



OTTAWA, April 7, 2021

# STATEMENT OF REASONS

Concerning the final determination with respect to the dumping of

WHEAT GLUTEN

FROM AUSTRALIA, AUSTRIA, BELGIUM, FRANCE, GERMANY AND LITHUANIA

## DECISION

Pursuant to paragraph 41(1)(b) of the *Special Import Measures Act*, the Canada Border Services Agency made a final determination on March 23, 2021 respecting the dumping of certain wheat gluten originating in or exported from Australia, Austria, Belgium, France, Germany and Lithuania.

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

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## **SUMMARY OF EVENTS**

[1] On June 24, 2020, the Canada Border Services Agency (CBSA) received a written complaint from ADM Agri-Industries Co. (ADM) (hereinafter, “the complainant”), alleging that imports of certain wheat gluten (wheat gluten) originating in or exported from Australia, Austria, Belgium, France, Germany and Lithuania (hereinafter, when referred to collectively, “the named countries”) are being dumped. The complainant alleged that the dumping has caused injury and is threatening to cause injury to the Canadian industry producing like goods.<sup>1</sup>

[2] On July 15, 2020, pursuant to paragraph 32(1)(a) of the *Special Import Measures Act* (SIMA), the CBSA informed the complainant that the complaint was properly documented. The CBSA also notified the governments of the named countries that a properly documented complaint had been filed with the CBSA.

[3] The complainant provided evidence to support the allegations that wheat gluten from the named countries has been dumped. The evidence also discloses a reasonable indication that the dumping has caused injury and is threatening to cause injury to the Canadian industry producing like goods.

[4] On August 14, 2020, pursuant to subsection 31(1) of SIMA, the CBSA initiated an investigation respecting the dumping of wheat gluten from the named countries.

[5] Upon receiving notice of the initiation of the investigation, the Canadian International Trade Tribunal (CITT) commenced a preliminary injury inquiry, pursuant to subsection 34(2) of SIMA, into whether the evidence discloses a reasonable indication that the alleged dumping of the above-mentioned goods has caused injury or retardation or is threatening to cause injury to the Canadian industry producing the like goods.

[6] On October 13, 2020, pursuant to subsection 37.1(1) of SIMA, the CITT made a preliminary determination that there is evidence that discloses a reasonable indication that the dumping of wheat gluten from the named countries has caused injury or retardation or is threatening to cause injury to the domestic industry.<sup>2</sup>

[7] On November 5, 2020 the CBSA notified interested parties that the preliminary stage of the investigation will be extended pursuant to subsection 39(1) of SIMA.

[8] On December 23, 2020, as a result of the CBSA’s preliminary investigation and pursuant to subsection 38(1) of SIMA, the CBSA made a preliminary determination of dumping of wheat gluten from the named countries.

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<sup>1</sup> Exhibit 2 (NC) – Wheat Gluten Complaint

<sup>2</sup> Canadian International Trade Tribunal; Wheat Gluten Dumping Determination and Reasons (October 28, 2020), PI-2020-003.

[9] On December 23, 2020, pursuant to subsection 8(1) of SIMA, provisional duty was imposed on imports of dumped goods that are of the same description as any goods to which the preliminary determination applies, and that are released during the period commencing on the day the preliminary determination was made and ending on the earlier of the day on which the CBSA causes the investigation in respect of any goods to be terminated pursuant to subsection 41(1) of SIMA or the day the CITT makes an order or finding pursuant to subsection 43(1) of SIMA.

[10] On December 24, 2020, the CITT initiated an inquiry pursuant to section 42 of SIMA to determine whether the dumping of the above-mentioned goods has caused injury or retardation or is threatening to cause injury to the Canadian industry.

[11] Based on the available evidence, the CBSA is satisfied that wheat gluten originating in or exported from the named countries has been dumped. Therefore, on March 23, 2021 the CBSA made a final determination of dumping pursuant to paragraph 41(1)(b) of SIMA in respect of those goods.

[12] The CITT's inquiry into the question of injury to the Canadian industry is continuing, and it will issue its decision by April 22, 2021. Provisional duty will continue to be imposed on the subject goods from the named countries until the CITT renders its decision.

### **PERIOD OF INVESTIGATION**

[13] The Period of Investigation (POI) is January 1, 2019 to April 30, 2020.

### **PROFITABILITY ANALYSIS PERIOD**

[14] The Profitability Analysis Period (PAP) is January 1, 2019 to April 30, 2020.

### **INTERESTED PARTIES**

#### **Complainant**

[15] ADM is the largest wheat gluten producer in Canada, operating a facility located in Candiac, Quebec. The Candiac facility has been in operation since 1973 and was acquired by ADM in 1992.

[16] The contact information of the complainant is as follows:

ADM Agri-Industries Co.  
155 Iberia  
Candiac, Quebec  
J5R 3H1

[17] There is only one other domestic producer of like goods in Canada: Permolex Ltd. Contact information for this producer is as follows:

Permolex Ltd.  
8010 Edgar Industrial Crescent  
Red Deer, Alberta  
T4P 3R3

### **Trade Union**

[18] The complainant identified one trade union that represents ADM's hourly wage employees in Canada:

Teamsters Canada National Office  
400-1750, Maurice-Gauvin,  
Laval, Quebec H7S 1Z5

### **Importers**

[19] At the initiation of the investigation, the CBSA identified 48 potential importers of the subject goods based on both information provided by the complainant and CBSA import entry documentation. The CBSA sent an Importer RFI to all potential importers of the goods. The CBSA received two responses to the Importer RFI.<sup>3</sup>

### **Exporters**

[20] At the initiation of the investigation, the CBSA identified 51 potential exporters/producers of the subject goods from information provided by the complainant and CBSA import entry documentation. All of the potential exporters were asked to respond to the CBSA's Dumping RFI.<sup>4</sup>

[21] Fourteen companies provided responses to the CBSA's Dumping RFI. A number of these companies are associated and submitted combined responses to the RFI.

[22] Of the responses received, two were considered complete submissions for purposes of a final determination. These submissions and results have been summarized in the *Results of the Dumping Investigation* section, found below.

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<sup>3</sup> Exhibit 11 (NC) – RFI sent to importers

<sup>4</sup> Exhibit 10 (NC) – RFI sent to exporter

[23] Respondents who have not provided complete submissions have been informed that their information could not be used for the purposes of the final determination as it was not found to be complete and/or reliable.

## **Governments**

[24] For the purposes of this investigation, the “Government”, refers to all levels of government, i.e., federal, central, provincial/state, regional, municipal, city, township, village, local, legislative, administrative or judicial, singular, collective, elected or appointed. It also includes any person, agency, enterprise, or institution acting for, on behalf of, or under the authority of, 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.

[25] At the initiation of the investigation, the governments of Austria, Belgium, France, Germany, Lithuania and the European Union were sent a Government Particular Market Situation RFI.<sup>5</sup> Responses to the Government Particular Market Situation (PMS) RFI were received from the Governments of Belgium, France, Germany and Lithuania, and the European Commission during the investigation.

## **PRODUCT INFORMATION**

### **Product Definition<sup>6</sup>**

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

*Wheat gluten, whether or not blended with wheat flour, salt or any other substance, with a minimum wheat protein content of 40% by weight on a dry basis calculated using a Jones factor of 5.7, originating in or exported from Australia, Austria, Belgium, France, Germany and Lithuania, but excluding:*

- (i) devitalized wheat gluten;*
- (ii) hydrolyzed wheat gluten;*
- (iii) wheat protein isolates; and*

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<sup>5</sup> Exhibit 9 (NC) – RFI sent to governments

<sup>6</sup> Exhibit 2 (NC) – Wheat Gluten Complaint – Para. 4.

- (iv) *organic wheat gluten that is certified organic in accordance with and otherwise meets the requirements of the Food and Drugs Act, R.S.C., 1985, c. F-27, and regulations made thereunder, and the Safe Food for Canadians Act, S.C. 2012, c. 24, and regulations made thereunder including the Safe Food for Canadians Regulations, S.O.R./2018-108, all of which as may be amended or replaced from time to time.*

*For greater certainty, the subject goods include, but are not limited to vital wheat gluten as defined by the World Health Organization's Codex STAN 163-1987, Rev. 1-2001 ("Standard for Wheat Protein Products Including Wheat Gluten").*

### **Additional Product Information<sup>7</sup>**

[27] Wheat gluten is the natural protein found in wheat. "Gluten" consists of two main protein groups, gliadins and glutenins in approximately equal proportions. Wheat gluten is also sometimes referred to in the market as simply "gluten" or "wheat protein".

[28] Wheat gluten is generally sold as a fine powder with a cream colour. For grades used in most food (including baking) applications, wheat gluten contains between 75 – 80% protein by weight on a dry basis using a Jones factor of 5.7, with the remainder of the weight being attributable to fiber, starch, fat and ash. Wheat gluten products with a wheat protein concentration in the range of 80% or more, which also contain sodium citrate, are often used to enhance whole-grain baked goods, noodles and pastas, pizza crusts and vegetarian products. Some wheat gluten grades that are used as a filler binder for processed meat products contain a lower percentage of protein by weight on a dry basis and are usually blended with a larger amount of wheat flour to obtain a lower percentage of protein. Wheat gluten is also sold to animal feed and pet food manufacturers as a source of protein.

[29] There are different ways to measure the protein content of a substance, but the most commonly used method involves isolating the mass of nitrogen in a given sample of the substance, because nitrogen is an element contained in all proteins but not found in the other macro-nutrients, i.e. fat and carbohydrates. In this respect, the mass of nitrogen isolated from the sample of a substance represents a proxy for the weight of the protein. The weight of the nitrogen is then multiplied by a "Jones factor" that corresponds to the type of protein under consideration (because not all proteins contain the same ratio of nitrogen containing amino acids to weight ratio).

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<sup>7</sup> Exhibit 2 (NC) – Wheat Gluten Complaint – Paras. 5 to 13.

## **Production Process<sup>8</sup>**

[30] At ADM, wheat gluten is co-produced with starch from milled wheat flour. As milled, wheat flour generally contains approximately 10-15% protein by weight on a dry basis, the remainder being starch, fiber, and ash. Wheat varieties that contain more protein by weight are generally referred to as “hard” wheats, and conversely, wheat varieties that contain less protein by weight are referred to as “soft” wheat.

[31] ADM’s wheat gluten is produced by separating it from the starch in flour through a “washing” process involving water; the wheat gluten is subsequently dried, sifted and purified; and ground into a fine powder before being packaged and sold.

[32] The first step involves adding water to the flour in a dough mixer to activate the wheat gluten. The hydrated mass then rests in a maturation tank until fully hydrated before being moved to a dilution tank where additional water is added. The mixture then passes through a series of rotative screens and hydro cyclones, where the hydrophilic starch and water are effectively washed away from the viscoelastic glob of hydrated gluten.

[33] Hydrated globs of gluten are then dried through a screen, press, and dryer, before passing through a series of sifters, grinders, and magnets, to remove impurities and any foreign metal objects that may have been introduced through the manufacturing process. During the sifting and grinding process, the gluten is also passed through an “Entoteler” machine which uses centrifugal force to kill any insect eggs and remove other debris, which are rejected from the mill flow by aspiration.

[34] The sifted and dry wheat gluten is then packaged in bags and totes to be stored and shipped to customers. Common bag and tote sizes for wheat gluten are 25KG and 750KG bags.

## **Product Use**

- [35] Generally, wheat gluten is used by a wide range of food producers to:
- provide water absorption and structure building in breads;
  - enhance the structure of cereals and snacks;
  - provide texture and toughening for pastas and noodles;
  - provide strength and film forming in frozen foods; and
  - provide binding and emulsification in processed meat and in vegetarian meat applications.

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<sup>8</sup> Exhibit 2 (NC) – Wheat Gluten Complaint – Paras. 17-24.

## **Classification of Imports**

[36] Subject goods are normally classified under the following tariff classification numbers:

1109.00.10.00

1109.00.20.00

[37] 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 SINGLE CLASS OF GOODS**

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

[39] 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.

[40] After considering questions of use, physical characteristics and all other relevant factors, the CBSA initiated its investigation under the premise that domestically produced wheat gluten are like goods to the subject goods. Further, the CBSA was of the opinion that subject goods and like goods constitute only one class of goods.

[41] In its preliminary injury inquiry for this investigation, the CITT further reviewed the matter of like goods and classes of goods. On October 28, 2020, the CITT issued its preliminary inquiry *Statement of Reasons*<sup>9</sup> for this investigation, indicating that it considered the subject goods to be comprised of a single class of goods.

## **THE CANADIAN INDUSTRY**

[42] The complainant, and the supporting producer, Permolex Ltd, account for all known domestic production of like goods.

## **IMPORTS INTO CANADA**

[43] During the final phase of the investigation, the CBSA refined the estimated volume and value of imports based on information received from exporters and importers.

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<sup>9</sup> Canadian International Trade Tribunal; Wheat Gluten Dumping Determination and Reasons (October 28, 2020), PI-2020-003.

[44] The following table presents the CBSA's analysis of imports of wheat gluten for the purposes of the final determination:

**Imports of Wheat Gluten<sup>10</sup>**  
(% of Volume)

Country of origin or export	POI (January 1, 2019 to April 30, 2020)
<b>Australia</b>	<b>3.7%</b>
<b>Austria</b>	<b>3.6%</b>
<b>Belgium</b>	<b>10.3%</b>
<b>France</b>	<b>37.8%</b>
<b>Germany</b>	<b>12.7%</b>
<b>Lithuania</b>	<b>6.7%</b>
<b>All Other Countries</b>	<b>25.1%</b>
<b>Total Imports</b>	<b>100%</b>

### INVESTIGATION PROCESS

[45] Regarding the dumping investigation, information was requested from all known and potential exporters, producers, vendors and importers, concerning shipments of wheat gluten released into Canada during the POI.

[46] The governments and the exporters/producers were notified that failure to submit all required information and documentation, including non-confidential versions, failure to comply with all instructions contained in the RFI, failure to permit verification of any information or failure to provide documentation requested during the verification visits may result in the margins of dumping and the assessment of anti-dumping duties on subject goods being based on facts available to the CBSA. Further, they were notified that a determination on the basis of facts available could be less favorable to them than if complete, verifiable information was made available.

[47] Several parties requested an extension to respond to their respective RFIs. The CBSA reviewed all requests and all exporters and governments that requested an extension were granted an extension of time that still provided CBSA adequate time to review their responses for purposes of the preliminary determination of the investigation.

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<sup>10</sup> Exhibit 13 (PRO) – CBSA Complaint Analysis

[48] After reviewing the RFI responses, supplemental RFIs (SRFIs) were sent to respondents who submitted complete submissions in order to clarify information provided in the responses and request additional information, where necessary.

[49] Verifications were conducted by way of Verification Questionnaires for two exporters located in France and one exporter located in Lithuania, who had submitted complete information.

[50] For responding parties that did not provide complete information, deficiency letters were sent to them directly in order to notify the parties that information was missing and that without the missing information being furnished, preliminary and/or final determinations would be made on the basis of facts available.

[51] Details pertaining to the information submitted by the exporters in response to the Dumping RFI as well as the results of the CBSA's dumping investigation, including the PMS, are provided in the *Results of the Dumping Investigation* section of this document.

[52] As part of the final phase of the investigation, case arguments were received in the form of additional submissions on the administrative record and/or in case briefs/reply submissions from counsel representing the following parties: the complainant, ADM Bazancourt, the Roquette Group and the Tereos Group. Details of the representations are provided in **Appendix 2**.

## **RESULTS OF THE DUMPING INVESTIGATION**

### **Normal Value**

[53] Normal values are generally determined based on the domestic selling prices of like goods in the country of export, in accordance with the methodology of section 15 of SIMA which relies on domestic prices, or one of the methodologies of section 19. Where the methodology of paragraph 19(b) is used, it is based on the aggregate of the cost of production of the goods, a reasonable amount for administrative, selling and all other costs, plus a reasonable amount for profits.

### **Export Price**

[54] The export price of goods sold to importers in Canada is generally determined in accordance with the methodology of section 24 of SIMA based on the lesser of the adjusted exporter's sale price for the goods or the adjusted importer's purchase price. These prices are adjusted where necessary by deducting the costs, charges, expenses, duties and taxes resulting from the exportation of the goods as provided for in subparagraphs 24(a)(i) to 24(a)(iii) of SIMA.

[55] Where there are sales between associated persons and/or a compensatory arrangement exists, the export price may be determined under paragraphs 25(1)(c) and 25(1)(d) of SIMA based on the importer's resale price of the imported goods in Canada to unrelated purchasers, less deductions for all costs incurred in preparing, shipping and exporting the goods to Canada that are additional to those incurred on the sales of like goods for use in the country of export, all costs included in the resale price that are incurred in reselling the goods (including duties and taxes) or associated with the assembly of the goods in Canada and an amount representative of the average industry profit in Canada.

**Particular Market Situation (PMS) – Austria, Belgium, France, Germany and Lithuania (Named Countries in Europe)**

[56] The CBSA may form the opinion that a PMS exists, which does not permit a proper comparison with the sale of the goods to the importer in Canada, if one or more of the following factors have had a significant impact on the domestic sales of like goods in the country of export:

- government regulations such as price floors, price ceilings, production quotas, import and export controls;
- taxation policies;
- government support programs (financial or otherwise);
- the presence and activities of state-owned or state-controlled enterprises in the domestic market as suppliers or purchasers of the like goods (also including other state-owned or state-controlled enterprises such as financial institutions);
- the acquisition of production inputs or processing services that do not reflect market-based costs because they are acquired from suppliers which are state-owned or state-controlled or that are affected by government influence or control;
- significant volatility in economic conditions in the home market of the exporter;
- evidence of distorted input costs; and,
- any other circumstances which may or may not be the result of government intervention, in which normal market conditions or patterns of supply and demand do not prevail.

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

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

[59] In such cases, the CBSA would not determine 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 use one of the methodologies of section 19 to determine normal values.

[60] Where the methodology of paragraph 19(b) has been applied, and the President is of the opinion that a PMS also distorts the cost of inputs that are significant in the production of the goods, the President will use information in accordance with subsection 11.2(2) of the *Special Import Measures Regulations* (SIMR), that best represents the actual cost of the input to permit a proper comparison.

[61] The complainant made allegations that a PMS exists in Austria, Belgium, France, Germany and Lithuania and that the normal values for these countries should be based on paragraph 19(b) of SIMA and subsection 11.2(2) of SIMR.<sup>11</sup> The complainant submitted that the existence of a PMS in the European Union wheat gluten market prevents the CBSA from making a proper comparison between the prices of subject goods and like goods.<sup>12</sup> Further, counsel for the complainant claims that home market selling prices and input wheat costs in Europe are distorted and hence do not permit a proper comparison to sales of wheat gluten to importers in Canada, for purposes of section 16(2) of SIMA.<sup>13</sup>

[62] At the initiation of the dumping investigation, the CBSA sent PMS RFIs to the Government of Austria, the Government of Belgium, the Government of France, the Government of Germany, the Government of Lithuania, as well as to the European Commission.<sup>14</sup> The Dumping RFI sent to producers and exporters of subject goods originating in or exported from these countries also included questions relating to the alleged PMS.<sup>15</sup>

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<sup>11</sup> Exhibit 1 (PRO) & Exhibit 2 (NC) – WGComplaint, para. 137

<sup>12</sup> Exhibit 1 (PRO) & Exhibit 2 (NC) – WGComplaint, Exhibit 8-30, para. 3

<sup>13</sup> Exhibit 87 (PRO) & Exhibit 88 (NC) – Comments Submitted by Counsel for the Complainant, pages 1,3

<sup>14</sup> Exhibit 9 (NC) – PMS RFI sent to Governments

<sup>15</sup> Exhibit 10 (NC) – Dumping RFI sent to Exporters/Producers

[63] Responses to the Government PMS RFI and a subsequent Supplemental RFI (SRFI) were received from the Government of Belgium<sup>16</sup>, the Government of France<sup>17</sup>, the Government of Germany<sup>18</sup>, the Government of Lithuania<sup>19</sup> and the European Commission<sup>20</sup>. The Government of Austria did not provide a response to the CBSA's Government PMS RFI. The CBSA also received responses to the Dumping RFI, from a number of exporters and/or producers, which contained questions concerning the alleged PMS. Of these exporters and producers, ADM Bazancourt, Roquette Amilina and Roquette Frères also provided responses to SRFIs and underwent desk verifications.<sup>21</sup>

[64] Throughout the course of the investigation, comments and representations relating to the alleged PMS were filed on behalf of: the complainant,<sup>22</sup> the Roquette Group (Roquette Amilina, Roquette Frères and Roquette America Inc.)<sup>23</sup>, the Government of Lithuania<sup>24</sup> and the European Commission<sup>25</sup>.

[65] Using information available on the administrative record, the CBSA focused its analysis on Austria, Belgium, France and Lithuania, where sufficient information relating to the exporters' domestic sales of like goods was included to allow the CBSA to perform the necessary further analysis for purposes of analyzing allegations of particular market situations. In conducting this analysis, the CBSA considered information submitted by or on behalf of the complainant, exporters, producers, and governments as well as information gathered through the CBSA's research.

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<sup>16</sup> Exhibit 66 (NC) – Government of Belgium Response to PMS RFI; Exhibits 103 (PRO) & 104 (NC) – Government of Belgium Response to SRFI#1

<sup>17</sup> Exhibits 53 (PRO) & 54 (NC) – Government of France Response to PMS RFI; Exhibit 105 (NC) – Government of France Response to SRFI#1

<sup>18</sup> Exhibits 65 (NC) & 107 (NC) – Government of Germany Response to PMS RFI; Exhibit 108 (NC) – Government of Germany Response to SRFI#1

<sup>19</sup> Exhibits 63 (PRO) & 64 (NC) – Government of Lithuania Response to PMS RFI; Exhibits 99 (PRO), 100 (NC), 106 (NC) – Government of Lithuania Response to SRFI#1

<sup>20</sup> Exhibits 51 (PRO) & 52 (NC) – European Commission Response to PMS RFI; Exhibits 126 (PRO) & 127 (NC) – European Commission Response to SRFI#1

<sup>21</sup> Exhibits 111 (PRO) & 112 (NC) – ADM Response to SRFI#1; Exhibits 169 (PRO) & 170 (NC) – ADM Response to SRFI #1; Exhibits 180 (PRO) & 181 (NC) – ADM Verification Exhibits; Exhibits 184 (PRO) & 185 (NC) – Roquette Frères Response to SRFI #1; Exhibits 186 (PRO) & 187 (NC) – Roquette Amilina Response to SRFI#1; Exhibits 190 (PRO) & 191 (NC) – Roquette Group Verification Exhibits

<sup>22</sup> Exhibits 87 (PRO) & 88 (NC); 132 (PRO) & 133 (NC); 138 (PRO) & 139 (NC) – Comments submitted by Counsel for the Complainant

<sup>23</sup> Exhibits 199 (PRO) & 200 (NC) – Case Brief filed on behalf of the Roquette Group

<sup>24</sup> Exhibit 182 (NC) – Written Submission of the Embassy of the Republic of Lithuania

<sup>25</sup> Exhibit 179 (NC) – Comments on PD from the European Commission

### ***Factors Potentially Impacting Wheat Gluten Markets***

[66] The CBSA's analysis focused on the following factors that are potentially impacting the domestic sales of like goods in Austria, Belgium, France and Lithuania or on the costs of major production inputs:

- 1) Government regulations and policies;
- 2) Government support programs;
- 3) Taxation Policies; and
- 4) Evidence of distorted input costs

[67] While there are no known government regulations or policies setting price floors or ceilings, production quotas, or trade controls applied to wheat gluten directly, evidence on the record confirms the presence of policies, regulations, or directives in the EU and in certain member states relating to the agricultural sector and concerning renewable energy. According to the complainant, legislative initiatives distort the normal patterns of supply and demand for wheat gluten by increasing supply and driving down prices.<sup>26</sup>

[68] The complainant also indicates that government policies incentivizing the production of biofuels, and in particular bioethanol, cause an increased production of wheat gluten, which the complainant claims is a co-product of bioethanol.<sup>27</sup> In the CBSA's analysis of government regulations and policies, information concerning a number of legislative initiatives was gathered and considered, including but not limited to: the Common Agricultural Policy (CAP), the Renewable Energy Directives, the Indirect Land Use Change Directive, Fuel Quality Directives, national energy/climate plans and various other acts, laws, decrees, etc. transposing EU legislation into national legislation.

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<sup>26</sup> Exhibit 1 (PRO) & Exhibit 2 (NC) – WGComplaint – Exhibit 8-30, paras. 4, 144 – 157

<sup>27</sup> Exhibit 1 (PRO) & Exhibit 2 (NC) – WGComplaint – Exhibit 8-30, paras. 4, 90, 144 – 157

[69] The CBSA also considered the role of government support programs and the potential impact on the applicable wheat gluten markets in the EU. According to the complainant, the EU and its member states provide various forms of income and price support to wheat and wheat gluten producers.<sup>28</sup> The complainant alleges that the provision of support through EU agricultural subsidies has a significant impact on the supply and price of wheat and downstream products such as wheat gluten.<sup>29</sup> The complainant also argued that programs supporting the renewable energy sector, and specifically those that promote biofuel and bioethanol production, lead to increased production of wheat gluten.<sup>30</sup> The complainant claimed that subsidies granted for producing ethanol from wheat starch, a co-product of wheat gluten, lower the cost of production for both wheat starch and wheat gluten.<sup>31</sup> In order to analyze the impact of government support, the CBSA sought information relating to a number of specific support programs.

[70] With respect to government taxation policies, the complainant has argued that the provision of financial support through various taxation policies and programs is present at both the EU and member state levels and that such tax incentives promote the production of wheat gluten inputs and support biofuel producers.<sup>32</sup> Again, the CBSA solicited information from governments and producers/exporters concerning various tax policies including, the Energy Taxation Directive and a number of national/ regional tax initiatives.

[71] Together, these government initiatives evidence the intentions of the EU and the member states to influence the development of their respective and collective renewable energy sectors while also supporting the agricultural sector. Therefore, in conducting its PMS analysis, the CBSA has investigated, to the extent possible, the impact that such government regulations, support programs, and taxation policies have had on the pricing of wheat and wheat gluten in the named countries in Europe, as discussed below.

[72] With respect to the allegations of distorted input costs, the CBSA found the principal input used by wheat gluten producers in the named countries in Europe is soft wheat. The costs of soft wheat in Austria, Belgium, France and Lithuania were therefore each compared to published wheat pricing in other markets in which allegations of market distortion due to a particular market situation have not been made. For purposes of this analysis, the CBSA relied on soft wheat pricing in three countries to represent benchmark pricing. On the basis of this comparison, the CBSA does not find that the prices of wheat, the main input material used by wheat gluten producers, were distorted in Austria, Belgium, France or Lithuania such that they do not reflect market prices during the PAP.

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<sup>28</sup> Exhibit 1 (PRO) & Exhibit 2 (NC) – WGComplaint – Exhibit 8-30, paras. 7-87

<sup>29</sup> Exhibit 1 (PRO) & Exhibit 2 (NC) – WGComplaint – Exhibit 8-30, paras. 4, 88

<sup>30</sup> Exhibit 1 (PRO) & Exhibit 2 (NC) – WGComplaint – Exhibit 8-30, para. 4

<sup>31</sup> Exhibit 1 (PRO) & Exhibit 2 (NC) – WGComplaint – Exhibit 8-30, para. 82

<sup>32</sup> Exhibit 1 (PRO) & Exhibit 2 (NC) – WGComplaint – Exhibit 8-30, paras. 44-76, 90, 98-99, 110, 152

[73] The CBSA also performed a comparison of wheat gluten selling prices in Austria, Belgium, France and Lithuania with benchmark pricing during the PAP. Benchmark pricing for purposes of this analysis was based on published export pricing reported by the EU to all other markets excluding Canada and trade within the EU.<sup>33</sup> On the basis of this pricing analysis, the CBSA finds that wheat gluten pricing in Austria, Belgium, France and Lithuania are comparable to surrogate world pricing.

[74] Based on the information on the administrative record, the CBSA has not formed the opinion that a PMS exists under paragraph 16(2)(c) in the wheat gluten markets in Austria, Belgium, France, Germany or Lithuania that affects the domestic sales such that they do not permit a proper comparison with the sales to the importers in Canada.

### **Margin of Dumping**

[75] The margin of dumping by exporter is equal to the amount by which the total normal value exceeds the total export price of the goods, expressed as a percentage of the total export price. All subject goods imported into Canada during the POI are included in the determination of the margins of dumping of the goods. Where the total normal value of the goods does not exceed the total export price of the goods, the margin of dumping is zero.

[76] Although the CBSA received Dumping RFI responses from exporters in each of the named countries except Australia, a number of the responses were not complete and/or reliable and therefore could not be used for the purposes of determining normal values and export prices. Therefore, requests to provide the required information were promptly sent out to these respondents. The CBSA's letters to the respondents noted the deficiencies in their submissions and advised them to provide a revised RFI response to ensure that the CBSA had adequate time to review, analyze and verify the information provided. However, sufficient information was not furnished by the respondents in a manner that enabled the CBSA to determine normal values and export prices as provided in sections 15 to 28 of SIMA. As such, the information provided by the respondents has not been used for the purposes of the final determination of dumping.

### **France**

[77] The CBSA received a complete and reliable response to the Dumping RFI from two respondents in France, ADM Bazancourt and Roquette Frères.

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<sup>33</sup> Exhibit 183 (NC) – Articles, Reports and CBSA Research, EU Wheat Gluten Exports

### ***ADM Bazancourt***<sup>34</sup>

[78] ADM Bazancourt is a manufacturer that processes wheat into various products including sweeteners, wheat gluten, and starches. The company was established in 1990 as a private corporation and was acquired by Archer-Daniels-Midland in 2017. All of the subject goods shipped to Canada by ADM Bazancourt were produced at its production facility, located in Bazancourt, France. The company headquarters is also located in Bazancourt.

[79] ADM Bazancourt provided a response to the CBSA's Dumping RFI, including a database of domestic sales of wheat gluten during the PAP. There were sufficient profitable sales of like goods to determine normal values in accordance with section 15 of SIMA, using the exporter's domestic prices of wheat gluten in France.

[80] During the POI, all of the subject goods exported to Canada by ADM Bazancourt were sold to ADM Agri-Industries, a related importer. Due to the relationship between the two companies, a reliability test was performed to determine whether the section 24 export prices were reliable as envisaged by SIMA. This test was conducted by comparing the section 24 export prices with the section 25 export prices. The test revealed that the export prices determined in accordance with section 24 of SIMA were reliable and, therefore, export prices for ADM Bazancourt were determined in accordance with section 24 of SIMA.

[81] The total normal value compared to the total export price results in a margin of dumping of 13.1% for ADM Bazancourt, expressed as a percentage of the export price.

### ***Roquette Frères***<sup>35</sup>

[82] Roquette Frères is a family-owned company, created in 1933 and is the parent company of the Roquette Group, a global leader in plant-based ingredients, plant proteins and pharmaceutical excipients. Roquette Frères is a manufacturer of wheat gluten in France. It has two wheat gluten production plants, located in Lestrem and Beinheim. All of the subject goods shipped to Canada by Roquette Frères were produced at the production facility located in Lestrem, where the company headquarters is also located.

[83] Roquette Frères provided a response to the CBSA's Dumping RFI, including a database of domestic sales of wheat gluten during the PAP. There were sufficient profitable sales of like goods to determine normal values in accordance with section 15 of SIMA, using the exporter's domestic prices of wheat gluten in France.

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<sup>34</sup> Exhibits 57 (PRO) and 58 (NC) – Response to Dumping RFI – ADM Bazancourt.

<sup>35</sup> Exhibits 61 (PRO) and 62 (NC) – Response to Dumping RFI – Roquette Frères.

[84] During the POI, all of the subject goods exported to Canada by Roquette Frères were sold to Roquette America Inc., a related importer. Due to the relationship between the two companies, a reliability test was performed to determine whether the section 24 export prices were reliable as envisaged by SIMA. This test was conducted by comparing the section 24 export prices with the section 25 export prices. The test revealed that the export prices determined in accordance with section 24 of SIMA were unreliable and, therefore, export prices for sales to Roquette America Inc. were determined in accordance with section 25 of SIMA.

[85] The total normal value compared to the total export price results in a margin of dumping of 10.4% for Roquette Frères, expressed as a percentage of the export price.

### *All Other Exporters – France*

[86] For exporters of subject goods originating in or exported from France that did not provide a response to the Dumping RFI or did not furnish sufficient information, the normal values and export prices were determined on the basis of facts available.

[87] In establishing the methodology for determining normal values and export prices, the CBSA analyzed all the information on the administrative record, including the complaint filed by the domestic industry, the CBSA's estimates at the initiation of the investigation, information submitted by exporters of wheat gluten from the named countries and customs documentation.

[88] The CBSA decided that the normal values and export prices determined for the exporters whose submissions were complete and reliable for the final determination, rather than the information provided in the complaint or estimated at initiation, would be used to establish the methodology for determining normal values since it reflects exporters' actual trading practices during the POI. The CBSA first considered whether the information from the exporters of wheat gluten from France, who provided complete and reliable information was appropriate to use as the basis for determining normal values for all other exporters in France.

[89] The CBSA examined the difference between the normal value and the export price for each individual transaction of Roquette Frères and ADM Bazancourt, and considered that the highest amount (expressed as a percentage of the export price), was an appropriate basis for determining normal values. This methodology relies on information related to goods that originated in France and limits the advantage that an exporter may gain from not providing the necessary information requested in a dumping investigation as compared to an exporter that did provide the necessary information.

[90] Using the above methodologies, for exporters that did not provide a response or provided an incomplete response to the Dumping RFI, and for purposes of the final determination, normal values of subject goods originating in or exported from France were determined based on the highest amount by which a normal value exceeded the export price, on an individual transaction for Roquette Frères during the POI. The transactions were examined to ensure that no anomalies were considered, such as very low volume and value, effects of seasonality or other business factors. One such anomaly was identified and removed.

[91] The export prices were based on the declared selling prices on import documentation of certain wheat gluten. The CBSA considers this the best available information on which to base the export prices of goods for all other exporters as it reflects actual import data.

[92] Using the above methodologies, for the final determination, the margin of dumping for all other exporters in France is determined to be 14.1%, expressed as a percentage of the export price.

### **Lithuania**

[93] The CBSA received a complete and reliable response to the Dumping RFI from one exporter in Lithuania, Roquette Amilina AB.

#### ***Roquette Amilina AB***<sup>36</sup>

[94] Roquette Amilina is a majority owned subsidiary of Roquette Frères and a manufacturer of wheat gluten in Lithuania. It has one wheat gluten production plant located in Panevezys. The company headquarters is also located in Panevezys.

[95] Roquette Amilina is considered to be the exporter for SIMA purposes for the goods it has produced and sold for export to Canada during the POI.

[96] Roquette Amilina provided a response to the CBSA's Dumping RFI, including a database of domestic sales of wheat gluten during the PAP. There were sufficient profitable sales of like goods to determine normal values in accordance with the methodology of section 15 of SIMA, using the exporter's domestic prices of wheat gluten in the Lithuanian market.

[97] During the POI, certain subject goods exported to Canada were sold to a related importer. Due to the relationship between the two companies, a reliability test was performed to determine whether the section 24 export prices were reliable as envisaged by SIMA. This test was conducted by comparing the section 24 export prices with the section 25 export prices. The test revealed that the export prices determined in accordance with section 24 of SIMA were unreliable and, therefore, export prices for these sales were determined in accordance with section 25 of SIMA.

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<sup>36</sup> Exhibits 59 (PRO) and 60 (NC) – Response to Dumping RFI – Roquette Frères.

[98] For subject goods exported to Canada and sold to unrelated vendors during the POI, export prices were determined using the methodology of section 24 of SIMA, based on the lesser of the exporter's selling price and the importer's purchase price, adjusted by deducting the costs, charges and expenses incurred in preparing the goods for shipment to Canada and resulting from the exportation and shipment of the goods.

[99] The total normal value compared to the total export price results in a margin of dumping of 10.0% for Roquette Amilina, expressed as a percentage of the export price.

#### ***All Other Exporters – Lithuania***

[100] For exporters of subject goods originating in or exported from Lithuania that did not provide a response to the Dumping RFI or did not furnish sufficient information, the normal values and export prices were determined on the basis of facts available.

[101] In establishing the methodology for determining normal values and export prices, the CBSA analyzed all the information on the administrative record, including the complaint filed by the domestic industry, the CBSA's estimates at the initiation of the investigation, information submitted by exporters of wheat gluten from the named countries and customs documentation.

[102] The CBSA decided that the normal values and export prices determined for the exporters whose submissions were complete and reliable for the final determination, rather than the information provided in the complaint or estimated at initiation, would be used to establish the methodology for determining normal values since it reflects exporters' actual trading practices during the POI. The CBSA first considered whether the information from the exporter of wheat gluten from Lithuania, Roquette Amilina, who provided substantially complete information was appropriate to use as the basis for determining the margin of dumping for all other exporters in Lithuania.

[103] The CBSA examined the difference between the normal value and the export price for each individual transaction of Roquette Amilina, and considered that the highest amount (expressed as a percentage of the export price), was an appropriate basis for determining normal values. This methodology relies on information related to goods that originated in Lithuania and limits the advantage that an exporter may gain from not providing necessary information requested in a dumping investigation as compared to an exporter that did provide the necessary information.

[104] Using the above methodologies, for exporters that did not provide a response or provided an incomplete response to the Dumping RFI, and for the purposes of the final determination, normal values of subject goods originating in or exported from Lithuania were determined based on the highest amount by which a normal value exceeded the export price, on an individual transaction for Roquette Amilina during the POI. The transactions were examined to ensure that no anomalies were considered, such as very low volume and value, effects of seasonality or other business factors. No such anomalies were identified.

[105] The export prices were based on the declared selling prices on import documentation of certain wheat gluten. The CBSA considers this the best available information on which to base the export prices of goods for all other exporters as it reflects actual import data.

[106] Using the above methodologies, for the final determination, the margin of dumping for all other exporters in Lithuania is determined to be 26.2%, expressed as a percentage of the export price.

#### **All Other Exporters – Australia, Austria, Belgium and Germany**

[107] As previously stated, the CBSA did not receive complete and reliable responses to the Dumping RFI from any exporters in the remaining named countries, so as a result, the normal values and export prices for all exporters in Australia, Austria, Belgium and Germany were determined on the basis of facts available.

[108] In establishing the methodology for estimating normal values and export prices, the CBSA analyzed all the information on the administrative record, including the complaint filed by the domestic industry, the CBSA's estimates at the initiation of the investigation, information submitted by exporters of wheat gluten from the named countries and customs documentation.

[109] The CBSA decided that the normal values determined for the exporters whose submissions were complete and reliable for the final determination, rather than the information provided in the complaint or estimated at initiation, would be used to establish the methodology for determining normal values since it reflects exporters' actual trading practices during the POI.

[110] The CBSA would normally first consider whether information from an exporter of wheat gluten from the applicable country, who provided complete and reliable information, would be appropriate to use as the basis for determining normal values for all other exporters in each respective country. However, as no exporters in Australia, Austria, Belgium or Germany provided a complete and reliable response to the CBSA's Dumping RFI, the CBSA instead considered whether information from exporters of wheat gluten from the named countries who provided complete and reliable information, would be appropriate to use as the basis for determining normal values.

[111] The CBSA examined the difference between the normal value and the export price for each individual transaction of each of the exporters that provided a complete and reliable response, and considered that the highest amount (expressed as a percentage of the export price), was an appropriate basis for determining normal values. This methodology relies on information related to goods that were shipped to Canada during the POI and limits the advantage that an exporter may gain from not providing necessary information requested in a dumping investigation as compared to an exporter that did provide the necessary information.

[112] Using the above methodology, for exporters that did not provide a response or provided an incomplete response to the Dumping RFI, and for purposes of the final determination, the normal values of subject goods originating in or exported from Australia, Austria, Belgium and Germany were determined based on the highest amount by which a normal value exceeded the export price, on an individual transaction for Roquette Amilina AB of Lithuania, during the POI. The transactions were examined to ensure that no anomalies were considered, such as very low volume and value, effects of seasonality or other business factors. No such anomalies were identified.

[113] The export prices were based on the declared selling prices on import documentation of certain wheat gluten. The CBSA considers this the best available information on which to base the export prices of goods for all other exporters as it reflects actual import data.

[114] Using the above methodology, the margin of dumping for all exporters in Australia, Austria, Belgium and Germany is determined to be 26.2%, expressed as a percentage of the export price.

## Summary of Results

[115] A summary of the results of the dumping investigation respecting all subject goods released into Canada during the POI are as follows:

### **Summary of Results** Period of Investigation (January 1, 2019 – April 30, 2020)

<b>Country of origin or export</b>	<b>Volume of Subject Goods as a Percentage of Total Imports*</b>	<b>Margin of Dumping (as % of Export Price)</b>
<b>Australia – All Exporters</b>	<b>3.7%</b>	26.2%
<b>Austria – All Exporters</b>	<b>3.6%</b>	26.2%
<b>Belgium – All Exporters</b>	<b>10.3%</b>	26.2%
<b>France</b>	<b>37.8%</b>	
ADM		13.1%
Roquette Frères		10.4%
France - All other Exporters		14.1%
<b>Germany – All Exporters</b>	<b>12.7%</b>	26.2%
<b>Lithuania</b>	<b>6.7%</b>	
Roquette Amilina		10.0%
Lithuania - All other Exporters		26.2%
<b>All Other Countries</b>	<b>25.1%</b>	
<b>All Countries</b>	<b>100%</b>	

\*The sum of these values may not equal 100% due to rounding

[116] Under paragraph 41(1)(a) of SIMA, the CBSA is required to terminate an investigation in respect of the goods of an exporter if the CBSA is satisfied that the goods have not been dumped or the margin of dumping of the goods of that exporter is insignificant, meaning a margin of dumping that is less than 2% of the export price of the goods.

[117] The goods under investigation have been dumped and the margins of dumping on the goods are greater than the threshold of 2% and are therefore not considered insignificant. As a result, pursuant to paragraph 41(1)(b) of SIMA, the CBSA made a final determination of dumping respecting wheat gluten originating in or exported from Australia, Austria, Belgium, France, Germany and Lithuania.

## **DECISION**

[118] On March 23, 2021, pursuant to paragraph 41(1)(b) of SIMA, the CBSA made a final determination of dumping respecting wheat gluten originating in or exported from Australia, Austria, Belgium, France, Germany and Lithuania.

## **FUTURE ACTION**

[119] The provisional period began on December 23, 2020, and will end on the date the CITT issues its finding. The CITT is expected to issue its decision by April 22, 2021. Provisional anti-dumping duty will continue to apply until this date on imports of subject goods from the named countries. For further details on the application of provisional duty, refer to the *Statement of Reasons* issued for the preliminary determination, which is available through the CBSA's website at: [www.cbsa-asfc.gc.ca/sima-lmsi/menu-eng.html](http://www.cbsa-asfc.gc.ca/sima-lmsi/menu-eng.html).

[120] If the CITT finds that the dumped goods have not caused injury and do not threaten to cause injury, all proceedings will be terminated. In this situation, all provisional duty paid or security posted by importers will be returned.

[121] If the CITT finds that the dumped goods have caused injury, the anti-dumping duty payable on subject goods released by the CBSA during the provisional period will be finalized pursuant to section 55 of SIMA. Imports released by the CBSA after the date of the CITT's finding will be subject to anti-dumping duty equal to the margin of dumping.

[122] The importer in Canada shall pay all applicable duties. If the importers of such goods do not indicate the required SIMA code or do not correctly describe the goods in the customs documents, an administrative monetary penalty could be imposed. The provisions of the *Customs Act* apply with respect to the payment, collection or refund of any duty collected under SIMA. As a result, failure to pay duty within the prescribed time will result in the application of interest.

## **RETROACTIVE DUTY ON MASSIVE IMPORTATIONS**

[123] Under certain circumstances, anti-dumping duty can be imposed retroactively on subject goods imported into Canada. When the CITT conducts its inquiry on material injury to the Canadian industry, it may consider if dumped goods that were imported close to or after the initiation of the investigation constitute massive importations over a relatively short period of time and have caused injury to the Canadian industry. Should the CITT issue a finding that there were recent massive importations of dumped goods that caused injury, imports of subject goods released by the CBSA in the 90 days preceding the day of the preliminary determination could be subject to anti-dumping duty.

## **PUBLICATION**

[124] A notice of this final determination of dumping will be published in the *Canada Gazette* pursuant to paragraph 41(3)(a) of SIMA.

## **INFORMATION**

[125] This *Statement of Reasons* is posted on 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:** Sean Robertson 343-553-1584  
Laurie Trempe 343-553-1588

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

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

Original signed by Sean Borg for  
Doug Band  
Director General  
Trade and Anti-dumping Programs Directorate

## **ATTACHMENTS**

**Appendix 1: Summary of Margins of Dumping**  
**Appendix 2: Dumping Representations**

## **APPENDIX 1 – SUMMARY OF MARGINS OF DUMPING**

<b>Country of origin or export</b>	<b>Margin of Dumping (% of Export Price)</b>
<b>Australia – All Exporters</b>	26.2%
<b>Austria – All Exporters</b>	26.2%
<b>Belgium – All Exporters</b>	26.2%
<b>France</b>	
ADM	13.1%
Roquette Frères	10.4%
France - All other Exporters	14.1%
<b>Germany – All Exporters</b>	26.2%
<b>Lithuania</b>	
Roquette Amilina	10.0%
Lithuania - All other Exporters	26.2%

**NOTE:** The margins of dumping reported in this table were determined by the Canada Border Services Agency (CBSA) for the purposes of the final determination of dumping. These margins may not reflect the amount of anti-dumping duty to be levied on future importations of dumped goods. In the event of an injury finding by Canadian International Trade Tribunal, normal values for future shipments to Canada have been provided to the exporters who provided sufficient information to the CBSA, as appropriate. These normal values would come into effect the day after an injury finding. Information regarding normal values of the subject goods should be obtained from the exporters. Normal values for all other exporters will be determined in accordance with a Ministerial specification pursuant to subsection 29(1) of SIMA. The application of the Ministerial specification will result in anti-dumping duty rates equivalent to the margins of dumping found for “all other exporters” at the final determination. Please consult the [SIMA Self-Assessment Guide](#) for more detailed information explaining how to determine the amount of *Special Import Measures Act* (SIMA) duties owing.

Normally, normal values will not be applied retroactively. However, normal values may be applied retroactively in cases where the parties have not advised the CBSA in a timely manner of substantial changes that affect values for SIMA purposes. Therefore, where substantial changes occur in prices, market conditions, costs associated with production and sales of the goods, the onus is on the concerned parties to advise the CBSA.

## **APPENDIX 2 – REPRESENTATIONS**

In the final stage of the investigation, submissions containing case arguments were received on behalf of ADM Agri-Industries Co.<sup>37</sup> and the Government of Lithuania.<sup>38</sup>

Following the February 1, 2021, closing of the record, case briefs were received on behalf of the complainant<sup>39</sup>, ADM Bazancourt<sup>40</sup>, and the Roquette Group.<sup>41</sup>

The CBSA received a reply submission on behalf of the Tereos Group.<sup>42</sup>

Certain details provided in case briefs and reply submissions were designated as confidential information by the submitting counsel. This has restricted the ability of the CBSA to discuss all issues raised in these submissions.

The CBSA has provided responses below to representations that relate to the final determination of dumping. The CBSA will not address representations pertaining to future enforcement in this *Statement of Reasons*.

The material issues raised by the parties are summarized as follows:

### **Margin of Dumping Calculations (ADM Bazancourt)**

#### **Case Arguments**

As part of their case brief, counsel for ADM Bazancourt submits that the CBSA should make exclusions regarding ADM Bazancourt's margin of dumping calculations for the purposes of the final determination. Counsel argues the exclusions would be consistent with previous CBSA practices in calculating margins of dumping. To support their argument, counsel for ADM Bazancourt references correspondences between the parties involved, as well as sales documentation provided to the CBSA during the investigation.<sup>43</sup>

Counsel for ADM Agri-Industries (ADM Candiac) also references the exclusions in their case brief, pertaining to the determination of the Ministerial Specification rate.<sup>44</sup>

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<sup>37</sup> Exhibits 173 (PRO) and 174 (NC) – Comments submitted by counsel for ADM Agri-Industries Co.

<sup>38</sup> Exhibit 182 (NC) – Written submission of the Embassy of the Republic of Lithuania to Canada regarding the imposition of provisional anti-dumping duties on imports of wheat gluten originating, inter alia, in Lithuania

<sup>39</sup> Exhibits 197 (PRO) and 198 (NC) – Case brief filed on behalf of ADM Agri-Industries Co. (“ADM Candiac”)

<sup>40</sup> Exhibits 195 (PRO) and 196 (NC) – Case Brief filed on behalf of ADM Bazancourt SASU

<sup>41</sup> Exhibits 199 (PRO) and 200 (NC) – Case brief filed on behalf of Roquette Frères, Roquette Amilina, and Roquette America Inc. (collectively known as “Roquette Group”)

<sup>42</sup> Exhibit 201 (NC) – Reply submission filed on behalf of Tereos Starch & Sweeteners Europe and Tereos Starch & Sweeteners Belgium (collectively “TSSE”)

<sup>43</sup> Exhibits 195 (PRO) and 196 (NC) – Case Brief filed on behalf of ADM Bazancourt SASU

<sup>44</sup> Exhibits 197 (PRO) and 198 (NC) – Case Brief filed on behalf of ADM Agri-Industries Co.

## **CBSA's Position**

The CBSA considered all of the information on the administrative record provided by ADM Bazancourt and ADM Candiatic, however, the CBSA finds that there is insufficient information or reason to support the exclusions from ADM Bazancourt's margin of dumping calculations.

## **Status of late and incomplete submissions (Tereos Group)**

### **Case Arguments**

Counsel for the Complainant submits that the revised RFI response submitted by Tereos Group<sup>45</sup> on the date of the close of the record remains deficient, unverified, and was filed in an untimely manner. They assert that given the timing of the filing, the CBSA had no opportunity to review Tereos' revised response and follow up on deficiencies, let alone verify the exporter's data before the close of the record. It was also pointed out that in terms of the response itself, several deficiencies remained involving missing financial, costing and sales data as well as accompanying reconciliations that would be required to determine normal values and export prices for the company.<sup>46</sup>

### **Reply Submissions**

Counsel for Tereos Group submits that since the CBSA has added the revised RFI submission to the administrative record, the CBSA should give due consideration to the exporter's information in making its final determination, and should not simply disregard the information out of hand.

Counsel for Tereos Group further argued that given the challenge of presenting costing for the subject goods in the usual CBSA format, the CBSA should rely on selling price comparisons between Canada and the exporter's home market. The exporter submits that Tereos Group should be considered a cooperative exporter, and that the exporter's information should therefore be useable by the CBSA in order to determine exporter specific normal values and export prices<sup>47</sup>

## **CBSA's Position**

The final RFI submission provided by the Tereos Group was submitted one minute before the close of the record, approximately four months after it was due, and over three months after a deficiency letter had been sent to the exporter outlining the vital information that was missing in its original RFI response.<sup>48</sup> In addition, there remained several deficiencies in this final response.

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<sup>45</sup> Exhibit 188 (PRO) and 189 (NC) - Updated response to RFI from Tereos Group

<sup>46</sup> Exhibit 197 (PRO) and 198 (NC) - Case brief filed on behalf of ADM Agri-Industries Co.

<sup>47</sup> Exhibit 201 (NC) - Reply submission filed on behalf of Tereos Group

<sup>48</sup> Exhibit 92 (PRO) - Deficiency letter sent to Tereos Group

The CBSA considered all of the information provided by the Tereos group including the information provided immediately before the close of the record. As noted above, the final RFI submission provided by the Tereos group was submitted approximately four months after it was due and therefore did not allow the CBSA sufficient time to analyze and verify the information provided. The CBSA finds that due to the belatedness of the response, which resulted in the CBSA not having the opportunity to verify the information therein, the response cannot be relied upon for the purposes of determining normal values and export prices.

The CBSA has determined normal values and export prices for each of the Tereos Group companies based on the all other exporters methodology for the country in which the goods originated.

### **Legal Standard for the Application of Particular Market Situation Provisions**

#### **Case Arguments**

In their case brief, counsel for Roquette Frères, Roquette Amilina and Roquette America Inc. (“the Roquette Group”) filed representations relating to the applicable legal standard for applying particular market situation provisions in accordance with paragraph 16(2)(c) of SIMA and Article 2.2 of the Anti-Dumping Agreement.<sup>49</sup> In particular, counsel for the Roquette Group argues that the particular market situation provisions of SIMA require a two part analysis whereby the CBSA must first determine whether a particular market situation exists, in respect of any goods of a particular exporter or of a particular country and, if so, determine whether that PMS affects the domestic sales of like goods such that a proper comparison is not possible, on an exporter-by-exporter basis.<sup>50</sup>

With respect to the second part of the analysis, counsel for the Roquette Group submits that WTO jurisprudence and the Anti-Dumping Agreement provide guidance on the appropriate interpretation. Specifically, it is argued that the investigating authority must examine whether a proper comparison of the domestic sales and the export price is permitted and, in doing so, it is necessary to conduct a qualitative assessment that considers how the PMS affects domestic and export prices and their comparison.<sup>51</sup>

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<sup>49</sup> Exhibit 199 (PRO) & 200 (NC) – Case Brief filed on behalf of the Roquette Group, paras 5-15

<sup>50</sup> Exhibit 199 (PRO) & 200 (NC) – Case Brief filed on behalf of the Roquette Group, paras. 5-6

<sup>51</sup> Exhibit 199 (PRO) & 200 (NC) – Case Brief filed on behalf of the Roquette Group, paras. 6-12

According to counsel for the Roquette Group, the evidence does not establish the existence of a PMS in the wheat gluten markets of France or Lithuania. However, counsel for the Roquette Group also states that if the CBSA were to determine otherwise, a further analysis is required to determine whether the domestic sales of the individual exporters do not permit a proper price comparison of domestic and export prices, due to the PMS.<sup>52</sup> It is counsel's view that domestic sales of Roquette Frères and Roquette Amilina do permit a proper comparison with their export sales of subject goods to importer in Canada.<sup>53</sup>

### **CBSA's Position**

In conducting this investigation, the CBSA analyzed the impact of the alleged regulations, programs and policies on the supply and prices of wheat gluten and its inputs in Austria, Belgium, France and Lithuania. The CBSA further assessed whether any such impact affected domestic sales of like goods such that they do not permit a proper comparison with the sales to the importer in Canada.

### **Particular Market Situation Analysis**

#### **Representations Prior to the Close of the Record**

Prior to the preliminary determination, counsel for the complainant argued that the information submitted by the EU, France, Lithuania, Germany and Belgium in RFI responses contains deficiencies which prevent the CBSA from properly assessing whether a PMS exists. In this respect, they argued that in the absence of full cooperation by the country respondents, the CBSA should consequently draw negative inferences and determine a PMS on the basis of the facts available by using Ministerial Specification.<sup>54</sup>

As part of their submission, counsel for the complainant provided a walkthrough of each government response, highlighting a number of elements that they allege support the existence of a PMS in the EU and its member-states. As part of this exercise, counsel for the complainant identified additional information that they argue should be requested by the CBSA from the different governments and producers/exporters<sup>55</sup> and made other specific arguments to the CBSA in support of a PMS.<sup>56</sup>

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<sup>52</sup> Exhibit 199 (PRO) & 200 (NC) – Case Brief filed on behalf of the Roquette Group, paras. 13 and 36

<sup>53</sup> Exhibit 199 (PRO) & 200 (NC) – Case Brief filed on behalf of the Roquette Group, paras. 13, 14-35, 36

<sup>54</sup> Exhibit 87(PRO) & 88 (NC) – Comments by counsel for ADM regarding all responses to the PMS questionnaire, pages 1-3.

<sup>55</sup> Exhibit 132(PRO) & 133 (NC) – Comments by counsel for ADM regarding the deficiency response of Sudzucker group, pages 9-10.

<sup>56</sup> Exhibit 87(PRO) & 88 (NC) – Comments by counsel for ADM regarding all responses to the PMS questionnaire, pages 1-3.

On November 20, 2020, counsel for the complainant made a submission related to the CBSA's preliminary determination, including allegations of a PMS. While counsel argued that the PMS questionnaire responses of the European Union and Member States are woefully inadequate and incomplete for reasons set out in ADM's deficiency comments, it was argued that the information that the EU and Member States have chosen to provide supports the conclusion that a particular market situation indeed exists in the EU and its member-states.<sup>57</sup> With respect to the allegation of government support programs, counsel for the complainant also claimed that financial support contained in EU and member-state legislation may not be and need not be specific to wheat, wheat gluten, or wheat gluten co-products but can still benefit the producers of these products.<sup>58</sup>

On January 29, 2021 the European Commission (Commission) made a submission concerning the CBSA's preliminary determination, including the alleged PMS.<sup>59</sup> While the Commission acknowledges EU support to the agricultural sector through "decoupled support" and "voluntary coupled support", the Commission states that the EU does not grant any specific support to wheat.<sup>60</sup> Further, the Commission claims that the EU market price follows the world market for similar quality.

With respect to allegations of support for bioethanol, the Commission claims that there are no dedicated support measures in EU legislation that promote the production of bioethanol specifically from wheat.<sup>61</sup> The Commission acknowledges the presence of legislative initiatives such as the Renewable Energy Directive and the Energy Taxation Directive, which include targets for renewable energies and possible tax exemptions or reductions. In this respect, the Commission argued that various renewable energy carriers can be used to achieve such targets and references limits that have been put in place on the share of food and feed crops (i.e. wheat) that can be used. In addition, the Commission states that there is no specific requirement that wheat be used as the source from which biomass based biofuels must be produced. The Commission argues against the allegation that support for biofuels impact production volumes and prices of wheat gluten, stating that the volume of biofuels produced and consumed is stable. According to the Commission, there is no PMS in the EU wheat gluten market.<sup>62</sup>

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<sup>57</sup> Exhibit 138(PRO) & 139(NC) – Comments by counsel for ADM regarding the calculation of dumping margins and the PMS, pages 17-18.

<sup>58</sup> Exhibit 138(PRO) & 139(NC) – Comments by counsel for ADM regarding the calculation of dumping margins and the PMS, page 25

<sup>59</sup> Exhibit 179 (NC) – Comments by the EU, pages 1-2,4

<sup>60</sup> Exhibit 179 (NC) – Comments by the EU, page 2

<sup>61</sup> Exhibit 179 (NC) – Comments by the EU, page 2

<sup>62</sup> Exhibit 179 (NC) – Comments by the EU, pages 1 & 4

The Government of Lithuania (GOL) also filed comments relating to the alleged particular market situation.<sup>63</sup> Specifically, the GOL submits that substantial information was provided to the CBSA through the particular market situation RFIs which prove that market economy conditions prevail in the wheat gluten markets of Lithuania and other EU member states.<sup>64</sup> The GOL argues that further claims regarding the PMS would be in violation of the WTO rules.

## Case Arguments

Counsel for the Roquette Group submits that the evidence on the record does not disclose the existence of a PMS within the meaning of paragraph 16(2)(c) of SIMA and Article 2.2 of the WTO Anti-Dumping Agreement.<sup>65</sup> Counsel for the Roquette Group argues that the measures alleged by the complainant, including support to EU farmers and initiatives relating to the production, blending and consumption of bioethanol, do not apply specifically to wheat or wheat gluten. It is also argued that there is no positive evidence connecting these measures to domestic prices of wheat gluten in the EU.<sup>66</sup>

With respect to the allegation that the price of wheat gluten inputs (i.e. wheat) are distorted by support provided to the EU agricultural sector, counsel for the Roquette Group states that there is no evidence that the benefit passes through to producers of wheat gluten. Further, counsel for the Roquette Group submits that Roquette Frères and Roquette Amilina purchase all of their wheat at market prices and that there is no evidence that the price of soft wheat in the EU is distorted.<sup>67</sup> In support of this, counsel for the Roquette Group discusses a number of factors that they submit should be considered by the CBSA.<sup>68</sup>

Counsel for the Roquette Group also addressed the complainant's allegations relating to EU measures concerning bioethanol, stating that there is no evidence that EU measures that concern the production, consumption or blending of biofuels have distorted the production or domestic selling prices of wheat gluten in the EU. In this respect it is also submitted that none of the wheat gluten exported to Canada by the Roquette Group is produced in association with bioethanol production.<sup>69</sup>

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<sup>63</sup> Exhibit 182 (NC) – Written Submission by the GOL

<sup>64</sup> Exhibit 182 (NC) – Written Submission by the GOL, page 2

<sup>65</sup> Exhibits 199 (PRO) & 200 (NC) – Case Brief filed on behalf of the Roquette Group, para 3

<sup>66</sup> Exhibits 199 (PRO) & 200 (NC) – Case Brief filed on behalf of the Roquette Group, para 14

<sup>67</sup> Exhibits 199 (PRO) & 200 (NC) – Case Brief filed on behalf of the Roquette Group, paras 16, 25.

<sup>68</sup> Exhibits 199 (PRO) & 200 (NC) – Case Brief filed on behalf of the Roquette Group, paras 17-25

<sup>69</sup> Exhibits 199 (PRO) & 200 (NC) – Case Brief filed on behalf of the Roquette Group, paras 26-28

Counsel for the Roquette Group argues that there is no evidence of a PMS in the wheat gluten markets in France or Lithuania and that the domestic sales of wheat gluten of Roquette Frères and Roquette Amilina are not distorted.<sup>70</sup> It is further stated that the domestic sales of like goods of Roquette Frères and Roquette Amilina do permit a proper comparison with their export sales of the subject goods to Canada.<sup>71</sup> As a result, Counsel for the Roquette Group submits that normal values for the Roquette Group should be determined in accordance with section 15 of SIMA.<sup>72</sup>

### **CBSA's Position**

Using information available on the administrative record, the CBSA investigated allegations that a particular market situation exists in the named countries in Europe. While there are no known government regulations or policies setting price floors or ceilings, production quotas, or trade controls applied to wheat gluten directly, evidence on the record confirms the presence of policies, regulations, or directives in the EU and in certain member states relating to the agricultural sector and concerning renewable energy. The CBSA therefore analyzed the impact that government regulations, support programs and taxation policies have on the production and pricing of wheat and wheat gluten. On the basis of this analysis, the CBSA does not find that the prices of wheat or wheat gluten in Austria, Belgium, France or Lithuania were distorted such that they do not reflect market prices. The CBSA has not formed the opinion that a PMS exists in the wheat gluten markets of the named countries in Europe during the PAP that affects domestic sales such that they do not permit a proper comparison with the sales to the importers in Canada.

### **Period of Investigation**

#### **Representations Prior to the Close of the Record**

The GOL submits that the CBSA's use of a 16 month Period of Investigation (POI) for this investigation is not properly explained and unfairly includes Lithuania as a subject country.<sup>73</sup> The GOL argues that POIs normally cover one year periods and that this practice is supported by the WTO Antidumping Agreement and the Committee on Anti-dumping Practices. Further, the GOL states that imports from Lithuania were negligible during the most recent period and that the investigation with respect to wheat gluten imported from Lithuania must be terminated.

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<sup>70</sup> Exhibits 199 (PRO) & 200 (NC) – Case Brief filed on behalf of the Roquette Group, paras 15, 28-36

<sup>71</sup> Exhibits 199 (PRO) & 200 (NC) – Case Brief filed on behalf of the Roquette Group, para 36

<sup>72</sup> Exhibits 199 (PRO) & 200 (NC) – Case Brief filed on behalf of the Roquette Group, para 35

<sup>73</sup> Exhibit 182 (NC) – Written Submission by the GOL, pages 1-2

According to the Commission, the 16 month POI is not in line with the recommendation of the Committee on anti-dumping practices, is against common practice, and puts undue burden on exporters.<sup>74</sup> The Commission suggests that imports of wheat gluten from Lithuania would have been negligible if a 12 month POI was used, which would have resulted in the termination of the investigation for this country. According to the Commission, a longer POI "...is not opportune in this case."<sup>75</sup>

### **CBSA's Position**

For purposes of establishing the CBSA's POI at the initiation of this investigation, the CBSA found that the period of January 1, 2019 to April 30, 2020 accurately reflects the exporters' price levels to Canada and relates to the time period during which the Canadian industry alleges that injurious dumping has occurred. Noting that the WTO AD Agreement does not establish any specific period of investigation, the CBSA did not find there to be reasonable justification for changing the POI in the final phase of the investigation.

### **CBSA's Investigative Process**

#### **Representations Prior to the Close of the Record**

According to the GOL, the CBSA's preliminary *Statement of Reasons* "...does not allow for a reasonable understanding of the substance and does not allow interested parties to exercise their rights of defence."<sup>76</sup> The GOL requested summaries of the relevant confidential information from all countries.

The Commission also made comments relating to the CBSA's calculations and process.<sup>77</sup> Specifically, the Commission stated that a number of producers/exporters provided responses to the CBSA's Dumping RFI with the aim of cooperating with the investigation, but have not been able to provide production costs for wheat gluten. The Commission indicates that it is regrettable that only three producer responses were considered complete for purposes of the CBSA's preliminary determination. According to this submission, "...the approach of [the] CBSA in this investigation is obviating the reality of the EU starch industry".<sup>78</sup> The Commission also references arguments made by EU companies which allege a lack of transparency in the CBSA's dumping calculations and requests that the CBSA provide the necessary explanations to parties.

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<sup>74</sup> Exhibit 179 (NC) – Comments by the EU, pages 3-4

<sup>75</sup> Exhibit 179 (NC) – Comments by the EU, page 4

<sup>76</sup> Exhibit 182 (NC) – Written Submission by the GOL, page 1

<sup>77</sup> Exhibit 179 (NC) – Comments by the EU, page 3

<sup>78</sup> Exhibit 179 (NC) – Comments by the EU, page 3

## **CBSA's Position**

The CBSA's *Statement of Reasons* is a public document that describes the facts and rationale of the CBSA's decision(s) taken without releasing confidential information. Detailed explanations relating to specific parties, which may contain information designated confidential by those parties, is included in the notices of final determination sent to exporters and importers on March 23, 2021. In addition, with respect to responding parties that did not provide complete information, deficiency letters were promptly sent which notified the parties that information was missing.

## **Canadian Domestic Industry for Wheat Gluten**

### **Representations Prior to the Close of the Record**

In its submission dated January 29, 2021, the GOL made various representations relating to the CBSA's investigation and preliminary determination.<sup>79</sup> Among these claims, were requests that the CBSA exclude the complainant from the definition of domestic producers with respect to injury and that the CBSA terminate the investigation due to the failure of the complainant to present evidence of injury to a major proportion of Canadian production. According to the GOL, imports from the EU increased after CETA but only to replace imports from China and that the Canadian industry is using the proceeding to close the market.<sup>80</sup>

## **CBSA's Position**

At the initiation of the investigation the CBSA stated that the information provided in the complaint disclosed a reasonable indication that the alleged dumping has caused injury and is threatening to cause injury to the Canadian domestic industry. Subsequent to this, the Canadian International Trade Tribunal (CITT) conducted a preliminary injury inquiry into whether the evidence discloses a reasonable indication that the dumping of wheat gluten has caused injury or retardation or is threatening to cause injury. On October 13, 2020, the CITT determined that there is evidence that discloses a reasonable indication that the dumping of the subject goods has caused or is threatening to cause injury to the domestic industry. The CITT is continuing its inquiry and is required to make a finding with respect to which the final determination of dumping applies. As the determination of whether the evidence discloses a reasonable indication that the dumping of the goods has caused injury or retardation or is threatening to cause injury is part of the CITT's mandate, the CBSA will not comment on arguments related to injury.

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<sup>79</sup> Exhibit 182 (NC) – Written Submission by the GOL

<sup>80</sup> Exhibit 182 (NC) – Written Submission by the GOL, pages 3-4

## **The Ministerial Specification Rate**

### **Case Arguments**

In their case brief, counsel for the complainant argued that the methodology used by the CBSA at the preliminary determination to establish normal values and export prices for all other exporters did not result in a sufficient difference between the margins of dumping found for “cooperative” and “non-cooperative” exporters.<sup>81</sup>

Counsel for the complainant argued that for the purposes of the final determination, the CBSA should adopt an alternative approach to a Ministerial Specification, including exploring using data submitted in the complaint or estimated at initiation. Counsel argued that this would result in a larger difference in the dumping margins of cooperative and non-cooperative exporters, and thus incentivize exporters to fully cooperate in future investigations.

### **CBSA’s Position**

As discussed in the relevant “all other exporters” sections of this document, the CBSA decided that the normal values and export prices determined for the exporters whose submissions were complete and reliable for the final determination, rather than the information provided in the complaint or estimated at initiation, would be used to establish the methodology for determining normal values since it reflects exporters’ actual trading practices during the POI.

The CBSA examined the difference between the normal value and the export price for each individual transaction of each of the exporters that provided a complete and reliable response, and considered that the highest amount (expressed as a percentage of the export price), was an appropriate basis for determining normal values. This methodology relies on information related to goods that were shipped to Canada during the POI. The CBSA finds that this methodology sufficiently limits the advantage that an exporter may gain from not providing necessary information requested in a dumping investigation as compared to an exporter that did provide the necessary information.

## **Accuracy and Completeness of the Submissions of the Roquette Group**

### **Case Arguments**

Counsel for the complainant made representations regarding the accuracy and completeness of information submitted by the Roquette Group in response to the Dumping RFI, supplemental RFIs and Verification Questionnaires. Counsel submits that the normal value and export price for goods sold by the Roquette Group be determined pursuant to a ministerial specification or that adjustments be performed to rectify the stated deficiencies.

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<sup>81</sup> Exhibits 197 (PRO) and 198 (NC) – Case Brief filed on behalf of ADM Agri-Industries Co. Pages 10-12

Counsel made specific representations regarding Roquette America Inc.'s responses with regards to the completeness of supporting documentation<sup>82</sup>, the accuracy and completeness of Appendices A and B<sup>83</sup> and the accuracy and reliability of allocations pertaining to costs incurred in reselling the goods in Canada.<sup>84</sup>

Counsel also made specific representations regarding the completeness of Roquette Frère's RFI response<sup>85</sup> and the accuracy and reliability of the data pertaining to the cost of production.<sup>86</sup> In addition, counsel made specific representations regarding the accuracy and reliability of Roquette Amilina's data pertaining to the cost of production of the goods.<sup>87</sup>

### **CBSA's Response**

The CBSA has reviewed the responses from the parties of the Roquette Group to the RFIs and supplemental RFIs. The CBSA has also conducted verifications of the exporters' submissions through Verification Questionnaires. The exporter and importer submissions of the Roquette Group were considered complete and reliable for the purposes of the final determination and the CBSA determined normal values, export prices and the margins of dumping on the basis of the submissions.

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<sup>82</sup> Exhibits 47 (PRO) and 48 (NC) – Comments submitted by counsel for ADM regarding Roquette America Inc's RFI response, pages 1-4

<sup>83</sup> Ibid, pages 4-5; Exhibits 49 (PRO) and 50 (NC) – Additional comments submitted by counsel for ADM regarding Roquette America RFI response, pages 1-3; Exhibits 70 (PRO) and 71 (NC) – Comments submitted by counsel for ADM regarding Roquette America Inc's RFI response, pages 1-2

<sup>84</sup> Exhibits 47 (PRO) and 48 (NC) – Comments submitted by counsel for ADM regarding Roquette America Inc's RFI response, pages 5-6; Exhibits 49 (PRO) and 50 (NC) – Additional comments submitted by counsel for ADM regarding Roquette America RFI response, pages 1-3, Exhibits 140 (PRO) and 141 (NC) – Comments submitted by counsel for ADM regarding Roquette America Inc. SRFI response, pages 3-5, Exhibits 173 (PRO) and 174 (NC) Comments submitted by counsel for ADM to assist the CBSA in conducting its remote verification of Roquette Group, pages 2-4, Exhibits 197 (PRO) and 198 (NC) – Case Brief filed on behalf of ADM Agri-Industries Co., pages 30-33

<sup>85</sup> Exhibits 84 (PRO) and 85 (NC) – Comments submitted by counsel for ADM regarding Roquette Frères and Roquette Amilina's RFI response, pages 2-5 and 8-10

<sup>86</sup> Exhibits 84 (PRO) and 85 (NC) – Comments submitted by counsel for ADM regarding Roquette Frères and Roquette Amilina's RFI response, pages 5-8; Exhibits 173 (PRO) and 174 (NC) Comments submitted by counsel for ADM to assist the CBSA in conducting its remote verification of Roquette Group, pages 6-8; Exhibits 197 (PRO) and 198 (NC) – Case Brief filed on behalf of ADM Agri-Industries Co., pages 22-27

<sup>87</sup> Exhibits 197 (PRO) and 198 (NC) – Case Brief filed on behalf of ADM Agri-Industries Co. page 28

## **Export Price of goods sold by Roquette Amilina**

### **Case Arguments**

Counsel for the complainant made representations stating that due to a lack of data on the record, that export prices for goods sold by Roquette Amilina be determined pursuant to a ministerial specification.<sup>88</sup>

The embassy of the Republic of Lithuania to Canada made representations stating that Roquette Amilina's export price to its related parties is fully reliable and should be taken into account in the dumping margin calculations.<sup>89</sup>

### **CBSA's Response**

The CBSA considered all of the information on the administrative record and determined that sufficient information was available to enable to determination of the export price of the goods sold by Roquette Amilina pursuant to sections 24 and 25 of SIMA.

A reliability test was performed for the goods exported to Canada by Roquette Amilina that were sold to a related importer. This test was conducted by comparing the section 24 export prices with the section 25 export prices. The test revealed that the export prices determined in accordance with section 24 of SIMA were unreliable and, therefore, export prices for these sales were determined in accordance with section 25 of SIMA.

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<sup>88</sup> Exhibits 140 (PRO) and 141 (NC) – Comments submitted by counsel for ADM regarding Roquette America Inc. SRFI response, pages 1-2; Exhibits 197 (PRO) and 198 (NC) – Case Brief filed on behalf of ADM Agri-Industries Co., pages 8-10

<sup>89</sup> Exhibit 182 (NC) – Written Submission by the GOL, page 2