



Ottawa, September 4, 2009

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STATEMENT OF REASONS

Concerning a determination under paragraph 76.03(7)(a) of the
Special Import Measures Act regarding

**CERTAIN CARBON STEEL FASTENERS ORIGINATING IN OR EXPORTED
FROM THE PEOPLE'S REPUBLIC OF CHINA, AND CERTAIN CARBON
STEEL AND STAINLESS STEEL FASTENERS ORIGINATING IN OR
EXPORTED FROM CHINESE TAIPEI**

DECISION

On August 20, 2009, pursuant to paragraph 76.03(7)(a) of the *Special Import Measures Act*, the President of the Canada Border Services Agency determined that the expiry of the finding made by the Canadian International Trade Tribunal on January 7, 2005, in Inquiry No. NQ-2004-005, would likely result in the continuation or resumption of dumping of certain carbon steel fasteners originating in or exported from the People's Republic of China and Chinese Taipei; certain stainless steel fasteners originating in or exported from Chinese Taipei; and would likely result in the continuation or resumption of subsidizing of certain carbon steel fasteners originating in or exported from the People's Republic of China.

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SUMMARY

[1] On April 22, 2009, the Canadian International Trade Tribunal (Tribunal) issued a Notice of Expiry Review of Findings with respect to its findings made on January 7, 2005, in Inquiry No. NQ 2004-005, concerning:

- the dumping of carbon steel fasteners, i.e. screws of carbon steel that are used to mechanically join two or more elements, excluding fasteners specifically designed for application in the automotive or aerospace industry, originating in or exported from the People's Republic of China and Chinese Taipei and the subsidizing of such products originating in or exported from the People's Republic of China; and
- the dumping of stainless steel fasteners, i.e. screws of stainless steel that are used to mechanically join two or more elements, excluding fasteners specifically designed for application in the automotive or aerospace industry, originating in or exported from Chinese Taipei.

[2] For purposes of this report the term "certain carbon steel and stainless steel fasteners" shall hereafter refer strictly to products subject to the findings and the countries identified shall collectively be referred to as "the Named Countries".

[3] As a result of the Tribunal's notice, on April 23, 2009, the Canada Border Services Agency (CBSA) commenced an investigation to determine whether the expiry of the findings is likely to result in the continuation or resumption of dumping and/or subsidizing of the goods.

[4] Three Canadian producers of the fasteners, Leland Industries Inc. (Leland), H. Paulin Company Ltd. (Paulin) and Westland Steel Products Ltd. (Westland) provided responses to the CBSA's Expiry Review Questionnaire (ERQ). In addition, Leland provided additional information and case arguments in support of its position that continued or resumed dumping and subsidizing of certain carbon steel fasteners from the People's Republic of China (China); and that continued or resumed dumping of certain carbon steel and stainless steel fasteners from Chinese Taipei, is likely if the findings are allowed to expire.

[5] The CBSA also received responses to the ERQ from 23 importers and 30 exporters. Of the 30 exporter responses, six were from exporters located in China; 17 were from exporters located in Chinese Taipei; six were from exporters located in the United States of America (United States); and one was from a trading company located in Japan.

[6] None of the importers or the exporters provided case arguments stating a position whether or not the expiry of the findings against certain carbon steel fasteners originating in or exported from China and certain carbon steel and stainless steel fasteners originating in or exported from Chinese Taipei would result in the continuation or resumption of dumping from China or Chinese Taipei or the continuation or resumption of subsidizing from China.

[7] Analysis of information on the record shows: fasteners are a commodity product and are sold on the basis of price; the recent downturn in the economy is expected to place downward

pressure on pricing for both carbon steel and stainless steel fasteners; the continued dumping of subject goods into Canada while the finding was in place; apparent excess production capacity for certain carbon steel fasteners in China; apparent excess production capacity for certain carbon steel and stainless steel fasteners in Chinese Taipei; the presence in Canada of low-priced imports of carbon steel and stainless fasteners from countries with which exporters from the Named Countries would likely have to compete to secure sales; and evidence of the imposition of anti-dumping measures by a country other than Canada in respect of similar goods.

[8] The Government of China (GOC) did provide a response to the ERQ respecting subsidies but did not provide any case arguments expressing an opinion on the likelihood of continued or resumed dumping and/or subsidizing should the findings expire. Information on the record indicates: the continuing availability and applicability of actionable subsidy programs in China; a high volume of subsidized imports from China; substantial excess production capacity and propensity to export on the part of Chinese manufacturers; the imposition of countervailing measures against goods originating in China by Canada; and the ongoing availability of subsidies to manufacturers in the industrial sector in China.

[9] For the foregoing reasons, the President of the CBSA, having considered the relevant information on the record, determined on August 20, 2009, under paragraph 76.03(7)(a) of the *Special Import Measures Act* (SIMA) that:

- (i) the expiry of the finding in respect of the dumping of certain carbon steel fasteners originating in or exported from China and Chinese Taipei is likely to result in the continuation or resumption of dumping of the goods into Canada;
- (ii) the expiry of the finding in respect of the dumping of certain stainless steel fasteners originating in or exported from Chinese Taipei is likely to result in the continuation or resumption of dumping of the goods into Canada; and
- (iii) the expiry of the finding in respect of the subsidizing of certain carbon steel fasteners originating in or exported from China is likely to result in the continuation or resumption of subsidizing of the goods into Canada.

BACKGROUND

[10] On March 3, 2009, the Tribunal issued a notice concerning the upcoming expiry of its findings.¹ Based on the available information and the case representations submitted by the interested parties, the Tribunal decided that a review of the findings was warranted.

[11] On April 22, 2009, the Tribunal, pursuant to subsection 76.03(3) of SIMA, initiated an expiry review of its findings issued on January 7, 2005, in Inquiry No. NQ-2004-005, concerning certain carbon steel fasteners originating in or exported from China and certain carbon steel and stainless steel fasteners originating in or exported from Chinese Taipei.

¹ Exhibit 32, Notice of Expiry of Findings concerning certain carbon steel and stainless steel fasteners originating in or exported from Chinese Taipei and certain carbon steel fasteners originating in and exported from People's Republic of China.

[12] On April 23, 2009, the CBSA commenced an expiry review investigation to determine whether the expiry of the findings is likely to result in the continuation or resumption of dumping of the goods from China and Chinese Taipei and the continuation or resumption of subsidizing of the goods from China. The President of the CBSA was required to make determinations no later than August 20, 2009.

[13] The original dumping and subsidy investigations into certain carbon steel and stainless steel fasteners originating in or exported from China and Chinese Taipei were initiated on April 28, 2004, following a complaint made by Leland.

[14] On September 10, 2004, the President of the CBSA made a preliminary determination of dumping respecting carbon steel and stainless steel fasteners, i.e. screws, nuts and bolts of carbon steel or stainless steel that are used to mechanically join two or more elements, excluding fasteners specifically designed for application in the automotive or aerospace industry, originating in or exported from China and Chinese Taipei, and made a preliminary determination of subsidizing of such product originating in or exported from China and Chinese Taipei.

[15] On December 9, 2004, the President of the CBSA made a final determination of dumping respecting carbon steel and stainless steel fasteners, i.e. screws, nuts and bolts of carbon steel or stainless steel that are used to mechanically join two or more elements, excluding fasteners specifically designed for application in the automotive or aerospace industry, originating in or exported from China and Chinese Taipei, and made a final determination of subsidizing of such products originating in or exported from China.

[16] On the same date, the President of the CBSA terminated the subsidy investigation of such products originating in or exported from Chinese Taipei.

[17] The Tribunal issued its injury findings on January 7, 2005. In its decision the Tribunal found that the dumping in Canada of certain carbon steel screws originating in or exported from China and Chinese Taipei and the subsidizing of such products originating in or exported from China had caused injury to the domestic industry. Further, the dumping in Canada of certain stainless steel screws originating in or exported from Chinese Taipei was threatening to cause injury to the domestic industry.

[18] On the same date, the Tribunal found that the dumping in Canada of carbon steel and stainless steel nuts and bolts originating in or exported from China and Chinese Taipei and the subsidizing of such products originating in or exported from China had not caused injury and were not threatening to cause injury to the domestic industry. The Tribunal also determined that the volume of dumped and subsidized subject stainless steel screws originating in or exported from China was negligible and thereby terminated its inquiry regarding the dumping and subsidizing of stainless steel screws originating in or exported from China.

[19] Imports of the subject goods have been monitored since that time and anti-dumping and countervailing duties have been assessed where necessary.

[20] The CBSA has conducted two re-investigations to update the normal values and export prices of certain carbon steel and stainless steel fasteners and amounts of subsidy of certain carbon steel fasteners. The first re-investigation was concluded on February 2, 2007, while the second re-investigation was concluded on February 23, 2009.

PRODUCT INFORMATION

Product Definition

[21] The goods subject to this expiry review are defined as:

- certain carbon steel fasteners, i.e. screws of carbon steel that are used to mechanically join two or more elements, excluding fasteners specifically designed for application in the automotive or aerospace industry, originating in or exported from the People's Republic of China and Chinese Taipei, excluding the products described below in paragraphs 22 and 23, and
- certain stainless steel fasteners, i.e. screws of stainless steel that are used to mechanically join two or more elements, excluding fasteners specifically designed for application in the automotive or aerospace industry, originating in or exported from Chinese Taipei, excluding the products described below in paragraphs 24 and 25.

[22] The following carbon steel screws were specifically excluded from the definition of subject goods by the Tribunal and are not subject to this expiry review.

- Acoustic lag screws;
- Aster screws;
- Chicago screws;
- Collated screws;
- Connector screws (kd);
- Decor screws;
- Drawer handle screws;
- Drive spikes RR;
- Euro screws;
- Hex socket cap screws;
- Instrument screws;
- Knurled head screws;
- Machine screws with wings;
- Optical screws;
- Screw spikes RR;
- Security screws;
- Self-clinching studs;
- Socket cap screws; and
- Socket set screws;
- Square-head set screws;

- Thumb screws;
- U-drive screws;
- Wing screws;
- Screws specifically designed for application in the automotive and/or aerospace industries; and
- Screws imported under tariff item Nos. 9952.00.00, 9964.00.00, 9969.00.00 and 9972.00.00 for use in the manufacture of snowmobiles, all-terrain vehicles and personal watercraft.

[23] In addition, all carbon steel screws that are not within the parameters of the chart below are also excluded and are not subject to this expiry review.

	Imperial		Metric	
	Diameter	Length	Diameter	Length
Wood Screws	#4 to #24 (0.112" to 0.386")	3/8 to 8 in.	M3 to M10	10 mm to 200 mm
Square and Hex Lag Screws	#14 to #24 (1/4" to 0.386")	3/4 to 4 in.	M6 to M10	20 mm to 100 mm
Sheet Metal/Tapping Screws	#4 to #24 (0.112" to 0.386")	3/8 to 8 in.	M3 to M10	10 mm to 200 mm
Thread Forming Screws	#4 to #24 (0.112" to 0.386")	3/8 to 3 in.	M3 to M10	10 mm to 75 mm
Thread Cutting Screws	#4 to #24 (0.112" to 0.386")	3/8 to 3 in.	M3 to M10	10 mm to 75 mm
Thread Rolling Screws	#4 to #24 (0.112" to 0.386")	3/8 to 3 in.	M3 to M10	10 mm to 75 mm
Self-drilling Tapping Screws	#4 to #24 (0.112" to 0.386")	3/8 to 3 in.	M3 to M10	10 mm to 75 mm
Machine Screws	#4 to 3/8 in (0.112" to 3/8")	3/8 to 8 in.	M3 to M10	10 mm to 200 mm
Flange Screws	1/4 to 5/8 in	3/8 to 4 in.	M6 to M16	10 mm to 100 mm

[24] Also the following stainless steel screws were specifically excluded from the definition of subject goods and are not subject to this expiry review.

- Acoustic lag screws;
- Aster screws;
- Chicago screws;
- Collated screws;
- Connector screws (kd);
- Decor screws;

- Drawer handle screws;
- Drive spikes RR;
- Euro screws;
- Hex socket cap screws;
- Instrument screws;
- Knurled head screws;
- Machine screws with wings;
- Optical screws;
- Screw spikes RR;
- Security screws;
- Self-clinching studs;
- Socket cap screws; and
- Socket set screws;
- Square-head set screws;
- Socket set shoulder screws;
- Thumb screws;
- T-U screws;
- U-drive screws;
- Wing screws;
- Screws specifically designed for application in the automotive and/or aerospace industries; and
- Screws imported under tariff item Nos. 9952.00.00, 9964.00.00, 9969.00.00 and 9972.00.00 for use in the manufacture of snowmobiles, all-terrain vehicles and personal watercraft.

[25] In addition, all stainless steel screws that are not within the parameters of the chart below are also excluded and are not subject to this expiry review.

	Imperial		Metric	
	Diameter	Length	Diameter	Length
Wood Screws	#4 to #24 (0.112" to 0.386")	3/8 to 8 in.	M3 to M10	10 mm to 200 mm
Square and Hex Lag Screws	#14 to #24 (1/4" to 0.386")	3/4 to 4 in.	M6 to M10	20 mm to 100 mm
Sheet Metal/Tapping Screws	#4 to #24 (0.112" to 0.386")	3/8 to 8 in.	M3 to M10	10 mm to 200 mm
Thread Forming Screws	#4 to #24 (0.112" to 0.386")	3/8 to 3 in.	M3 to M10	10 mm to 75 mm
Thread Cutting Screws	#4 to #24 (0.112" to 0.386")	3/8 to 3 in.	M3 to M10	10 mm to 75 mm
Thread Rolling Screws	#4 to #24 (0.112" to 0.386")	3/8 to 3 in.	M3 to M10	10 mm to 75 mm

Self-drilling Tapping Screws	#4 to #24 (0.112" to 0.386")	3/8 to 3 in.	M3 to M10	10 mm to 75 mm
Machine Screws	#4 to 3/8 in (0.112" to 3/8")	3/8 to 8 in.	M3 to M10	10 mm to 200 mm
Flange Screws	1/4 to 5/8 in	3/8 to 4 in.	M6 to M16	10 mm to 100 mm

Additional Product Information

[26] A fastener is a mechanical device designed specifically to hold, join, couple, assemble, or maintain equilibrium of two or multiple components. The resulting assembly may function dynamically or statically as a primary or secondary component of a mechanism or structure. Based on the intended application, a fastener is produced with varying degrees of built-in precision and engineering capability, ensuring adequate, sound service under planned, pre-established environmental conditions.

[27] A screw is a headed and externally threaded mechanical device possessing capabilities which permit it to be inserted into holes in assembled parts, to be mated with a pre-formed internal thread or to form its own thread, and to be tightened or released by torquing its head. Screws are fastener products with an external threading on the shank. Screws include machine screws, wood screws (including deck screws), self-drilling, self-tapping, thread forming, and sheet metal screws. For example, they can either be used without any other part and fixed into wood (wood screws) or metal sheets (self-tapping screws) or be combined with a nut and washers to form a bolt. Screws may have a variety of head shapes (round, flat, hexagonal etc.), drives (slot, socket, square, phillips, etc.), shank lengths and diameters. The shank may be totally or partially threaded.

[28] There are many types of fasteners, each one being defined by its specific physical and technical characteristics, the type of material from which they are made (e.g. brass, plastic, steel etc.) and the grade of the material (e.g. carbon steel: grade 2 or grade 8 etc.). Fasteners are used in a wide range of final applications and depending on the usage, they may be un-hardened or heat-treated, either bare or plated, with or without extra corrosion protection, shipped and distributed in bulk or custom packaged and labeled.

[29] In addition, some fasteners designated as "bolts" are in reality subject screws, namely: flange bolts, bin bolts, grain bin bolts, square and hex lag bolts, and stove bolts. Also "lag bolts" are in actuality considered to be lag screws and are considered to be subject screws.

CLASSIFICATION OF IMPORTS

[30] Certain carbon steel and stainless steel fasteners are normally imported into Canada under the following Harmonized System (HS) tariff classification numbers*:

7318.11.00.00	7318.12.00.00	7318.14.00.00
7318.15.90.11	7318.15.90.12	7318.15.90.21
7318.15.90.29	7318.15.90.31	7318.15.90.32
7318.15.90.39	7318.15.90.44	

* Note: These HS codes include both subject and non-subject goods. Refer to the product definition for authoritative details regarding the subject goods.

PERIOD OF REVIEW

[31] The period of review (POR) for the CBSA's expiry review investigation was January 1, 2006, to March 31, 2009. The President of the CBSA also considered information placed on the administrative record up to the closing of the record, which was June 11, 2009.

CANADIAN INDUSTRY

[32] The Canadian industry for certain carbon steel and stainless steel fasteners is comprised of several producers. Expiry review questionnaires (ERQ) were sent by the Tribunal to 34 actual or potential producers. Of the producers contacted only three provided a response to the ERQ. For purposes of the expiry review investigation, information on the record indicates that Leland, the complainant in the original investigation, remains the largest Canadian producer of like goods and represents more than 50% of Canadian production of the like goods.²

[33] Leland was incorporated in 1984 as a distributor of fasteners. Beginning in 1985, with two cold headers and two thread-rolling machines, Leland began manufacturing fasteners, initially focussing on products used in the agricultural market. From 1986 to 2004, Leland added more cold headers and thread-rolling machines and expanded its product lines with respect to standard fasteners, as well as with respect to more specialized products. Leland currently manufactures carbon steel and stainless steel fasteners at its Toronto, Ontario, plant and operates painting and warehousing facilities in Joliette, Quebec, Edmonton and Calgary, Alberta, and the United States.

[34] Paulin was founded in 1920, in Toronto, Ontario. The company has four manufacturing divisions, all located in Ontario, as well as warehouses in Vancouver, British Columbia, Edmonton, Alberta, Winnipeg, Manitoba, Toronto, Ontario, Montréal, Quebec, Moncton, New Brunswick, and Cleveland, Ohio. Paulin manufactures both standard and custom fasteners, including bolts, nuts, screws, washers, rivets and studs, in both carbon and stainless steel.

² Exhibit 72, Additional materials submitted by Leland Industries Inc.- page 5

[35] Westland is located in Winnipeg, Manitoba. The company manufactures and distributes custom and standard fasteners for industries such as furniture and cabinet manufacturing, agriculture, window and door manufacturing, construction, off-road, transportation, military and various specialty requirements.

CANADIAN MARKET

[36] Detailed information regarding overall Canadian apparent market cannot be divulged for confidentiality reasons. However, based on the information on the administrative record the apparent market has decreased in value from 2006 to 2008. This decrease could be attributed to current economic slowdown in the Canadian economy.

[37] In terms of overall market, the Canadian producers saw their share of the apparent market for certain carbon steel and stainless steel fasteners increase from 2006 to 2008. For the Named Countries, their market share also increased during the same period, while the market share of the other countries has decreased since 2006.

ENFORCEMENT

[38] The CBSA's enforcement statistics show that certain carbon steel fasteners originating in China and certain carbon steel and stainless steel fasteners originating in Chinese Taipei were imported into Canada during the calendar years 2006 through 2008. Imports into Canada originating from these countries totalled \$48.06 million dollars in 2006, \$60.61 million dollars in 2007 and \$57.39 million dollars in 2008.³

[39] The CBSA collected \$11.18 million dollars in anti-dumping and countervailing duty in 2006, \$8.00 million dollars in 2007, and \$4.76 million dollars in 2008. In terms of SIMA duties collected during the calendar years 2006 through 2008, the CBSA collected \$17.87 million dollars in anti-dumping duties with respect to imports of carbon steel and stainless steel fasteners originating in Chinese Taipei, and \$6.08 million dollars in anti-dumping and countervailing duties with respect to imports of carbon steel fasteners originating in China.⁴

[40] The volume of imports of carbon steel and stainless steel fasteners originating in Chinese Taipei decreased from 11.5% in 2006 to 5.9% in 2008, as a percentage of total imports. While the volume of imports of carbon steel fasteners originating in China increased from 0.4% in 2006 to 0.8% in 2008, as a percentage of total imports.⁵

PARTICIPANTS

[41] ERQs were sent to the Canadian producers, exporters and importers of the subject goods along with the Tribunal's notice concerning the expiry review. The GOC also received the Tribunal's notice concerning the expiry review as well as an ERQ relating to subsidy.

³ Exhibit 161 (Protected), Finalized import statistics and enforcement statistics for the period of January 1, 2006 to December 31, 2008.

⁴ Ibid.

⁵ Ibid.

[42] The ERQs requested information relevant to the consideration of the expiry review factors found under subsection 37.2(1) of the *Special Import Measures Regulations* (SIMR). Any persons or governments having an interest in this investigation were also invited to provide a submission regarding the effect the expiry of the Tribunal's findings would have on the continuation or resumption of dumping and subsidizing.

[43] Leland, Paulin and Westland were the only Canadian producers of certain carbon steel and stainless fasteners that responded to the ERQ. In addition, only Leland filed a case argument stating that the dumping and subsidizing of subject goods would continue or resume should the Tribunal's findings expire. They did not file a reply submission as no other party to the proceeding filed a case argument.

[44] Of the exporters contacted, 30 exporters participated in the expiry review by providing a response to the ERQ. Of the responses, 17 were from exporters located in Chinese Taipei, six from exporters located in China, six from exporters located in the United States and one from a trading company located in Japan. None of the exporters filed a case argument or a reply submission.

[45] Of the importers contacted, only 23 participated in the expiry review by providing a response to the ERQ. None of the importers filed a case argument or a reply submission.

[46] The GOC provided a response to the ERQ and did not provide a case argument or reply submission.

[47] No other persons or governments having an interest in this investigation provided a submission regarding the effect the expiry of the Tribunal's findings would have on the continuation or resumption of dumping and/or subsidizing.

INFORMATION USED BY THE PRESIDENT

Administrative Record

[48] The information used and considered by the President for purposes of this expiry review proceeding is contained on the administrative record. The administrative record includes the exhibits listed on the CBSA's Listing of Exhibits and Information. This comprises the Tribunal's administrative record at initiation of the expiry review, CBSA exhibits, and information submitted by interested persons, including information which they feel is relevant to the decision as to whether the expiry of the findings is likely to result in continued or resumed dumping or subsidizing. This information may consist of excerpts from trade magazines and newspapers, orders and findings issued by authorities in Canada or of a country other than Canada, documents from international trade organizations such as the World Trade Organization, and responses to the ERQs submitted by the Canadian producers, importers and exporters.

[49] For purposes of an expiry review investigation, the CBSA sets a date after which no "new" information may be placed on the administrative record. This is referred to as the

“closing of the record date,” and is set to allow participants time to prepare their case arguments and reply submissions based on the information that is on the administrative record as of the closing of the record date. For the CBSA’s expiry review investigation, the administrative record closed on June 11, 2009.

PROCEDURAL ISSUES

[50] The closing of the record date for this expiry review was June 11, 2009. With respect to this expiry review investigation, there were no procedural issues.

POSITION OF THE PARTIES

Parties Contending that Continued or Resumed Dumping or Subsidizing is Likely

[51] One Canadian producer, Leland, filed supplemental documents and presented case arguments that the dumping of certain carbon steel fasteners originating in or exported from China and Chinese Taipei, the dumping of certain stainless steel fasteners originating in or exported from Chinese Taipei and the subsidizing of certain carbon steel fasteners originating in or exported from China is likely to continue or resume should the finding be allowed to expire.

[52] Leland argued that during the current worldwide recession there has been a drop in demand for fasteners which has lead to excess production capacity and increased inventories in both China and Chinese Taipei. In addition, it was argued that China and Chinese Taipei have the potential production capacity to supply the entire Canadian market for fasteners.⁶

[53] Leland noted that producers in China and Chinese Taipei have maintained a relationship with Canadian importers, as demonstrated by the continued shipments from the exporters in China and Chinese Taipei.⁷ As well, Leland argued that there is an ongoing business model in the fastener industry that is facilitated by the use of trading companies. These trading companies are “relevant because they offer ready-made operations with established distribution channels for renewed dumping into the Canadian Market”.⁸

[54] Leland also noted that fasteners are a commodity good.⁹ As such, price is the major factor in the purchasing decision. A depressed price in China and Chinese Taipei indicates that exporters in China and Chinese Taipei will have incentive to reduce prices to achieve export sales. Leland indicated that the pattern of Canadian importers moving to alternative sources of low priced goods, such as Malaysia and Thailand, would logically lead importers to revert to exports from China and Chinese Taipei if the prices there were low enough.¹⁰

⁶ Exhibit 175, Case argument - Leland Industries Inc., page 13.

⁷ Exhibit 161 (Protected), Finalized import statistics and enforcement statistics for the period of January 1, 2006 to December 31, 2008.

⁸ Exhibit 175, Case argument - Leland Industries Inc., page 30.

⁹ Ibid, page 2.

¹⁰ Ibid, page 29.

[55] Further, Leland noted that there are anti-dumping and countervailing findings and/or investigations in place in other countries that were either initiated or continued during the POR. These anti-dumping actions were concerning like or similar goods to the subject fasteners or to a similar category of fasteners (e.g. bolts) or the same industrial supply industry.

[56] Leland takes the position that, considering the foregoing, exporters in China and Chinese Taipei have the capacity, the relationships, and the incentive to immediately resume and continue shipping dumped fasteners to Canada in the event that the anti-dumping findings are allowed to expire. In the case of China, Leland argues that exporters in China will continue to ship subsidized goods to Canada in the event that the countervailing finding is allowed to expire.

Parties Contending that Continued or Resumed Dumping and/or Subsidizing is Not Likely

[57] As noted, no case arguments were submitted contending that the dumping of certain carbon steel fasteners originating in or exported from China and Chinese Taipei, the dumping of certain stainless steel fasteners originating in or exported from Chinese Taipei and the subsidizing of certain carbon steel fasteners originating in or exported from China is not likely to continue or resume upon expiry of the findings.

CONSIDERATION AND ANALYSIS

[58] In establishing whether the expiry of the findings is likely to result in the continuation or resumption of dumping, the President may consider any factor specifically identified in paragraphs (a) to (i) of subsection 37.2(1) of the SIMR, as well as any other factors relevant under the circumstances when rendering a determination pursuant to paragraph 76.03(7)(a) of SIMA.

[59] The majority of the cooperation received by the CBSA in the expiry review investigation was in the form of responses to the ERQ. As noted, only one party provided a case argument with regard to this expiry review investigation. The CBSA was able to obtain information from various business or industry publications regarding carbon steel fasteners and stainless steel fasteners in China and Chinese Taipei and other countries.

[60] For this expiry review investigation, the CBSA has relied on the submissions that were provided by the interested parties, the information placed in the record by the CBSA and interested parties, as well as public and proprietary information obtained from various government and industry sources.¹¹

[61] Before presenting an analysis by country of the likelihood of continued or resumed dumping and subsidy, this report will address certain issues that relate to the goods on a broader scale. These are the commodity nature of carbon steel and stainless steel fasteners, and the market conditions for carbon steel and stainless steel fasteners.

¹¹ Refer to <http://www.cbsa-asfc.gc.ca/sima-lmsi/er-rre/menu-eng.html> for a complete listing of exhibits placed on the record that were used in this expiry review.

Commodity Nature of Carbon Steel and Stainless Steel Fasteners

[62] As noted by the Tribunal in the 2005 Findings, carbon steel fasteners are commodity products driven by price.¹² In addition, Leland has stated that both carbon steel and stainless steel fasteners are commodity products and price is the major consideration in purchasing decisions.

[63] Generally speaking, carbon steel fasteners or stainless steel fasteners produced to a given specification by a producer in a given country are physically interchangeable with carbon steel fasteners or stainless steel fasteners produced to the same specification in any other country. As such, carbon steel fasteners or stainless steel fasteners compete amongst themselves regardless of origin; share the same channels of distribution and the same potential customers. This means that they must compete in a market that is price sensitive, and where price is a major factor¹³ effecting customer purchasing decisions.

[64] It should also be noted that producers can manufacture certain carbon steel and stainless steel fasteners and non-subject carbon steel fasteners and stainless steel fasteners using the same production equipment. Therefore, the producers could easily increase production of certain carbon steel fasteners and stainless steel fasteners if they have excess production capacity and market conditions render it more favourable to do so.

Recent and Likely Future Market Developments

[65] In the second half of 2008 the global economy entered into an economic slowdown and there are indications that the global economy could slip into a recessionary period in 2009. The economies of the United States and of Canada have paralleled the global economic slowdown, and both have entered into a recessionary period. Economic forecasts indicate that the North American economy could exit the recessionary period in late 2009 before experiencing modest growth through 2010. For Canada, the ability to exit the recessionary period is closely linked to the progress of the United States' economy.¹⁴

[66] In 2007 worldwide fastener demand was approximately \$52 billion dollars while the 2008 worldwide demand is estimated to be slightly higher. However, given the extent of the global economic slowdown it is expected that worldwide fastener demand will be slightly lower in 2009.¹⁵

[67] Particularly hard hit in the North American economy has been the automotive sector and the industrial products¹⁶ sector, both of which are significant users of fasteners. In the automotive sector, production in 2008 was down and the projections for 2009 vary, but the

¹² Canadian International Trade Tribunal, Statement of Reasons, Certain Fasteners, Inquiry No. NQ-2004-005, Friday, January 7, 2005.

¹³ Ibid, paragraph 115.

¹⁴ Exhibit 72, Tab 4, TD Quarterly Economic Forecast, March 12, 2009.

¹⁵ Exhibit 52, International Fasteners Institute, Annual Report 2008, page 5.

¹⁶ The International Fasteners Institute has broken down the fastener market into three product segments; Industrial Products; Aerospace Products and Automotive Products. Within the Industrial Products Segment it is further sub divided into Appliances, Construction Machinery and Structural Fasteners.

majority of projections point to lower production levels compared to 2008. In the industrial products sector, demand tapered off in the last quarter of 2008 and it is too early to determine if the economic stimulus packages that were implemented will stabilize or increase the demand for fasteners in the industrial products sector.¹⁷

[68] While it appears that overall worldwide fastener demand is relatively stable, there has been a change in the growth pattern for fastener demand. Currently, developing economies in Asia, Africa, Eastern Europe, Latin America and the Middle East are experiencing growth in fastener demand while the developed economies in North America, Western Europe and Japan have been experiencing declines.¹⁸

[69] In addition, even before the economic downturn in the Canadian economy, it appears that the exporters from the Named Countries were experiencing competition for sales to Canadian importers from low priced fasteners from countries not subject to the dumping finding.¹⁹ Accordingly, there will be increased pressure on exporters of subject goods originating in the Named Countries to lower prices for certain carbon steel and stainless steel fasteners in order to secure sales given this increased competition from these non-subject low-price imports.²⁰ Such downward pressure on prices can be expected to increase the likelihood of continued or resumed dumping into the Canadian market by exporters from the Named Countries.

Likelihood of Continued or Resumed Dumping

[70] Guided by the factors in the aforementioned SIMR, and having considered the information on the administrative record, the following list represents a summary of the factors considered most relevant to the dumping analysis:

- continued dumping of subject goods into Canada while the finding was in place;
- apparent excess production capacity in China and Chinese Taipei;
- the presence in Canada of low-priced imports of carbon steel and stainless steel fasteners from countries with which exporters from China and Chinese Taipei likely would have to compete to secure sales; and
- information of the imposition of anti-dumping measures by a country other than Canada in respect of similar goods.

[71] The following is an analysis by country of the likelihood of continued or resumed dumping.

¹⁷ Exhibit 52, International Fasteners Institute Annual Report 2008, pages 13 & 14.

¹⁸ Ibid, page 11.

¹⁹ Exhibit 161 (Protected), Finalized import statistics and enforcement statistics for the period of January 1, 2006 to December 31, 2008.

²⁰ Ibid.

China

[72] The CBSA received a response to the ERQ from six exporters located in China. None of these companies submitted a case argument or a reply submission for the President to consider in making a determination.

[73] Of the companies that responded to the ERQ, only one has participated in the CBSA's original dumping investigation and the subsequent re-investigations, one participated in the most recent re-investigation and four did not participate with the CBSA in the original investigation or subsequent re-investigations. In addition, three other exporters in China that had participated in the CBSA's most recent re-investigation did not participate in the expiry review investigation.²¹

[74] Regarding SIMA duty, during the enforcement of the finding the CBSA has collected SIMA duties with respect to imports of certain carbon steel fasteners from China. However, it should be noted that the amount of SIMA duty collected has fallen from \$2.73 million dollars in 2006 to \$1.03 million dollars in 2008.

[75] Based on information on the record there are numerous producers of carbon steel and stainless steel fasteners in China. For example, in the recent dumping investigation that was conducted by the European Union, 109 Chinese producers provided information.²² In 2007, it is estimated that the Chinese fastener industry produced 2.2 million tonnes (2,200 million kg) of fasteners valued at \$2.6 billion (United States dollars).²³ In addition, it was reported that exports of fasteners to the global market accounted for 47% of the total value produced. In comparison, the total Canadian market for carbon steel fasteners and stainless steel fasteners is relatively small. Information on the record shows that the Chinese production capacity is roughly equivalent to fourteen times the entire estimated Canadian market for subject goods (i.e. Canadian production and imports).

[76] In terms of the likely future performance of Chinese exporters, it is noted that they have maintained a presence in the Canadian market with respect to certain carbon steel fasteners during the calendar years 2006 through 2008.²⁴ This demonstrates the ongoing interest and presence of Chinese exporters in the Canadian market.

[77] Information on the record indicates that China is the second largest exporter of carbon steel and stainless steel fasteners into the United States in 2007 and 2008, after Chinese Taipei. Chinese imports of carbon steel and stainless steel fasteners into United States totalled 503,357 tonnes (503 million kg) in 2007, and 484,066 tonnes (484 million kg) in 2008.²⁵ Given the economic downturn in the United States' market, there is a likelihood that Chinese exporters will have to look to other export markets to replace any lost sales to customers in the

²¹ Exhibit 2, Notice of Conclusion of re-investigation of the normal values, export prices and amounts of subsidy of certain carbon steel and stainless steel fasteners, February 23, 2009.

²² Exhibit 72, Tab 10

²³ Exhibit 72, Tab 9, Chinamet Trade Services, *Development Trends in the Chinese Fastener Industry*.

²⁴ Exhibit 161, Finalized import statistics and enforcement statistics for the period of January 1, 2006 to December 31, 2008.

²⁵ Exhibit 51, International Fasteners Institute Annual Report 2007, page 5; Exhibit 52, International Fasteners Institute, 2008 Annual Report, page 15.

United States. In terms of import pricing into the United States, average import prices of goods originating in China were the lowest price in both 2007 and 2008 for any country. For example, in 2007 average import prices of goods originating in China was 34% lower than import prices of goods originating in Chinese Taipei, while in 2008 it was 23% lower.²⁶ This demonstrates the willingness of Chinese exporters to compete for market share through low price offers.

[78] Given that carbon steel fasteners are a commodity product sensitive to price fluctuations and given that Canada, along with the rest of the world, is in the midst of a global economic slowdown, it is likely that the price of fasteners will continue to be increasingly competitive in the near future. In this competitive market Chinese exporters would have to compete with low-priced imports offered from non-named countries in a stagnant or shrinking Canadian marketplace upon the expiry of the findings.²⁷

[79] For example, information on the record that indicates while the Chinese exporters have been able to continue to export subject goods into the Canadian market place, they have not been able to increase their volume of exports. It appears that the inability of the Chinese companies to increase their export volume into the Canadian market place is linked to the effect of the current finding which is restricting the Chinese exporters from dropping their prices to compete with the low priced offers from non-named countries. Imports from Thailand, Vietnam and Malaysia, for the years 2006 to 2008, appear to show that they are emerging as the source of low price imports.²⁸ For example, since 2006 Thailand has been able to increase their market share of imports into Canada from 1.6% to 3.4% in 2008.

[80] Confidential information on the administrative record shows a trend of fastener producers establishing production facilities in low cost countries that are not subject to the current findings. Coupled with the recent decision from the European Union concerning Chinese exports of fasteners, there could now be more incentive for Chinese producers to relocate to low cost countries such as Thailand, Vietnam, Malaysia or other Southeast Asian countries.²⁹ This increased production capacity from these non-named countries would contribute to the competition that Chinese exporters would face in the Canadian marketplace.

[81] Further, the relocation of Chinese manufacturing facilities to non-named countries, coupled with the fact that only five of 50 known Chinese exporters have cooperated with the CBSA to have normal values established, indicates that the Chinese exporters are not able to compete in the Canadian marketplace at non-dumped prices.

[82] Based on information on the record other countries currently have anti-dumping measures or investigations in place involving carbon steel or alloy steel fasteners from China.

²⁶ Ibid

²⁷ Exhibit 148, Response to expiry review questionnaire by Zyh Yin Enterprise Co. Ltd., page 20; Exhibit 51, International Fasteners Institute Annual Report 2007, page 5.

²⁸ Exhibit 161 (Protected), Finalized import statistics and enforcement statistics for the period January 1, 2006 to December 31, 2008.

²⁹ Exhibit 51, International Fasteners Institute, Annual Report 2007, page 5.

[83] The most significant anti-dumping action was taken by the European Union which applied anti-dumping duties effective January 26, 2009, on carbon steel fasteners from China.³⁰ In that investigation the final anti-dumping duty rates ranged from 64.4 % to 77.5%, with an all others rate of 85.0%. It is estimated that the European Union market accounted for one third of China's total fastener exports. In addition, the Republic of Colombia (Columbia) has imposed anti-dumping duties effective March 5, 2009, on nuts and screws imported from China.³¹ Columbia initiated this anti-dumping action in response to an unfair trade complaint that was filed after dumped Chinese nuts and screws flooded the market and captured approximately 80% of the total import volume and 50% of the total Colombian domestic market. Not only do these anti-dumping actions indicate a propensity to dump by the Chinese exporters, they also mean that there are fewer open export markets available to absorb the excess quantities of Chinese carbon steel fasteners available for sale.

[84] In addition to the anti-dumping actions noted above, the Republic of South Africa has an anti-dumping action in place against carbon steel hexagon nuts and bolts from China³², while Mexico has an anti-dumping investigation currently underway concerning carbon steel nuts from China³³. While these two anti-dumping actions are not specific to the fasteners subject to this expiry review it does indicate a propensity to dump by the Chinese fastener exporters.

[85] There is information on the record that the Russian Federation is considering anti-dumping measures against fastener products from China.³⁴ Also of note, is that the Chinese domestic producers have also filed an anti-dumping investigation against imports of fasteners from the European Union.³⁵ In their complaint the Chinese manufactures cited an increase in low priced imports from the European Union causing them to lose market share in the domestic market. Given this reduction in their domestic market share, Chinese producers would have excess production capacity available which could be used to produce fasteners for the export market, including Canada.

[86] There is also information on the record regarding a potential anti-dumping action in the United States. In the fall of 2008 the Industrial Fasteners Institute (IFI) in the United States conducted a general survey of its membership concerning the status of the fastener industry. In respect of dumping issues, the results of the survey indicted that 86% of the respondents believe that China, Chinese Taipei and other Asian countries were dumping fasteners into the United States marketplace.³⁶ Also, 60% of the respondents to the survey thought that the IFI should research the cost of filing a dumping complaint and the likelihood of it being successful if

³⁰ Exhibit 16, Council Regulation (EC) No. 91/2009, 26 January 2009: Official Journal of the European Union, L 29/1, 31.1.2009.

³¹ Exhibit 7, Tab 10, Business News Americas, *Columbian Government Restricts Dumping of Chinese Screws*, March 5, 2009.

³² Exhibit 137, South African International Trade Administration, Report No. 105, 19 April 2005.

³³ Exhibit 72, Tab 11, Steel Business Briefing, *Mexico Launches AD Probe into China Fastener Imports*, February 9, 2009.

³⁴ Exhibit 72, Tab 11, Steel Guru, *China fastener exports may suffer AD duties by Russia*, March 19, 2009.

³⁵ Exhibit 22, Xinhua News Agency, *China starts anti-dumping probe into EU carbon steel fasteners*, December 29, 2008.

³⁶ Exhibit 52, International Fasteners Institute, Annual Report 2008, page 17.

it was filed.³⁷ Though no anti-dumping action has been filed to date there is an indication that the United States' fastener producers are monitoring the situation closely.

China Recommendation:

[87] Based on information on the administrative record in respect of the fact that fasteners are a commodity product and are sold on the basis of price; the continued dumping of subject goods into Canada while the finding was in place; the substantial production capacity of Chinese exporters; the presence in Canada of low-priced imports of carbon steel fasteners from other countries with which exporters from China likely have to compete to secure sales in Canada; and the anti-dumping measures imposed by the authorities of other countries in respect of similar goods, the President determined that the expiry of the finding is likely to result in the continuation or resumption of dumping into Canada of certain carbon steel fasteners originating in or exported from China.

Chinese Taipei

[88] The CBSA received a response to the ERQ from 17 producers and trading companies located in Chinese Taipei, as well as three exporters in the United States of subject goods originating in Chinese Taipei. None of these companies submitted a case argument or a reply submission for the President to consider in making a determination.

[89] Of the companies that responded to the ERQ, seven of them participated in the CBSA's original dumping investigation, five during the subsequent re-investigation, and nine of them participated in the most recently concluded re-investigation.

[90] During the most recently concluded re-investigation, the CBSA received full cooperation from 20 exporters of subject goods originating in Chinese Taipei, in comparison to the 25 fully cooperative exporters at the re-investigation prior to that, and 28 during the original investigation. The diminishing number of cooperating exporters in Chinese Taipei and the low number of cooperating companies indicates that they may not be able to compete in the Canadian market at non-dumped prices.

[91] Regarding anti-dumping duty, during the enforcement of the finding the CBSA has collected anti-dumping duties with respect to imports of certain carbon steel and stainless steel fasteners from Chinese Taipei. However, it should be noted that the amount of anti-dumping duty collected has fallen from \$8.44 million dollars in 2006 to \$3.72 million dollars in 2008.

[92] In terms of the likely future performance of Chinese Taipei exporters, it is noted that they have maintained a presence in the Canadian market with respect to certain carbon steel and stainless steel fasteners during the calendar years 2006 through 2008.³⁸ This demonstrates the ongoing interest and presence of Chinese Taipei exporters in the Canadian market.

³⁷ Ibid.

³⁸ Exhibit 161, Finalized import statistics and enforcement statistics for the period of January 1, 2006 to December 31, 2008.

[93] Further, there is information on the record regarding Chinese Taipei export statistics³⁹ for the calendar years 2006 through 2008, published by the Government of Chinese Taipei. These statistics show the volumes of all steel fasteners exported to Canada from Chinese Taipei amounted to 45.62 million kilograms⁴⁰, 51.48 million kilograms⁴¹, and 40.99 million kilograms⁴² in 2006, 2007 and 2008, respectively. Based on these government statistics, exports to Canada of Chinese Taipei fasteners accounted for 3.6% by weight and 3.2% by volume in 2006⁴³, 4.18% by weight and 3.45% by volume in 2007⁴⁴, and 3.37% by weight and 2.91% in 2008⁴⁵, expressed as a percentage of all exports.

[94] The Chinese Taipei Government statistics, noted above, show the importance of the Canadian market for Chinese Taipei origin fasteners. The Canadian market was ranked as Chinese Taipei's 4th, 4th and 5th largest export markets in 2006, 2007 and 2008, respectively. In the first quarter of 2009 exports to Canada dropped and Canada is now ranked as the 6th largest market for Chinese Taipei exports.⁴⁶ These statistics indicate that exporters from Chinese Taipei consider the Canadian market to be an important export market for fasteners.

[95] The Chinese Taipei Government statistics also provided information on average pricing. Most notable are the average values of the goods that were exported to Canada in comparison to the average values of the goods sold into all export markets:

- (i) 2006: \$1.770 USD⁴⁷/Kg for Canada – \$2.00 USD/Kg for all exports⁴⁸
- (ii) 2007: \$1.9339 USD/Kg for Canada – \$2.34 USD/Kg for all exports⁴⁹
- (iii) 2008: \$2.24 USD/Kg for Canada – \$2.60 USD/Kg for all exports⁵⁰
- (iv) 2009 (Jan-Mar): \$2.52 USD/Kg for Canada – \$2.67 USD/Kg for all exports⁵¹

This demonstrates that exporters of subject goods originating in Chinese Taipei have been selling the goods at an average value below the rest of their export markets over the entire POR.

[96] The Chinese Taipei Government statistics rank the United States as the largest export market for fasteners, amounting to approximately 50% of all Chinese Taipei exports of fasteners in the years 2006, 2007 and 2008.⁵² Chinese Taipei's total exports to the United States by weight were 675.29 million kilograms, 569.44 million kilograms and 575.88 million kilograms in 2006, 2007 and 2008, respectively. Given the economic downturn in the United States

³⁹ Exhibit 148, Response to expiry review questionnaire by Zyh Yin Enterprise Co. Ltd., pages 77-88.

⁴⁰ Ibid, page 83.

⁴¹ Ibid, page 84.

⁴² Ibid, page 85.

⁴³ Ibid, page 83.

⁴⁴ Ibid, page 84.

⁴⁵ Ibid, page 85.

⁴⁶ Ibid, page 83-85.

⁴⁷ USD = United States Dollars

⁴⁸ Exhibit 148, Response to expiry review questionnaire by Zyh Yin Enterprise Co. Ltd., page 83.

⁴⁹ Ibid, page 84.

⁵⁰ Ibid, page 85.

⁵¹ Ibid, pages 86 to 88.

⁵² Exhibit 148, Response to expiry review questionnaire by Zyh Yin Enterprise Co. Ltd., pages 83 to 85.

market, there is a likelihood that Chinese Taipei exporters will have to look to other export markets, such as Canada, to replace any lost sales to customers in the United States.

[97] Based on the same Chinese Taipei Government statistics, total exports of fasteners to all export markets in terms of weight was 1,268 million kilograms, 1,231 million kilograms and 1,215 million kilograms in 2006, 2007 and 2008, respectively. In comparison, the total Canadian market for fasteners is relatively small. Information on the record shows that the Chinese Taipei production capacity is roughly equivalent to eight times the estimated Canadian market (i.e. Canadian production and imports).

[98] Three of the Chinese Taipei companies who responded to the ERQ indicated that they also sold in the Chinese Taipei domestic market during the POR.⁵³ All of these companies reported a decrease in their domestic sales, due to the current “economic crisis” which has caused demand to decrease in Chinese Taipei. Given this decrease in demand in the domestic market, producers in Chinese Taipei may have increasing production capacity available to supply fasteners to export markets, including Canada.

[99] Confidential information on the record indicates that during the POR there has been an overall downward trend of capacity utilization rates for Chinese Taipei producers. Currently, most Chinese Taipei producers have significant unused production capacity. In addition, the same production machinery can be used to produce either carbon steel or stainless steel fasteners. Therefore, the current excess production capacity in Chinese Taipei could quickly be used to produce either certain carbon steel or stainless fasteners to supply the Canadian market.

[100] There is also information on the record that indicates a trend of increasing selling prices throughout the POR, due to the increasing price of wire rod, which is the principal cost in fastener production.⁵⁴ As the cost of wire rod increased during 2008, producers were forced to increase their selling prices to recover the increases. However, it appears that the Chinese Taipei producers were not able to increase their selling prices enough to fully offset the increase in wire rod costs, and profit margins decreased.⁵⁵ Based on this it appears that that Chinese Taipei producers were not able to increase prices due to competition from low priced countries in export markets.

[101] Information on the administrative record indicates that there is a trend of fastener producers establishing production facilities in countries not subject to the current finding. In addition, given the recent decision from European Union against goods originating in China, there could be more incentive for Chinese producers to relocate to Thailand, Vietnam and Malaysia or other Southeast Asian countries.⁵⁶ This indicates that exporters selling certain carbon steel and stainless steel fasteners of Chinese Taipei origin will likely face increasing low priced competition in the Canadian market.

⁵³ Exhibit 71, Chen Nan Iron Wire Co. Ltd/Ray Fu Enterprise Co. Ltd., Exhibit 77, Kwantex Research Inc. and Exhibit 109, Yoang Ming Ind. Co. Ltd.

⁵⁴ Ibid, page 15.

⁵⁵ Ibid, page 15.

⁵⁶ Exhibit 51, International Fasteners Institute, Annual Report 2007, page 5.

[102] Additional information on the record shows that fasteners originating in Thailand, Vietnam and Malaysia are generally of a lower quality to those of Chinese Taipei origin.⁵⁷ However, as fasteners are a commodity product the purchasing decisions by the Canadian importers will still be based on price. The presence of low priced imports from non-named countries, regardless of the quality, will have the effect of depressing the overall price for fasteners. Therefore, as these non-named countries increase their Canadian market share, Chinese Taipei exporters will face increased low price competition, which they may not be able to compete with at non-dumped prices.

[103] The Chinese Taipei producers have indicated that the price of wire rod is the principal cost of fasteners, as well as the main determinant of selling price. As indicated, wire rod prices reached a historical high during 2008. Given the decreasing demand for fasteners, current inventories in Chinese Taipei are likely overstocked with fasteners that were produced at a time of high production costs. There is information on the record suggesting that many Chinese Taipei exporters of certain carbon steel and stainless steel screws are currently carrying surplus inventories due to low demand.⁵⁸ The current price of wire rod has decreased from the historical highs of 2008. Customers expect to pay prices that reflect current prices for wire rod. However, the historical cost of fastener inventory in Chinese Taipei is higher, relative to the current wire rod prices. Some exporters have indicated plans to sell off their high cost surplus inventories at prices reflecting the current wire rod prices, prior to stabilizing or increasing their production.⁵⁹ This demonstrates that the pressure to offer low prices for fasteners will continue in the near future.

Chinese Taipei Recommendation:

[104] Based on information on the record in respect of: the fact that fasteners are a commodity product and are sold on the basis of price; the continued dumping of subject goods into Canada while the finding was in place; the substantial production capacity of carbon steel and stainless steel fasteners in Chinese Taipei; and the presence in Canada of low-priced imports of carbon steel and stainless steel fasteners from countries with which exporters from Chinese Taipei would have to compete to secure sales, the President determined that the expiry of the finding is likely to result in the continuation or resumption of dumping into Canada of certain carbon steel fasteners and stainless steel fasteners originating in or exported from Chinese Taipei.

⁵⁷ Exhibit 87, Response to expiry review questionnaire by Newfast Co., Ltd., page 14.

⁵⁸ Exhibit 101, John Wagner Associates Inc., Response to CBSA Exporter ERQ (non-confidential), page 4.

⁵⁹ Ibid, page 4.

Likelihood of Continued or Resumed Subsidizing

China

[105] Guided by the factors in the aforementioned SIMR, and having considered the information on the administrative record, the following list represents a summary of the factors considered most relevant to the subsidy analysis for China:

- continued availability of subsidy programs for carbon steel fastener exporters;
- the volume of subsidized goods;
- the performance and likely future performance of Chinese exporters in respect of production capacity and exports;
- the imposition of countervailing measures by Canada concerning China in respect of industrial goods made from base metals; and
- the GOC provision of subsidies to its manufacturers in the industrial sector.

[106] In its analysis of the likelihood of continued or resumed subsidizing of certain carbon steel fasteners from China, the CBSA in the most recent re-investigation, deemed 12 GOC programs and practices to be actionable subsidies and found that Chinese producers of fasteners received benefits from these programs. These programs were:

- (a) Productive Foreign Invested Enterprises (FIE) Scheduled to Operate for a period not less than 10 Years (Productive Foreign Invested Enterprises)
- (b) Foreign Invested Enterprises Located in Coastal Economic Open Zones or in the old urban districts of cities where the Special Economic Zones (SEZ) or the Economic and Technology Development Zones (ETDZ) are located or in any other regions defined by the State Council (Foreign Invested Enterprises Located in Coastal Economic Open Zones)
- (c) Preferential tax policies for enterprises established in Pudong area of Shanghai (Preferential tax policies for Pudong area)
- (d) Foreign Invested Enterprises in Industries and Sectors Where Foreign Investment is Encouraged by the State (FIE in Industries and Sectors Encouragement)
- (e) Preferential Tax Program for Trade Enterprises Located in the Waigaoqiao Bonded Zone (Waigaoqiao Preferential Tax Program)
- (f) Further Refund of Taxes Collected by Local Government (Refund of Local Taxes)
- (g) Reimbursement of Legal Expenses Incurred Responding to Anti-Dumping and/or Countervailing Investigations (Reimbursement of Legal Expenses)
- (h) Award for Obtaining the Title “State-Examination Free Product” (Award for State- Examination Free Product)
- (i) Award for Being a Large-Scale Taxpayer
- (j) Award for Statistics Work related to Foreign Trade
- (k) Exemption on Tariffs and Value Added Tax (VAT) on Imported Equipment
- (l) Reduced Selling Prices to End-Users of Carbon Steel Wire by State-Owned Enterprises

[107] The Productive Foreign Invested Enterprises program was established to encourage foreign investment in, or establishment of, productive enterprises in China. Under this program, an FIE may apply for and receive an exemption from national income tax in the first and second profitable years and a 50% reduction in the third, fourth, and fifth years of profitable operation.

[108] Information from the GOC indicated that the program has been terminated. However, pending a transitional period, producers of fasteners in China will continue to benefit from this program until as late as December 31, 2012.⁶⁰

[109] The Foreign Invested Enterprises Located in Coastal Economic Open Zones program was established in the Income Tax Law of the People's Republic of China for Enterprises with Foreign Investment and Foreign Enterprises. The program was established to encourage foreign investment in coastal economic open zones or in the old urban districts of cities where the SEZs or the ETDZs are located or in any other regions defined by the State Council.

[110] Under this program those who qualify shall pay income tax at a reduced rate of 24%. However, in certain circumstances income tax may be levied at a further reduced rate of 15%.

[111] Information from the GOC indicated that the program has been terminated. However, pending a transitional period, producers of fasteners in China will continue to benefit from this program until as late as December 31, 2012.

[112] The Preferential tax policies for Pudong area program was established in the Shanghai Municipality of China. This program was established to encourage foreign investment in Pudong area of Shanghai and to encourage foreign trade.

[113] Under this program, non-production enterprises in the Waigaoqiao Bonded Zone (located within the Pudong area of Shanghai) may apply for and receive a reduced national income tax rate of 15% for the 2007 tax year. This program was continued in 2008, per the *Circular on Prepayment of Enterprise Income Tax in the Third Quarter by Enterprises in the Bonded Zone*, with eligible enterprises receiving a reduced national income tax rate of 18% for the 2008 tax year.

[114] Information from the GOC indicated that the program has been terminated. However, pending a transitional period, producers of fasteners in China will continue to benefit from this program until as late as December 31, 2012.

[115] The FIE in Industries and Sectors Encouragement program was established in order to encourage foreign investment in China and accelerate development of the local economies. Under this program, FIEs that operate in an industry or undertake a project encouraged by the State may apply for and receive a reduction or exemption from local income tax subject to the approval of the province, autonomous region, or municipality.

⁶⁰ Exhibit S92, Response to expiry review questionnaire by the Government of the People's Republic of China, A2(k), page 9.

[116] The program was in operation during the period of investigation for the most recent re-investigation and, based on the information available for this expiry review, ceased to be in operation on January 1, 2008, when the Income Tax Law of the People's Republic of China for Enterprises came into effect.

[117] Under the Waigaoqiao Preferential Tax Program, trade enterprises received a refund equal to 12% of the income tax paid in the previous year, and an additional refund equal to 7.5% of the VAT paid in the previous year

[118] Information from the GOC indicated that this program was terminated with the introduction of the new Enterprise Income Tax Law of the People's Republic of China (EITL) effective January 1, 2008, unless the preferential income tax program is stipulated in the new EITL or by State Council.⁶¹

[119] Under the Refund of Local Taxes program, foreign invested industrial enterprises with registered capital above \$5,000,000 USD, located in the Jiashan Economic Development District, that meet the County's industry orientation and development guidelines receive a partial refund of income tax paid.⁶²

[120] The GOC has indicated that no producers who have received the grants before will receive them again.

[121] The Reimbursement of Legal Expenses program was established to encourage exporters located in Jiashan County to participate in anti-dumping, countervailing, and safeguard proceedings initiated by other countries.

[122] Under this program, industrial enterprises who actively participate in anti-dumping, countervailing, and safeguard proceedings initiated by other countries can have 10%-30% of their related legal expenses reimbursed, up to a maximum of 200,000 Chinese Renminbi.

[123] The GOC indicated that there is no estimated change regarding this program.⁶³

[124] Under the Award for State-Examination Free Product program, enterprises may apply to have their company recognised as having a state-examination free product. After receiving applications, the GOC announces who has been awarded the title of having a state-examination free product. Those who succeed in being so recognized receive a one-time grant of 200,000 Chinese Renminbi.

[125] The GOC indicated that there is no estimated change regarding this program.⁶⁴

⁶¹ Exhibit S92, Response to expiry review questionnaire by the Government of the People's Republic of China, A2(i), page 6.

⁶² Ibid, page 7.

⁶³ Ibid, page 8.

⁶⁴ Ibid, Page 10.

[126] The Award for Being a Large-Scale Taxpayer program was been established to honour specific enterprises for its efforts in implementing the spirit of the Communist Party Of China (CPC) 16th Congress and Fifth Plenary Session of the Sixteenth CPC Central Committee. Information received by the CBSA during the latest re-investigation has confirmed that the program remains in effect.

[127] The Award for Statistics Work related to Foreign Trade program was established to encourage enterprises engaged in importing and/or exporting goods to submit statistical information to the government of Zhejiang Province.

[128] The CBSA found no information indicating that this program has been terminated. The GOC indicated that there is no estimated change regarding this program.⁶⁵

[129] The Exemption on Tariffs and VAT on Imported Equipment program was established in order to attract foreign advanced technology and equipment and encourage structural improvement and technological advancement in industry.

[130] Under this program, enterprises meeting the eligibility criteria set forth below may apply for exemption from tariffs and VAT on imported equipment and its related technologies, components, and parts. The enterprise must receive approval of its application from the appropriate authority, and subsequently that approval documentation is submitted to the local customs officials who verify that the documents presented are adequate and that the imported items are not listed in the catalogues of commodities that are not eligible for tax exemptions.

[131] In order for an FIE to be eligible for tariff and VAT exemptions on imported equipment, the foreign investment project the equipment relates to must relate to the projects listed in the Catalogue for the Guidance of Foreign Investment Activities (Amended in 2004) under the encouraged category or group B of the restricted category. In addition, the equipment must be for the applicant's own use and the value of the equipment must be within the total amount of investment in the foreign project. Finally, any type of equipment that is imported and listed in the Directory of imported commodities of non-tax exemption to be used in foreign invested projects is not eligible for the exemptions under this program.

[132] The GOC indicated that that the program will continue in a modified form after July 1, 2009.⁶⁶

[133] Concerning the Reduced Selling Prices to End-Users of Carbon Steel Wire by State-Owned Enterprises, the GOC has indicated that there is no such subsidy program. At the conclusion of the most recent re-investigation the CBSA determined that the purchase of carbon steel wire from state owned enterprises was considered an actionable subsidy.

⁶⁵ Ibid, Page 10.

⁶⁶ Ibid, page 12.

[134] The CBSA also requested information relating to four additional potential subsidy programs. They were:

- Preferential Income Tax Program - Foreign Trade Enterprises and Logistics Distribution Enterprises (Preferential Income Tax)
- Distinguished Contribution Prize of Leading Industrial Enterprises
- Interest Discount Program
- Reduction in the Purchase Price of Land-Use Rights

[135] The GOC provided information relating to two of the programs in question, namely the Preferential Income Tax Program - Foreign Trade Enterprises and Logistics Distribution Enterprises and the Distinguished Contribution Prize of Leading Industrial Enterprises program. There is no information available concerning the other two programs.

[136] Under the Preferential Income Tax program, an FIE established in a special economic zone, meeting specific eligibility criteria may apply for and receive an exemption from enterprise income tax in the first profitable year and a 50% reduction in the second and third years of profitable operation.⁶⁷

[137] The GOC indicated that this program is terminated. However, the provisions of the program will remain in affect during the transitional period which will be completed no later than December 31, 2010. Thereafter, the relevant provisions in the new EITL⁶⁸ shall apply.

[138] The Distinguished Contribution Prize of Leading Industrial Enterprises program was established to honour specific enterprises located in Jiashan who achieved a specific annual turnover level for that enterprise.

[139] The GOC indicated that this program is a one-time benefit and there is no change regarding the applicability of this program.

[140] It is noted that Chinese exporters have maintained a presence in the Canadian market with respect to certain carbon steel fasteners during the calendar years 2006 through 2008.⁶⁹ Since the conclusion of the original investigation and up to the conclusion of the most recent re-investigation, all subject goods originating in, or exported from, China were assessed countervailing duties. As of the conclusion of the most recent re-investigation only one Chinese producer was determined to not have exported subsidized goods into Canada.

[141] Chinese producers have continued their presence in the Canadian market through direct and indirect shipments while the finding was in place and nothing on the record indicates that they will stop exporting in the foreseeable future.

⁶⁷ Ibid, page 7.

⁶⁸ Enterprise Income Tax Law of the People's Republic of China

⁶⁹ Exhibit 161 (Protected), Finalized import statistics and enforcement statistics for the period of January 1, 2006 to December 31, 2008.

[142] Also, as noted in the analysis of likelihood of the continued or resumed dumping, information on the record indicates that the capacity for production of certain carbon steel fasteners in China exceeds the Canadian market many times over.⁷⁰ Further, there is information on the record that indicates that Chinese fastener producers rely heavily on export markets as their production capacity far exceeds their demand domestically.⁷¹

[143] In addition, it is noted that between 1995 and 2008 there were 13 countervailing measures imposed against exports from China, six were from Canada (including certain carbon steel fasteners) and seven from the United States. Of that total, six of the countervailing measures concern industrial goods, namely base metals or articles of base metal. Of these six countervailing measures, five were from Canada and one from the United States.⁷²

[144] In Canada at the end of 2008, in addition to the finding respecting certain carbon steel fasteners, there were countervailing measures in place respecting copper pipe fittings, hot-rolled steel sheet, carbon steel welded pipe and seamless carbon or alloy steel oil and gas well casing. In addition, Canada imposed countervailing measures concerning aluminum extrusions on March 17, 2009.

[145] The existence of these other countervailing findings and/or orders are further indications that the GOC continues to provide subsidies to producers and likely will continue to do so in the future.

China Recommendation:

[146] Based on information on the record in respect of: the continued availability of subsidy programs for carbon steel fasteners exporters in China; the exporters' expressed interest in the Canadian market; the exporters' substantial production capacity; the imposition of countervailing measures by Canada concerning China in respect of industrial goods made from base metals; and the ongoing availability of subsidies to producers in the industrial sector in China, the President has determined that the expiry of the finding is likely to result in the continuation or resumption of subsidizing of certain carbon steel fasteners originating in or exported from China.

CONCLUSION

[147] For the purpose of making determinations in this expiry review investigation, the CBSA conducted its analysis within the scope of the factors contained in subsection 37.2(1) of the SIMR. Based on the foregoing consideration of pertinent factors and analysis of information on the record, on August 20, 2009, the President of the CBSA determined that:

- (i) the expiry of the finding made by the Tribunal on January 7, 2005, in Inquiry No. NQ-2004-005, concerning certain carbon steel fasteners originating in or exported

⁷⁰ Exhibit S92, Response to expiry review questionnaire by the Government of the People's Republic of China, A2(i), page 9.

⁷¹ Exhibit 72, Tab 9, Chinamet Trade Services, *Development Trends in the Chinese Fastener Industry*.

⁷² http://www.wto.org/english/tratop_e/scm_e/cvd_sect_distrib_meas_exp_country_e.xls

from China and Chinese Taipei is likely to result in the continuation or resumption of dumping of the goods to Canada;

- (ii) the expiry of the finding made by the Tribunal on January 7, 2005, in Inquiry No. NQ-2004-005, concerning certain stainless steel fasteners originating in or exported from Chinese Taipei is likely to result in the continuation or resumption of dumping of the goods into Canada; and
- (iii) the expiry of the finding made by the Tribunal on January 7, 2005, in Inquiry No. NQ-2004-005, concerning certain carbon steel fasteners originating in or exported from China is likely to result in the continuation or resumption of subsidizing of the goods into Canada.

FUTURE ACTION

[148] On August 21, 2009, the Tribunal commenced its inquiry to determine whether the expiry of the findings is likely to result in injury or retardation with respect to goods from China and Chinese Taipei. The Tribunal has announced that it will make its decisions by January 6, 2010.

[149] If the Tribunal determines that the expiry of the findings with respect to the goods from China and Chinese Taipei is likely to result in injury or retardation, the findings will be continued in respect of those goods, with or without amendment. If this is the case, the CBSA will continue to levy anti-dumping duties or countervailing duties on dumped or subsidized importations of certain carbon steel fasteners and anti-dumping duties on dumped stainless steel fasteners.

[150] If the Tribunal determines that the expiry of the findings with respect to the goods from China and Chinese Taipei is unlikely to result in injury or retardation, the findings will be rescinded in respect of those goods. Anti-dumping and countervailing duties would no longer be levied on importations of certain carbon steel fasteners and stainless steel fasteners beginning on the date the findings are rescinded.

INFORMATION

[151] For further information, please contact the officer listed below:

Mail:

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A handwritten signature in black ink, appearing to read 'M.R. Jordan', with a long horizontal line extending to the right.

M.R. Jordan
Director General
Trade Programs Directorate