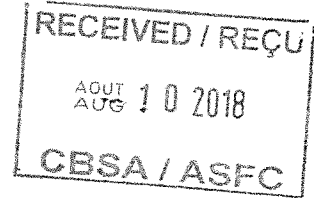


August 10, 2018

DELIVERED VIA COURIER

Director General
Trade and Anti-Dumping Programs Directorate
Canada Border Services Agency
1100 - 100 Metcalfe Street
Ottawa ON K1A 0L8



Dear Director:

RE: Scope Ruling Request
Shanghai Shuangyan Chemical Equipment Manufacturing Co., Ltd.

Please accept this letter and enclosures as an application on behalf of Shanghai Shuangyan Chemical Equipment Manufacturing Co., Ltd. ("SSCEM") for a scope ruling under sections 63 to 66 of the *Special Import Measures Act* ("SIMA") in relation to certain types of industrial modules produced by SSCEM and imported or to be imported to Canada (the "Modules").

In brief, the complex industrial modules in question incorporate fabricated industrial steel components ("FISC"). In certain circumstances, FISC is captured by the highly convoluted definition of "subject goods" that was applied in the CBSA's anti-dumping and subsidy investigation FISC 2016 IN dated April 25, 2017, and in the CITT's Final Determination in its Injury Inquiry NQ-2016-004 dated May 25, 2017 (the "FISC Determinations"). SSCEM submits that the FISC incorporated into the Modules has been further manufactured and incorporated into a new commercial good, so as to change its essential character and exclude it from the scope of the FISC Determinations.

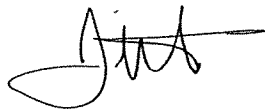
In this Application SSCEM requests a ruling that neither the Modules nor the FISC incorporated within them fall within the scope of the FISC Determinations and are therefore not subject to the measures in force as described herein.

Please note that information contained in this Application is commercially sensitive and confidential. Its release will cause significant financial harm to SSCEM, its affiliates and its Canadian importers or customers. We have enclosed both public and confidential (in a separate envelope) versions of this Application. The confidential information contained herein may not be disclosed in whole or in part in any manner.

Dentons Canada LLP represents SSCEM for the purposes of this Application, and we are authorized to communicate with you directly. To facilitate expedited responses, we respectfully request that you provide a copy of any inquiries or other communications in respect of this application to the undersigned. In the

event that you make an initial determination that is contrary to SSCEM's request in this Application, we respectfully request that you provide a reasonable opportunity for SSCEM to provide additional information or clarifications as may assist in the determination.

Yours truly,
Dentons Canada LLP

A handwritten signature in black ink, appearing to read 'Jim', with a long horizontal flourish extending to the right.

James Wishart

JMW/kit

Enclosure



August 1, 2018

Director General
Trade and Anti-dumping Programs Directorate
Canada Border Services Agency
100 Metcalfe St., 11th Floor
Ottawa ON K1A0L8

Dear Sir or Madam:

RE: Request for Scope Ruling: Shanghai Shuangyan Chemical Equipment Manufacturing Co., Ltd.

Shanghai Shuangyan Chemical Equipment Manufacturing Co., Ltd. ("SCEM") is a foreign producer, exporter and potential exporter of goods incorporating fabricated industrial steel components ("FISC") and non-FISC components.

This application under the *Special Import Measures Act* requests a scope ruling for certain in relation to certain well pad modules incorporating FISC, which have been and will be exported from China. SCEM submits that these complex modules are not subject goods under FISC 2016 IN.

I, Sean Song, Business Manager of SCEM, certify that the information and evidence submitted in this application to the Canada Border Services Agency is true, accurate and complete.




Sean Song, Business Manager

Shanghai Shuangyan Chemical Equipment Manufacturing Co., Ltd.

-]
7. The goods are destined for the [
], Alberta. [
].

D. Other Producers

8. SAGD Well Pad Modules, which are defined and described in detail below, are manufactured by a number of Canadian producers. Attached as Exhibit "B" is a chart with names and public contact information for Canadian producers that appear to produce these types of goods.
9. SSCEM is aware of one other Canadian owner that has imported or will in the near future import SAGD Well Pad Modules from Chinese manufacturers for use in oil sands operations. Specifically, the [
] has commissioned a [
] to fabricate Well Pad Modules in China for import to Canada.

E. Measures in Force

10. The measures in force that are at issue in this Application are anti-dumping and countervailing duties imposed pursuant to the Final Determination of the CBSA and the Decision of the CITT regarding Certain Fabricated Industrial Steel Components, Dumping (China, Korea and Spain) & Countervailing (China), CBSA matter FISC 2016 IN, and CITT matter NQ-2016-004.
11. The measures in force apply to FISC originating in or exported from China, South Korea and Spain and falling within the definition of subject goods, and constitute the following:
- a. Anti-dumping duty equal to 45.8% of the export price; and
 - b. Countervailing duty equal to 11,656.06 renminbi per metric tonne of FISC (together, the "AD/CVD Duties").
12. The definition of subject goods for the purposes of these measures is as follows:

Fabricated structural steel and plate-work components of buildings, process equipment, process enclosures, access structures, process structures, and structures for conveyancing and material handling, including steel beams, columns, braces, frames, railings, stairs, trusses, conveyor belt frame structures and galleries, bents, bins, chutes, hoppers, ductwork, process tanks, pipe racks and apron feeders, whether assembled or partially assembled into modules, or unassembled, for use in structures for:

- oil and gas extraction, conveyance and processing;
- mining extraction, conveyance, storage, and processing;
- industrial power generation facilities;

- petrochemical plants;
- cement plants;
- fertilizer plants;
- industrial metal smelters;

originating in or exported from the People's Republic of China, the Republic of Korea, and the Kingdom of Spain.

Excluding:

Electrical transmission towers; rolled steel products not further worked; steel beams not further worked; oil pump jacks; solar, wind and tidal power generation structures; power generation facilities with a rated capacity below 100 megawatts; goods classified as "prefabricated buildings" under HS Code 9406.00.90.30; structural steel for use in manufacturing facilities used in applications other than those described above; and products covered by Certain Fasteners (RR-2014-001), Structural Tubing (RR-2013-001), Carbon Steel Plate (III) (RR-2012-001), Carbon Steel Plate (VII) (NQ-2013-005), and Steel Grating (NQ-2010-002).

And excluding:

- goods exported by Hanmaek Heavy Industries Co., Ltd. and Cintasa, S.A.
- goods imported within the 2017 calendar year by Andritz from Sinohydro for the Muskrat Falls hydro project in the province of Newfoundland and Labrador.

F. Description of the Goods that are Subject to the Request for Scope Ruling

13. In brief, and as set out in more detail below, [] and similar oil sands production facilities use *in situ* steam-assisted gravity drainage ("SAGD") technology to recover bitumen from oil sands reservoirs. Steam injected into the reservoir heats the bitumen so that it flows more easily, allowing it to be pumped to the surface. This technology is used by a number of oil sands producers.
14. The on-site processing facilities that perform the steam injection and bitumen recovery are referred to as "well pads". A well pad consists of interconnected mechanical, electrical and hydraulic equipment that is designed and manufactured off-site in modular form. Once connected on-site, a completed well pad functions as a discrete injection/recovery unit for one or more underground wells. A given oil sands project may have multiple well pads.

(a) *SSCEM Export of SAGD Well Pad Modules*

15. By way of background, [] entered into an agreement with SSCEM for the supply of two new SAGD well pads and related equipment for the []. This expansion is referred to as the [].

16. Each well pad consists of multiple Well Pair Modules, a Termination Module and a Metering Module. The initial scope of work completed by SSCEM consists of a total of sixteen Modules comprising two complete well pads, as follows:

[

]

17. This order was completed and imported into Canada in 2017.

18. Subsequently, [] made a further order of [] ("Pad R") for the [] as follows:

[

]

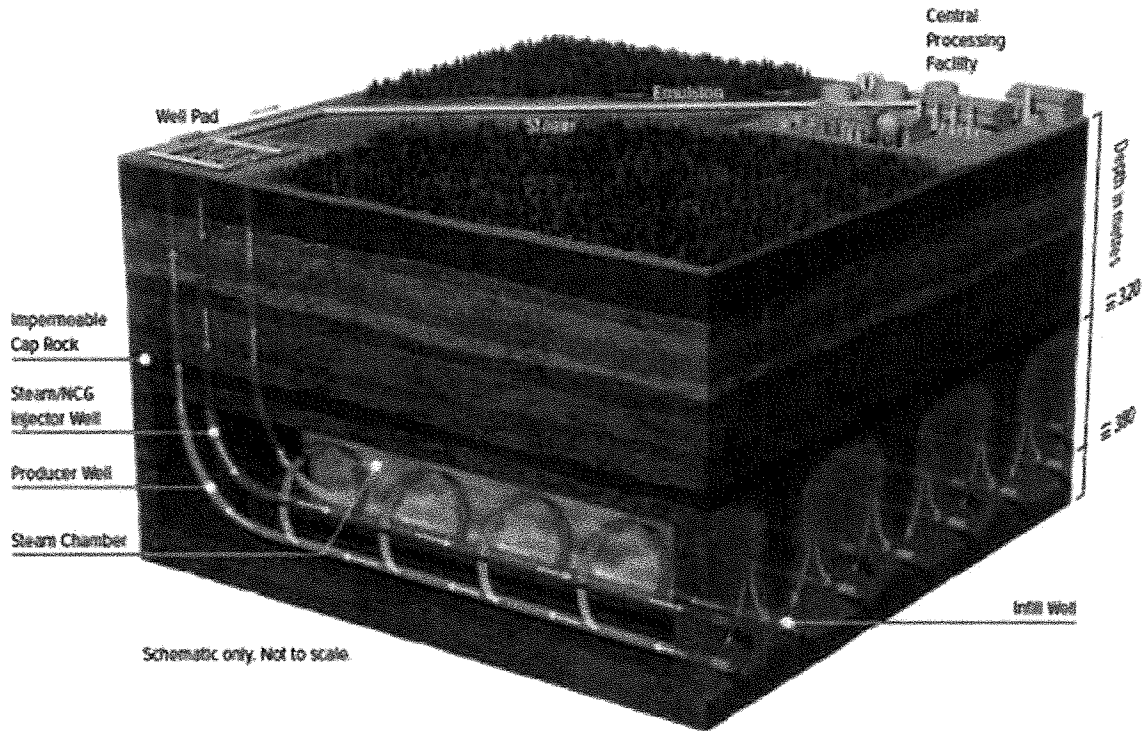
19. This latter order [] for Pad R is the subject of this Application.

20. As of the time of preparation of this application, a shipment of "sea can" shipping containers containing loose components for Pad R had been completed and imported to Canada. The bulk of the Pad R order, [] and a number of shipping containers, was shipped during [].

21. SSCEM also anticipates receiving future orders for Well Pad Modules for export to Canada.

(b) SAGD Wells

22. SAGD technology uses pairs of horizontal wells. One well injects steam into the reservoir, while the other well extracts the bitumen. Exhibit "C" (public) contains photographs of a typical SAGD well pad.
23. A SAGD well pad consists of multiple well pairs, with each pair consisting of a steam injection well and oil production (emulsion) well. Each well pair is connected to a Well Pair Module consisting of piping, valves, controls, monitoring and other electrical equipment, support structures, walkways, and other components. The Well Pair Module transfers the injection steam from a central processing facility, to inject into the steam wells. In operation, high pressure steam is continuously injected into the upper wellbore to heat the bitumen and reduce its viscosity so that it can flow downwards by gravity (drain) into the lower well bore. The bitumen is then pumped out of the lower well bore, through the Modules, and on to the central processing facility.
24. The following conceptual drawing illustrates a typical SAGD setup:



(i) **Well Pair Modules and Termination Modules**

25. Well Pair Modules perform the dual functions of supplying steam and blanket gas (natural gas) into the injector wells, and drawing up emulsion (oil and water), casing gas and start-up/return fluid (oil and steam condensate) to the surface through the producer well. Termination Modules are identical in design to Well Pair Modules but are located at the end of a well pad assembly and are distinguished by pipe drain and vent valves for use during maintenance or startup of the well pad.
26. The following confidential drawing is a rendering of a Well Pair Module showing top view and end view.

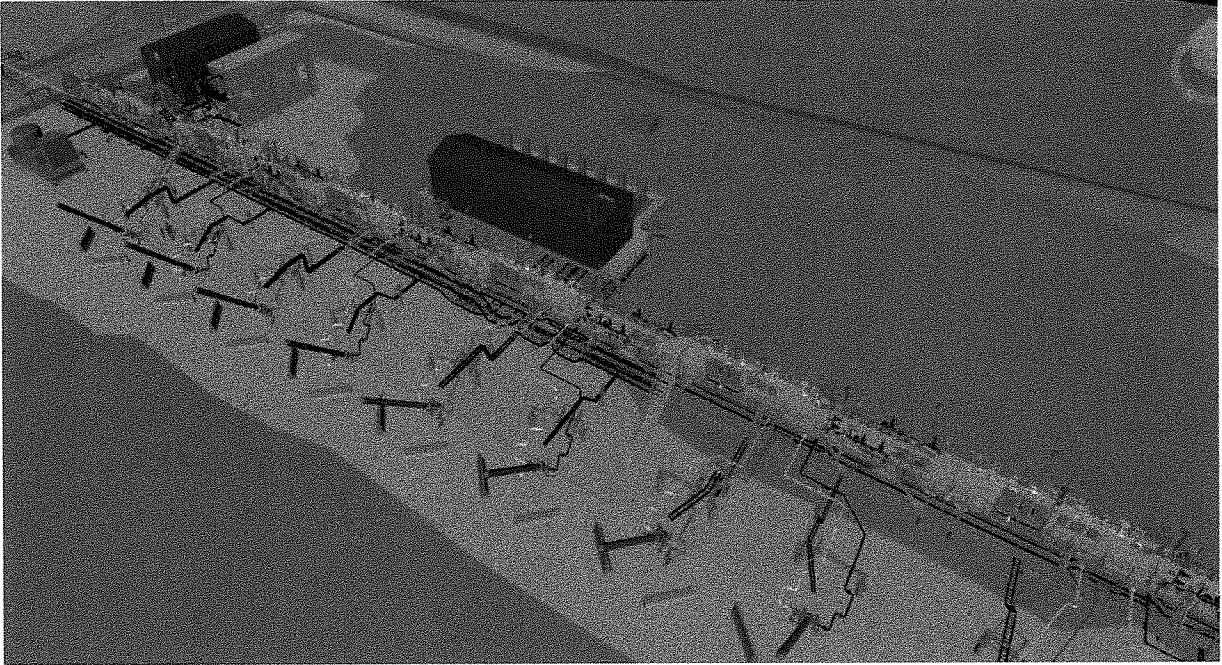
27. The following are confidential photographs of a near-complete Well Pair Module in SSCEM's factory in Shanghai, China.

(ii) Metering Modules

28. Metering Modules perform the functions of measuring bitumen and steam production rates, along with carrying out testing and sampling of water/oil ratios for the purposes of internal and regulatory reporting. They are fitted with instrumentation and electrical and mechanical components dedicated to those tasks. Below is a confidential rendering of a metering module showing top view and end view.

(iii) Complete Well Pad Layout

29. Below is a aerial view conceptual drawing of a SAGD well pad facility showing all of the Modules connected in-line along with the associated wells, buildings and pipelines:



(c) *Manufacture of Modules*

(i) *Material Inputs*

30. In general, the Modules consist of:

- Electrical and Instrumentation clusters and cabinets
- Electrical and Instrumentation cables, lighting, and transmitters
- Valves with associated instrumentation, controls, pressure vessels
- Piping
- Electrical heat tracing
- Insulation
- Structural steel (FISC)
- “Off-module” parts consisting primarily of connections or personnel access/safety elements such as stairs and handrails.

31. The inputs for the Modules come from various sources, which may vary from one Module order to the next:

- some components including certain high-value technical equipment and some FISC components are procured by the customer from various producers in Canada and elsewhere and “free-issued”² to SSCEM;
- some components of FISC are fabricated by SSCEM; and
- some materials and components, including certain of the FISC portions, are procured by SSCEM from various third party suppliers.

32. It is noteworthy that for the project in question, [].
33. Module materials and components are either transported to SSCEM's plant in Shanghai, China or fabricated on-site, for further engineering, fabrication and assembly into the Modules to meet with detailed specifications provided by the customer. From time to time, customers send their own engineers to the SSCEM facility to inspect or otherwise assist with the module fabrication.
34. Module manufacturing involves a wide range of trades and professions including welders, electricians and electronics specialists, pipe-fitters, and engineers from various disciplines.
35. The FISC portion of the Modules constitutes the “skeleton”, into which the interconnected mechanical and electronic components are installed and attached. However even the FISC elements are not simply standard steel inputs formed into a pre-fab shell. Rather, they are custom-engineered and fabricated to be part of the unified Module.
36. Despite this, the FISC elements of the Modules []. The following table sets out the cost breakdown for the [], for illustrative purposes:

Approximate Cost Breakdown of []
(all values \$CAD)

Description	Material Cost	Labour Cost	Sub-Total
Free Issued Materials (no FISC)	[]		
SSCEM Office Administration			
Piping			
Structural Steel (FISC)			
Electrical			
Instrumentation & Controls			

² In the “free issue” procurement model, the buyer procures raw materials and components and provides them to the seller for manufacture into the finished good. The buyer retains title to the free issued materials throughout the production and delivery process.

Insulation			
Testing & Pre-commissioning			
Local Logistic Support			
Change Orders Materials and Labor			
Change Orders Expediting Charges			
Change Orders Shipping and Logistics			
TOTALS]

- 37. As a material input, the value of FISC components in the completed [] comprised approximately [] of the export value of the modules, and the integrated value of the FISC components comprised approximately [] of the export value.
- 38. The following table sets out the approximate cost breakdown for the Modules which are the specific subject of this Application.

Approximate Cost Breakdown of Pad R Project
(all values \$CAD)

Description	Material	Labour	Sub-Total
Free Issued Materials (no FISC)	[
SCEM Office Administration			
Piping			
Structural Steel (FISC)			
Electrical			
Instrumentation & Controls			
Insulation			
Testing & Pre-commissioning			
Local Logistic Support			
Change Orders Materials and Labor			
Change Orders Expediting Charges			
Change Orders Shipping and Logistics			
TOTALS]

- 39. As a material input, the value of FISC components in the Pad R project comprise approximately [] of the export value of the modules, and the integrated value of the FISC components comprises approximately [] of the export value.

(ii) Fabrication and Shipping

40. The Scope of Work document for the Pad R Project describes SSCEM's deliverables as follows:

“Module fabrication scope shall consist of completely tested and pre-commissioned modules and shipped-loose “off-module” components including ladders, stairs, handrails and connecting parts.”

41. In accordance with this instruction, each of the Modules is fully constructed, finished, painted (where specified) and functionally tested in the SSCEM factory prior to shipping.

42. At the time of shipping, the Modules meet all applicable Canadian laws, codes, standards and specifications. Testing and pre-commissioning performed by SSCEM includes the following:

[]

[]

[]

43. Completed Modules are therefore shipped from the factory as complete, ready-to-function units, with the exception of certain minor protruding parts such as safety railings and stairs, spools, valves, instrumentation, EHT (electrical heat tracing) cabinets etc. that exceed the shipping envelope (described immediately below), and which are detached for shipping and re-installed at the site. In some cases, steel bracing or supports are also installed to protect the units during shipping, and then removed prior to entry into service.

44. Modules are also specifically engineered to fall within the maximum size and weight restrictions for road transportation from ports in British Columbia to the SAGD site, which in this case is in Alberta. As such, they are uniformly 12 feet wide and 12 feet high, and between 60 and 80 feet long. These strict size limits are the only reason why certain protruding parts must be detached after functional testing but prior to shipping.

45. It is important to note that SAGD well pads are a commonly-used technology in oil sands bitumen extraction, and are designed to be easily set up and expanded using additional Modules that are essentially identical across Module types. Accordingly, upon arrival at the SAGD site, the Modules are essentially “plug and play”; that is, they can be installed in the facility relatively quickly, with no modification, and with minimal additional assembly.

46. The engineering and complete fabrication of the Modules at offsite facilities also ensures standardization and consistency of function for specific types of modules. Put another way, in general each standard type of Module can be placed on any SAGD well pad of the same type and will function together with other standard Module types with little or no additional engineering or

procurement effort. This significantly reduces the cost, risk and delay associated with large, expensive and time-sensitive SAGD projects.

G. Classification of the Goods Subject to the Request

47. Based on initial guidance from the CBSA with respect to modules containing FISC, the importer has broken out on the import declaration the weight and value of FISC incorporated into the Modules, and has classified those components under HS Code 7308.90.00.99. The importer has remitted or will remit AD/CVD Duties on the latter amount. The balance of the Modules and loose parts have been classified by the importer under tariff heading 8419:

84.19 Machinery, plant or laboratory equipment, whether or not electrically heated (excluding furnaces, ovens and other equipment of heading 85.14), for the treatment of materials by a process involving a change of temperature such as heating, cooking, roasting, distilling, rectifying, sterilizing, pasteurizing, steaming, drying, evaporating, vaporizing, condensing or cooling, other than machinery or plant of a kind used for domestic purposes; instantaneous or storage water heaters, nonelectric.

48. The import documentation submitted by the importer for the Pad R Project is attached hereto as Exhibit "D" (confidential).
49. As discussed in more detail below, SSCEM submits that the disaggregation of the FISC components from the balance of each complete Module for the purposes of applying AD/CVD Duties is inconsistent with the nature of these Modules as finished commercial goods.

H. Submissions on Subjectivity: the Well Pad Modules are not Subject Goods

(a) *What is a Module?*

50. In the oilfield and other heavy industry contexts, modularization is a manufacturing technique that reduces the cost, time and risk to construct facilities in remote or high-cost locations, by producing structures or large equipment in lower-cost production centres for shipment to the end-use site. Modularization represents an evolution of manufacturing and plant pre-assembly processes that generates cost efficiencies and other dividends for customers in terms of safety, manufacturer assurance, machinery integrity and ease of installation at site.
51. There is no standard or industry definition of what constitutes a "module". In general, a module in this context is simply a pre-manufactured industrial component that can perform a standalone function or act as part of a larger structure or facility or both.
52. In the absence of any standard definition, goods that are colloquially referred to as "modules" exist along a broad spectrum of complexity, function and price. They range from simple prefabricated steel skeletons designed to support piping or other components, to complex, highly-engineered, functioning pieces of equipment that are more accurately characterized as machines, equipment packages, buildings or discrete industrial processes.

53. As will be developed further below, SSCEM submits that the Modules described in this application fall on the latter end of this spectrum, and bear little resemblance to the mere support structures that are contemplated by the FISC subject good definition.

(b) FISC in Complex Modules

54. The subject goods definition reproduced above includes within its scope FISC “assembled or partially assembled into modules”.

55. There appears to be no debate that FISC simply assembled with other FISC to form a “FISC module” falls within the subject goods definition.

56. However, there is significant uncertainty with respect to modules of the type described in this Application, which constitute large amounts of non-FISC material integrated together with elements of FISC to form complex standalone industrial goods. These goods are not merely “assembled”, but are engineered, manufactured and factory-tested to perform specified industrial tasks. The FISC components of these types of goods do not in any way define or dominate the goods, but are merely inputs to the larger whole, and are substantially transformed into the final good.

57. Pointedly, the subject goods definition used in the FISC Determinations does not include or even contemplate “FISC permanently incorporated with other components into complex modules or equipment”. This is because, as discussed in further detail below, to do so would be unprecedented and contrary to existing AD/CVD practice.

58. Despite this, in Statement of Reasons in Inquiry NQ-2016-004, while the CITT acknowledged its authority to do so, it expressly declined to determine whether complex modules of the type described in this Application fell within the scope of the subject goods definition.

The Tribunal finds that simple modules (i.e. FISC assembled with other FISC) are certainly subject and like goods. This is supported by the ordinary meaning of FISC “. . . whether assembled or partially assembled into modules, or unassembled . . .”. To the extent that FISC is incorporated into complex modules and may be transformed into a new product through the modularization process, the Tribunal is not convinced whether or not the FISC falls within the scope of the subject goods’ definition. There are too many differing compositions, purposes and other characteristics within this general description of such goods for the Tribunal to accurately assess the issue.³

59. The CITT clearly acknowledged that FISC in complex modules **could** be found to have “been further processed to the extent that they no longer possess the nature and physical characteristics of FISC such that they would not be covered by the Tribunal’s finding”.⁴ However the Tribunal deferred the issue to the CBSA, and particularly to the Scope Ruling procedure, to deal with in the context of future imports of different module types.⁵ The Applicant therefore brings this Application in an effort to

³ Statement of Reasons in Inquiry NQ-2016-004, June 9, 2017 (“Reasons”), at para 37

⁴ Reasons at para 160

⁵ Reasons at paras 159-160

provide much-needed clarity and certainty for its customers who require the relevant units in critically-important Canadian capital projects.

60. For its part, in NQ-2016-004 the domestic industry consented to exclusion requests by Suncor Energy Inc. and Fluor Canada Inc. with respect to a broad range of complex modules which incorporate FISC as a material input.⁶ A copy of the exclusion requests and domestic industry consents from the public record of the CITT are attached here for reference as Exhibit "E" (public). The Applicant submits that these exclusion consents are persuasive evidence that the domestic producers who triggered the FISC Determinations accept the interpretation of the scope of the subject goods as set out in this Application.
61. The discrete functions of the respective Well Pad Modules described above support their status as industrial machinery and not simply structural components or readily-disaggregated parts. The Well Pair, Termination and Metering Modules each perform critical processes in the SAGD bitumen recovery process, absent which the Well Pad would not function.
62. The testimony of witnesses in Injury Inquiry NQ-2016-004 bears this out. A number of witnesses with extensive experience in the relevant industries gave detailed evidence about the design, manufacture and functioning of complex industrial models that are directly analogous to the Well Pad Modules at issue in this Application. For instance, Mr. Paolo Merlo of LNG Canada stated:

...the way we design our modules is, they are like islands of particular functionality. When we want to build a module, we define what are the components that define a certain functionality in the plant, and then we would, like, design, build them and test them in a way that by the time they finish, they leave the yard, they are 100 percent completed and functionality tested.⁷

63. Similarly, Mr. Mark Plummer of Suncor Energy Inc. testified as follows:

[...] there are fundamentally different kinds of "modules" that involve much more than modularized FISC. These latter types of modules are complete and complex functioning pieces of equipment (essentially, machines or industrial processes) that serve a particular operating purpose (the "Excluded Module Types"). They can be usefully analogized to dishwashers, furnaces or other domestic appliances which are produced and sold as finished goods to perform discrete functions in a home. To characterize the Excluded Module Types as FISC to which functioning components are affixed, as the Complainants suggest, is equivalent to characterizing domestic dishwashers and furnaces as steel frames to which are incidentally affixed a few mechanical parts.

When Suncor purchases the Excluded Module Types, we are purchasing finished equipment to meet a particular operational need. We are not purchasing accessorized or modularized FISC with ancillary equipment that is incidentally affixed. The Excluded Module Types are inherently different goods from modularized FISC. The overly broad usage of the term modules by the Complainants blurs this important distinction; their

⁶ Ibid.

⁷ NQ-2016-004, Public Testimony of Paolo Merlo, Public Transcript Vol. 5 at 501:8-15.

overly broad definition of the term module applies very poorly to a broad set of goods that may have FISC in them but are clearly not properly understood as “modularized FISC”.

As I explained in greater detail in my Witness Statement supporting Suncor’s product exclusion request, imported finished modules typically enter Canada in one assembled or partially assembled shipment, under one customs entry document and classified under one, unique tariff item. Typically, the volume and value of the FISC is not separately accounted for, any more than the separate components of a household appliance are when a dishwasher or furnace are imported into Canada. The assembly of the Excluded Module Types is not a “modularization” service as the Complainants suggest, rather it is in the nature of engineering and manufacturing finished products from raw materials, one of which happens to be FISC.⁸

64. To reiterate, while some kinds of industrial modules involve little more than units of FISC connected together, many types of modules are fundamentally different products from FISC, albeit they include FISC as a component or raw material. These types of modules, which include the Well Pad Modules, are finished, manufactured goods, akin to industrial machines, household appliances or motor vehicles. Characterizing these goods as modularized FISC is analogous to describing a motor vehicle as a modularized steel chassis, and applying duty to incorporated FISC is the equivalent of applying duty to some parts of the frame of a fully-finished imported vehicle, separate and apart from the rest of the good. To the knowledge of the Applicants, the isolation of goods permanently incorporated into finished imported goods for the purpose of applying duty is unprecedented in the history of SIMA.
65. In a recent subjectivity appeal pursuant to section 59(1)(a) and (e) of SIMA, the CBSA considered the subjectivity of certain steel grating, and stated in relevant part as follows:

Paragraph 44 of the Canadian International Trade Tribunal (Tribunal) order RR-2015-001 states “Logically, there is a point at which grating loses its identity as grating, for example, after it is incorporated into a complex industrial structure”. The Merriam-Webster’s Collegiate Dictionary defines “incorporate” as “to unite or work into something already existent so as to form an indistinguishable whole”. This terminology is specific and distinct from other terms such as “for use in” or “part of”.

Whether or not goods are subject to a finding is based on their state or condition at the time of importation. In this case, although the imported gratings were fabricated for use in accompanying steel structures, at the time of importation the gratings were in their own separate containers, and were not physically attached, joined or wrought into a structure. They therefore had the characteristics of gratings. They were also invoiced separately at a price different than the steel structures.⁹

⁸ NQ-2016-004, Public Witness Statement of Mark Plummer, April 12, 2017, Tribunal Exhibit I-03, paras. 14-16.

⁹ Subjectivity Appeal No. SG-1, July 21, 2017 <https://www.cbsa-asfc.gc.ca/sima-lmsi/appeals-eng.html>

66. Based on the public summary of its reasons in the above, the CBSA held that the steel grating in question remained subject goods because at the time of importation it was not "incorporated into" structures.¹⁰
67. In clear contrast, the FISC in the Modules is, at the time of importation, a structural input which has been permanently incorporated into complex industrial goods, which in turn have been designed, engineered, procured, manufactured and factory-tested to perform particular industrial processes. Their manufacture is not simply a matter of assembling FISC with other FISC and then hanging electrical or mechanical components on the ensuing structure. Rather, the process and outcome is akin to the manufacture of a finished machine or industrial appliance.¹¹ Logically, the FISC incorporated into these finished goods is permanently transformed and has "lost its identity" as FISC.
68. SSCEM is not aware of any prior SIMA order in which AD/CVD Duties have been applied to components of an imported product rather than to the product itself. With respect, such an approach is illogical and disconnected from the realities discussed above.
69. To illustrate the potential absurdity of this approach, the FISC incorporated into complex modules may not even have been produced in a region targeted by the AD/CVD duties on FISC. Here, the Well Pad Modules incorporate FISC from [] as well as from China. In the context of globalized supply chains, it is conceivable that other modules could incorporate FISC from the same Canadian domestic producers whose complaint triggered the duties in the first place. Indeed, some witnesses for the domestic producers at the hearing of Injury Inquiry NQ-2016-004 submitted that it was feasible for Canadian producers to supply FISC to Chinese module manufacturers in China for the production of complex industrial modules for export to Canada.
70. In contrast to this, and in accordance with logic and practical reality, prior to the recent CBSA investigation the volume and value of the FISC in complex modules was not separately accounted for, any more than the steel frame of a household appliance or the chassis of a finished vehicle are "broken out" in customs declarations upon import into Canada.¹² Prior to the imposition of the AD/CVD Duties, complex modules typically entered Canada as commercial goods in their own right, under one customs entry document and classified under one, unique tariff item. SSCEM submits that this is the reasonable and correct approach.

I. CONCLUSION

71. For all these reasons, SSCEM requests a scope ruling under section 66 of the SIMA confirming that the following units (including the structural steel therein) described herein, for use in oil and gas exploration and production, are not subject goods for the purposes of the FISC Determinations:
- a. Well Pair Modules:
 - b. Metering Modules; and

¹⁰ Ibid.

¹¹ *Photovoltaic Modules and Laminates*, NQ-2014-003, Reasons issued July 20, 2015 at paras. 47 and 49

¹² See testimony of Mark Plummer, footnote 8 above.

c. Termination Modules.

SSCEM remains ready to provide any further information or clarification as may be necessary to assist in the determination of this Application.

CONFIDENTIAL

EXHIBIT "A" CONFIDENTIAL
Organizational Structure of SSCEM

EXHIBIT "B" PUBLIC

Producer	Address	Telephone	E-mail	Website
Integrated Thermal Solutions/ Tundra Process Solutions Aecon	3220-118 Avenue SE Calgary, AB T2Z 3X1	403-255-5222	info@integratedthermal.com	http://www.integratedthermal.com/
	Aecon West Headquarters 300- 110 9th Avenue SW Calgary, AB T2P 0T1	403-695-3085	aecon@aecon.com	http://www.aecon.com/
Worley Parsons Cord	Heritage Square 400S, 8500 Macleod Trail SE Calgary, AB T2H 2N1	403-258-8000	N/A	http://www.worleyparsonscord.com/
PCL Permanent Modular Construction	BUILDINGS & CIVIL CONSTRUCTION PCL Construction Management Inc. 2882 11th Street NE Calgary, AB T2E 7S7	403-250-4800	Calgaryinquiries@pcl.com	http://www.pcl.com/Pages/default.asp x
Kiewit Construction Services Inc.	Kiewit Energy Canada 200 - 10333 Southport Road SW Calgary, AB T2W 3X6	403-693-8701	N/A	https://www.kiewit.com/districts/kiewit-energy-canada/overview/
Ledcor	Bay 28-1930 Maynard Rd SE Calgary, AB T2E 6J8	403-264-9155	N/A	http://www.ledcor.com/home
Supermetal	3813, 75th Avenue Leduc, AB T9E 0K3	780-980-4830	edmonton@supermetal.com	https://www.supermetal.ca/

PUBLIC

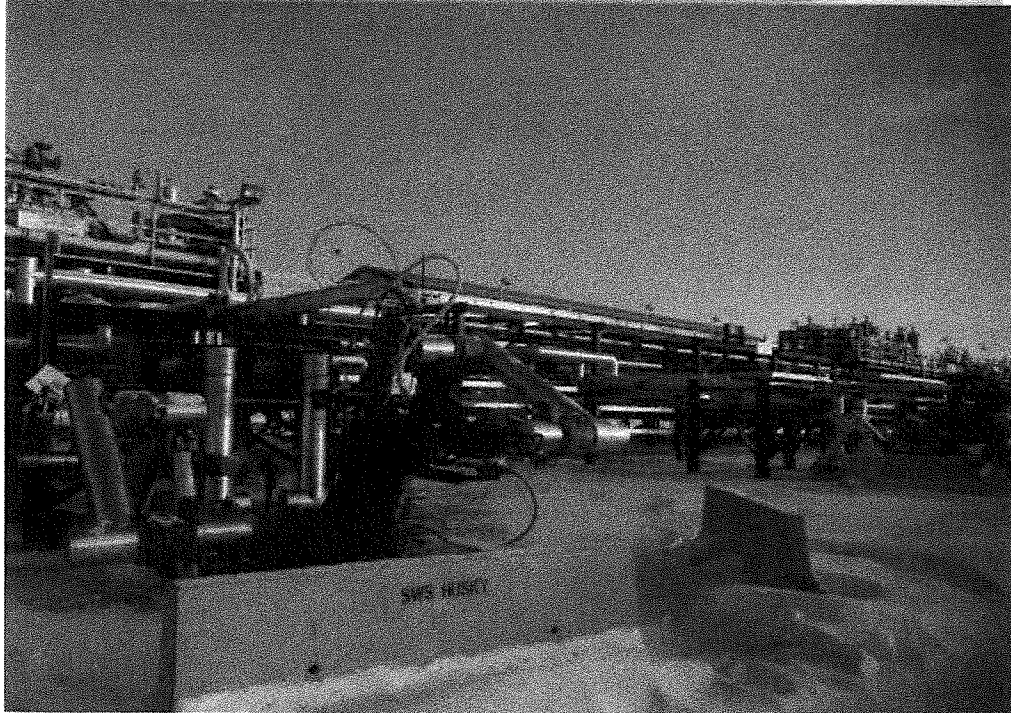
<p>Black and McDonald</p>	<p>Industrial 1) 115 - 3355 114 Avenue SE Calgary, AB T2Z 0K7 2) 1071 - 26th Street N.E. Calgary, AB T2A 6K8 3) 10717 - 181 Street Edmonton, AB T5S 1N3 1424 - 70th Avenue Edmonton, Alberta, Canada T6P 1P5</p>	<p>1) 587-779-5442 2) 403-235-0335 3) 780-484-1141</p>	<p>N/A</p>	<p>http://www.blackandmcdonald.com/</p>
<p>TDE</p>	<p>780-440-6064</p>	<p>N/A</p>	<p>N/A</p>	<p>http://www.thermodesign.com/</p>
<p>Gemini Engineering Inc.</p>	<p>839 5 Ave SW Calgary, AB T2P 3C8</p>	<p>403-255-2006</p>	<p>could not find</p>	<p>http://www.geminicorp.ca/</p>

EXHIBIT "C" PUBLIC

Typical Existing SAGD Well Pad



Existing Well Pair



CONFIDENTIAL

EXHIBIT "D" CONFIDENTIAL

Customs Documentation for Import of Pad R Project

**EXHIBIT "E" PUBLIC
Exclusions Consents of Canadian Producers**

202.12

May 10, 2017

SENT VIA EMAIL

Mr. Michel Parent
Registrar
Canadian International Trade Tribunal
15th Floor
333 Laurier Avenue West
Ottawa ON K1A 0G7

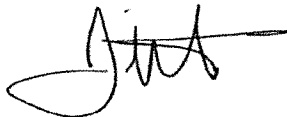
Dear Mr. Parent:

RE: NQ-2016-004 – Suncor Energy Inc. Exclusion Request

Please accept this letter as the formal consent of Suncor Energy Inc. to the exclusion request as set out in the letter of Paul Conlin dated May 10, 2017 on behalf of the Canadian Producers. Suncor hereby also withdraws all previous exclusion requests in this proceeding.

We thank the Tribunal for its indulgence and flexibility in permitting these parties to resolve this issue.

Yours truly,
Dentons Canada LLP



James M. Wishart

JMW/kit

c. Conlin Bedard LLP
Paul Lalonde

CANADIAN INTERNATIONAL TRADE TRIBUNAL
Exhibit No. NQ-2016-004-26.04C
Pièce No. NQ-2016-004-26.04C
LE TRIBUNAL CANADIEN DU COMMERCE EXTÉRIEUR

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VOLUME 1.3



CONLIN BEDARD
LLP
BARRISTERS & SOLICITORS

220 LAURIER AVENUE WEST, SUITE 700, OTTAWA, ON K1P 5Z9 CANADA

May 10, 2017

SENT BY EMAIL

The Registrar
Canadian International Trade Tribunal
333 Laurier Avenue West
15th Floor
Ottawa ON K1A 0G7

Dear Mr. Registrar:

**RE: FABRICATED INDUSTRIAL STEEL COMPONENTS
NQ-2016-004**

On May 8, 2017, the Canadian International Trade Tribunal provided the Canadian Producers and Suncor Energy Inc. until May 10, 2017 to reach an agreement with respect to an exclusion.

The Canadian Producers understand that Suncor agrees to the exclusion language below, and that Suncor will provide the Tribunal with a letter confirming their consent. Based on this agreement, Suncor has advised the Canadian Producers that Suncor will withdraw their original and revised exclusion requests in favour of the agreed upon language set out below. I also confirm that the agreed upon exclusion language replaces the language proposed and consented to by the Canadian Producers on May 4, 2017.

The proposed exclusion reads as follows:

Exclusion 1

Excluding assembled FISC components, including structural supporting components such as skids, columns and bracing structures, where:

- A. the FISC constitutes no more than 50% of the weight of any imported mechanical equipment or pressure equipment as herein defined;
- B. the FISC weighs no more than 10,000 kg; and
- C. the FISC is permanently attached to any of the following (although any finished unit may be partially disassembled at importation for the sole purpose of shipping):
 - i. Mechanical equipment, meaning tested engineered mechanical equipment imported as a finished unit in its final operational configuration, designed to meet particular parameters of performance specified by the end user. Mechanical equipment

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<p align="center">CANADIAN INTERNATIONAL TRADE TRIBUNAL Exhibit No. NQ-2016-004-28.01G Pièce No. LE TRIBUNAL CANADIEN DU COMMERCE EXTÉRIEUR</p>



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Page 2

includes but is not limited to hydraulic power units, air compressor units, pump houses and pump packages, tailings pump barges, dredges, transformers, lube skids, prime movers, safety showers, chemical injection units, water and waste treatment units, aerial coolers, generator units, vacuum equipment and natural gas heater units.

- ii. Pressure Equipment: Pressure equipment means equipment that requires Alberta Boiler Safety Association (or other provincial equivalent) design registration, including pressure vessels, packaged boilers, heat exchangers, bullets and condensers.

Exclusion 2 – E-houses and Sub-Stations

Excluding FISC components incorporated into any of the following:

- A. an electrical house meaning a prefabricated walk-in modular outdoor enclosure to house medium voltage and low voltage switchgear imported as a finished unit in its final operational configuration, where the electrical house meets Canadian Standards Association requirements prior to importation;
- B. a skid-mounted sub-station meaning a prefabricated walk-in modular outdoor enclosure to house electrical switchgear imported as a finished unit in its final operational configuration, where the sub-station meets Canadian Standards Association requirements prior to importation;

but not excluding goods that meet the foregoing definition that also contain mechanical or process equipment.

Yours truly,

M. Drew Tyler
MDT/slw

c: Dentons LLP, counsel to Suncor Energy Inc.

Bennett Jones LLP

1900 - 45 O'Connor
Ottawa, Ontario, Canada K1P 1A4
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121

Darrel Pearson
Partner
Direct Line: 416.777.4811
e-mail: pearsond@bennettjones.com
File No. 77010.1

May 7, 2017

Via Email

The Registrar
Canadian International Trade Tribunal
333 Laurier Avenue West, 15th Floor
Ottawa, Ontario K1A 0G7

Re: Fabricated Industrial Steel Components - NQ-2016-004 – Fluor Canada Ltd.’s Product Exclusion Requests

Dear Mr. Registrar:


Fluor Canada Ltd. (“Fluor Canada”) and the Canadian Producers have agreed to the following product exclusion if the Tribunal makes a finding of injury or threat of injury in the above-captioned matter:

FISC contained in modules containing FISC and goods other than FISC (including but not limited to piping, industrial process equipment or machinery, cables and valves) that are interconnected and assembled together in a permanent manner, with the gross weight of each individual module exceeding 250 metric tonnes at the time of importation, and with the non-FISC elements accounting for at least 30% of the module’s gross weight at the time of importation, for use in projects located along the coastline of British Columbia.

We are copying counsel for the Canadian Producers and request that they confirm their consent to the above product exclusion by written reply. After receipt of their written confirmation, we will withdraw the previous two exclusion requests that were filed on behalf of Fluor Canada on March 23, 2017.

Yours truly,

BENNETT JONES LLP


Darrel Pearson

CANADIAN INTERNATIONAL TRADE TRIBUNAL
Exhibit No. *NA-2016-004-37.01A*
Pièce No. *NA-2016-004-37.01A*
LE TRIBUNAL CANADIEN DU COMMERCE EXTÉRIEUR



CONLIN BEDARD
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220 LAURIER AVENUE WEST, SUITE 700, OTTAWA, ON K1P 5Z9 CANADA

105.2

May 7, 2017

The Registrar
Canadian International Trade Tribunal
333 Laurier Avenue West
15th Floor
Ottawa ON K1A 0G7

Dear Mr. Registrar:

**RE: FABRICATED INDUSTRIAL STEEL COMPONENTS
NQ-2016-004**

We confirm that the Canadian Producers consent to the exclusion set out in the letter dated today submitted by counsel for Fluor Canada Ltd.

Yours truly,

Paul Conlin

PDC/stw

c: Bennett Jones LLP, Counsel for Fluor Canada Ltd.

CANADIAN INTERNATIONAL TRADE TRIBUNAL	
Exhibit No.	<u>NQ-2016-004-35.01A</u>
Pièce no	<u>NQ-2016-004-35.01A</u>
TRIBUNAL CANADIEN DU COMMERCE EXTÉRIEUR	