempted, and confer a benefit to the recipient equal to the amounts of the reductions and exemptions.

The program may be considered specific pursuant to subsection 2(7.2) of SIMA because eligibility is limited to supporting industries or enterprises located in specific geographical areas.

### ***Program 8: Accelerated Depreciation Of Fixed Assets***

This program lets certain enterprises operating in investment incentive sectors and geographical areas accelerate the depreciation of fixed assets, hereby conferring a benefit in the form of a reduction or exemption of an otherwise amount owing and due to the Government.

The CBSA recently investigated this program in *Corrosion-Resistant Steel Sheet 2* and identified it as a potentially actionable subsidy program.<sup>69</sup>

This program may be considered a financial contribution pursuant to paragraph 2(1.6)(b) of SIMA, in that amounts that would otherwise be owing and due to the Government are reduced and/or exempted, and confers a benefit to the recipient equal to the amount of the reduction/exemption.

The program may be considered specific pursuant to subsection 2(7.2) of SIMA because it is limited to particular enterprises with fixed assets and specialized technological capabilities.

## **Category 5: Grants and Grant Equivalents**

### ***Program 9: Investment Support***

Due to similarities, the following programs identified by the complainant will be grouped into one program to be investigated: Investment Support.

- Preference for SMEs in Investment Credits
- Preference in investment by geographical areas

Investment Support programs provide extra financial support for new investment projects to enterprises of certain sectors operating in certain geographical areas.

The CBSA investigated this program in *Cold-Rolled Steel* and recently in *Corrosion-Resistant Steel Sheet 2* and determined it is an actionable subsidy.

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<sup>69</sup> CBSA, CORROSION-RESISTANT STEEL SHEET – Final Determination – *Statement of Reasons*, Appendix 3 for Vietnam.

Investment Support is made available pursuant to *Decree 108/2006/ND-CP of the Government*, dated September 22, 2006. Decree 108 details in which areas the government will support new investments.

This program may be considered to be a financial contribution pursuant to paragraph 2(1.6)(b) of SIMA, in that amounts confer a benefit to the recipient equal to the amount of the extra support received from the Government.

The program may be considered specific pursuant to subsection 2(7.2) of SIMA because it is limited to a list of sectors entitled to investment incentives and a list of geographical areas entitled to investment incentives as specified in Appendix I and II and of the Law.

#### ***Program 10: Export Promotion***

This program provides funds for trade promotion related activities to enterprises for specific trade promotion schemes.

The CBSA determined this program is an actionable subsidy in *Corrosion-Resistant Steel Sheet 2*.

The National Trade program was established by *Decision No. 279/2005/QD-TTg* of November 3, 2005. The Decision constituted the framework for state-funded trade promotion activities from 2006 to 2010. The state funding of these activities was derived from the Export Promotion Fund, established pursuant to Prime Minister's *Decision No. 195/1999/QD-TTg*. The Decision 279 was amended and supplemented by Prime Minister's *Decision No. 80/2009/QD-TTg* of May 21, 2009.

This program is considered to be a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA, where a direct transfer of funds from the Government confers a benefit to the recipient equal to the amount of the grant.

The program is specific pursuant to subsection 2(7.2) of SIMA because Article 9 of Decision 279 specifies the types of trade promotion schemes that are eligible for support and Article 10 specifies the level of support that is available for each of the eligible schemes.

#### ***Program 11: Consultancy Support for Small and Medium-Sized Enterprises***

This program provides a benefit in the form of a financial contribution to SMEs for consulting support offered via a consultant network. Through this program, micro-businesses, small and medium enterprises can benefit from 10%, 30% or 100% in subsidy of the consultancy contract value up to a certain amount, depending on their enterprise size and the value of the contract.

This program is governed by *Circular No. 06/2019/TT-BKHDT* dated March 29, 2019, on guidelines for organization and operation of consultant network, consultancy support for small and medium-sized enterprises through consultant network. The program took effect on May 12, 2010, and is given authority by The Ministry of Planning and Investment.

This program may be considered to be a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA as a direct transfer of funds from the Government and confers a benefit to the recipient equal to the amount of the grant.

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

***Program 12: Support for the Human Resources Development of Small and Medium-Sized Enterprises***

This program provides a benefit in the form of a financial contribution to women-owned small and medium-sized enterprises (SMEs) for training-related activities in the fields of entrepreneurship and business administration for women employees. SMEs may receive 100% subsidy for training expenses for women at women-owned SMEs and a subsidy of at least 50% for the organization of a training course in entrepreneurship and business administration. Per *Decree No. 118.2015/ND-CP*, SMEs may receive a 100% subsidy for training expenses if they are located in extremely disadvantaged areas.

This program is governed by *Circular 05/2019/TT-BKHDT* dated March 29, 2019 on support for the human resources development of SMEs. The program took effect on May 12, 2020, and is given authority by The Ministry of Planning and Investment.

This program may be considered to be a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA as a direct transfer of funds from the Government and confers a benefit to the recipient equal to the amount of the grant.

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

***Program 13: Grants to Firms that Employ More than 50 Employees***

This program provides direct financial support to enterprises of a certain size.

The CBSA investigated this program in *Copper Pipe Fittings 2* and *Cold-Rolled Steel*. The CBSA identified this program as a potentially actionable subsidy in *Copper Pipe Fittings 2*.

This program is made available pursuant to *Decree No. 51/1999/ND-CP* dated July 8, 1999, detailing the implementation of *Law No. 3/1998/QH10* on Domestic Investment Promotion (Amended) (Decree No. 51). Article 15 of Decree No. 51 provides the eligibility criteria for investment preferences. Articles 16 to 27 provides for various types of preferences for eligible investments.

The last date that a company could apply for or claim benefits under this program was July 1, 2006, the date which *Law No. 59/2005/QH11* dated November 29, 2005, on the Law on Investment (Law No. 59) came into effect. Articles 27 to 31 of Law No. 59 provides for the domains and sectors entitled to investment preference, including “labour intensive industries”. Articles 32 to 44 provides for investment preferences and supports.

This program may be considered a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA as a direct transfer of funds from the government and confers a benefit to the recipient equal to the amount of the grant.

The program may be considered specific pursuant to subsection 2(7.2) of SIMA because it is limited to particular enterprises with a certain size entitled to investment preferences because of operations in certain domains and sectors.

***Program 14: Assistance to Enterprises Facing Difficulties Due to Objective Reasons***

This program provides benefits in the form of direct financial support or reductions or exemptions of amounts owed to the government to companies facing difficulties that arise as the result of unforeseen reasons, such as policy changes in terms of taxation and other dues to the state budget; relocation of enterprises upon request of competent authorities; loss due to natural disaster, etc.

The CBSA investigated this program in *Cold-Rolled Steel* and in *Corrosion-Resistant Steel Sheet 2*. The CBSA concluded that none of the responding exporters benefitted from this program in *Corrosion-Resistant Steel Sheet 2*.

Depending on the form of benefit, this program may be considered a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA as a direct transfer of funds from the Government and confers a benefit to the recipient equal to the amount of the grant.

This program may also be considered a financial contribution pursuant to paragraph 2(1.6)(b) of SIMA, in that amounts that would otherwise be owing and due to the government are reduced and/or exempted, and confers a benefit to the recipient equal to the amount of the reduction/exemption.

The program may be considered specific pursuant to subsection 2(7.2) of SIMA because it is limited to particular enterprises targeted by the GOV.

**Category 6: Goods/Services Provided by the Government at Less Than Fair Market Value**

***Program 15: Utilities Provided at Less than Fair Market Value for Enterprises in Industrial Zones***

This program provides rates of water, power and other utilities for Less Than Adequate Remuneration (LTAR) to enterprises located in industrial zones in designated geographic regions.

This program was specifically identified by the complainant citing the USDOC final determination in the countervailing duty investigation of *Laminated Woven Sacks* from Vietnam.

Although the CBSA did not list this as a specific program to be investigated in either *Copper Pipe Fittings 2*, *Cold-Rolled Steel* or *Corrosion-Resistant Steel Sheet 2*, the CBSA investigated state-provided utilities and whether exporters were offered preferred utility rates.

This program may constitute a financial contribution pursuant to paragraph 2(1.6)(c) of SIMA as it involves the provision of services, other than general governmental infrastructure.

The program may be considered specific pursuant to subsection 2(7.2) of SIMA because it is limited to enterprises located in industrial zones in designated geographic regions.