



Canada Border
Services Agency

Agence des services
frontaliers du Canada

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OTTAWA, August 17, 2012

STATEMENT OF REASONS

Concerning the preliminary determinations with respect to the dumping and subsidizing of

**CERTAIN STEEL PILING PIPE ORIGINATING IN OR EXPORTED FROM
THE PEOPLE'S REPUBLIC OF CHINA**

DECISION

Pursuant to subsection 38(1) of the *Special Import Measures Act*, the President of the Canada Border Services Agency made preliminary determinations of dumping and subsidizing on August 2, 2012, respecting the alleged injurious dumping and subsidizing of carbon and alloy steel pipe piles, commonly identified as piling pipe, in outside diameter ranging from 3½ inches up to and including 16 inches (8.9 cm to 40.6 cm) inclusive, in commercial quality and in various forms and finishes, usually supplied to meet ASTM A252, ASTM A500, CSA G.40.21 or comparable specifications or standards, whether single, dual or multiple certified, originating in or exported from the People's Republic of China, excluding carbon steel welded pipe, in the nominal size range of 3½ inches up to and including 6 inches (89 mm to 168.3 mm) in outside diameter, in various forms and finishes, usually supplied to meet ASTM A252 or equivalent specifications, other than carbon steel welded pipe in the nominal size range of 3½ inches up to and including 6 inches, dual-stencilled to meet the requirements of both specification ASTM A252, Grades 1 to 3, and specification API 5L, with bevelled ends and in random lengths, for use as foundation piles.

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

Canada 

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SUMMARY OF EVENTS

[1] On March 22, 2012, the Canada Border Services Agency (CBSA) received a written complaint from Atlas Tube Canada Inc. of Harrow, Ontario, a division of JMC Steel Group, (hereafter, “the Complainant”) alleging that imports of certain steel piling pipe originating in or exported from the People’s Republic of China (China) are being dumped and subsidized and causing injury to the Canadian industry.

[2] On April 5, 2012, pursuant to paragraph 32(1)(a) of the *Special Import Measures Act* (SIMA), the CBSA informed the Complainant that the complaint was properly documented. The CBSA also notified the Government of China (GOC) that a properly documented complaint had been received and provided the GOC with the non-confidential version of the subsidy portion of the complaint, which excluded sections dealing with normal value, export price and margin of dumping.

[3] The Complainant provided evidence to support the allegations that certain steel piling pipe from China has been dumped and subsidized. The evidence disclosed a reasonable indication that the dumping and subsidizing have caused injury and are threatening to cause injury to the Canadian industry producing these goods.

[4] Although the GOC was invited for consultations prior to the initiation of the investigations, pursuant to Article 13.1 of the *Agreement on Subsidies and Countervailing Measures*, the GOC did not participate in any such consultations.

[5] On May 4, 2012, pursuant to subsection 31(1) of SIMA, the President of the CBSA (President) initiated investigations respecting the dumping and subsidizing of certain steel piling pipe from China.

[6] Upon receiving notice of the initiation of the investigations, the Canadian International Trade Tribunal (Tribunal) commenced a preliminary injury inquiry, pursuant to subsection 34(2) of SIMA, into whether the evidence discloses a reasonable indication that the alleged dumping and subsidizing of certain steel piling pipe from China have caused injury or retardation or are threatening to cause injury to the Canadian industry producing the goods.

[7] On July 3, 2012, pursuant to paragraph 35(1)(b) of SIMA, the Tribunal partially terminated its inquiry with respect to a subset of the goods because it concluded that the evidence does not disclose a reasonable indication that the dumping and subsidizing of those goods have caused injury or retardation or are threatening to cause injury to the domestic industry.

[8] Pursuant to subsection 35(2) of SIMA, the President also partially terminated its investigations, on August 1, 2012, with respect to these specific goods before it made preliminary determinations on the remaining subject goods.

[9] On July 3, 2012, pursuant to subsection 37.1(1) of SIMA, the Tribunal also made a preliminary determination that there is evidence that discloses a reasonable indication that the dumping and subsidizing of certain steel piling pipe from China have caused injury or retardation or are threatening to cause injury.

[10] On August 2, 2012, as a result of the CBSA's preliminary investigations and pursuant to subsection 38(1) of SIMA, the President made preliminary determinations of dumping and subsidizing with respect to certain steel piling pipe originating in or exported from China.

PERIOD OF INVESTIGATION

[11] The period of investigation with respect to dumping (Dumping POI), covered all subject goods released into Canada from January 1, 2011 to March 31, 2012.

[12] The period of investigation with respect to subsidizing (Subsidy POI), covered all subject goods released into Canada from January 1, 2011 to March 31, 2012.

INTERESTED PARTIES

Complainant

[13] The Complainant accounts for a major proportion of the production of like goods in Canada. The Complainant's goods are produced at its manufacturing facilities in Harrow, Ontario.

[14] The name and address of the Complainant are:

Atlas Tube Canada Inc.
200 Clark Street
Harrow, ON
N0R 1G0

[15] Other producers of steel piling pipe in Canada include DFI Corporation, Pipe & Piling Supplies Ltd., Spiralco Inc., and Nova Tube Inc. Both DFI Corporation and Nova Tube Inc. provided letters supporting the complaint. The other producers either did not provide an opinion or were not included by the CBSA as part of the Canadian industry because they were also importers of subject goods.

Exporters

[16] At the initiation of the investigations, the CBSA identified 236 potential exporters and producers of the piling pipe from its own research, information provided by the Complainant and CBSA import documentation over the period of January 1, 2011 to March 31, 2012.

[17] The CBSA sent an exporter Dumping Request for Information (RFI), a Section 20 RFI, and a Subsidy RFI to each of these parties and received timely responses to all three RFIs from three exporters. The exporters are Benxi Northern Steel Pipe Co., Ltd. (Benxi), Guangzhou Juyi Steel Pipe Co., Ltd. (Juyi), and Huludao City Steel Pipe Industrial Co., Ltd. (Huludao). These exporters have been requested to provide additional information to supplement and clarify their responses.

[18] While the responses from Juyi and Huludao are considered substantially complete, Benxi's submission is, as of the date of the preliminary determination, considered to be substantially incomplete.

Importers

[19] At the initiation of the investigations, the CBSA identified 858 potential importers of the piling pipe over the period of January 1, 2011 to March 31, 2012 from information provided by the Complainant and CBSA import documentation. Of these potential importers, 425 imported over \$10,000 of goods each during the 15-month period from January 1, 2011 to March 31, 2012, representing 99% of total imports of piling pipe.

[20] The CBSA sent an importer RFI to each of these parties and received eight responses to the importer RFI, with varying degrees of completeness. In addition, several potential importers communicated with the CBSA to indicate that the goods they had imported did not consist of subject goods. The CBSA analysed all responses and further refined its analysis of its own customs data in order to properly identify imports of subject goods. On the basis of its analysis, the CBSA identified 53 importers of subject goods during the POI.

Surrogate Producers

[21] As part of the inquiry to examine the extent of the GOC's involvement in pricing in the carbon and alloy steel pipe sector (Section 20 inquiry), the CBSA requested that producers in other countries (specifically India, the Republic of Korea, Thailand, and Chinese Taipei) provide domestic pricing and costing information concerning piling pipe.

[22] The CBSA had received no responses to the Surrogate RFI as of the preliminary determination of dumping.

Government of China

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

[24] At the initiation of the investigations, the CBSA sent subsidy and section 20 RFIs to the GOC. No response, or any other information with respect to the investigations, has been received from the GOC as of the date of the preliminary determinations.

PRODUCT DEFINITION

[25] At the initiation of investigations the subject goods were defined as:

Carbon and alloy steel pipe piles, commonly identified as piling pipe, in outside diameter ranging from 3½ inches up to and including 16 inches (8.9 cm to 40.6 cm) inclusive, in commercial quality and in various forms and finishes, usually supplied to meet ASTM A252, ASTM A500, CSA G.40.21 or comparable specifications or standards, whether single, dual or multiple certified, originating in or exported from the People's Republic of China.

[26] On July 3, 2012, the Tribunal partially terminated its inquiry with respect to a subset of the goods because it concluded that the evidence does not disclose a reasonable indication that the dumping and subsidizing of those goods have caused injury or retardation or are threatening to cause injury to the domestic industry.

[27] The CITT concluded that the evidence does not disclose a reasonable indication that the dumping and subsidizing of carbon steel welded pipe, in the nominal size range of 3½ inches up to and including 6 inches (89 mm to 168.3 mm) in outside diameter, in various forms and finishes, usually supplied to meet ASTM A252 or equivalent specifications, other than carbon steel welded pipe in the nominal size range of 3 ½ inches up to and including 6 inches, dual-stencilled to meet the requirements of both specification ASTM A252, Grades 1 to 3, and specification API 5L, with bevelled ends and in random lengths, for use as foundation piles have caused injury or retardation or are threatening to cause injury to the domestic industry. As a result of the CITT's decision, the CBSA's investigation with respect to those specific products was terminated.

[28] On July 3, 2012, the CITT also determined that there is evidence that discloses a reasonable indication that the dumping and subsidizing of the remaining subject steel piling pipe from China have caused injury to the domestic industry. The CBSA's preliminary determinations made on August 2, 2012 are with respect to those goods, defined as follows.

[29] Based on the above, the subject goods are now defined as:

Carbon and alloy steel pipe piles, commonly identified as piling pipe, in outside diameter ranging from 3½ inches up to and including 16 inches (8.9 cm to 40.6 cm) inclusive, in commercial quality and in various forms and finishes, usually supplied to meet ASTM A252, ASTM A500, CSA G.40.21 or comparable specifications or standards, whether single, dual or multiple certified, originating in or exported from the People's Republic of China, excluding carbon steel

welded pipe, in the nominal size range of 3½ inches up to and including 6 inches (89 mm to 168.3 mm) in outside diameter, in various forms and finishes, usually supplied to meet ASTM A252 or equivalent specifications, other than carbon steel welded pipe in the nominal size range of 3½ inches up to and including 6 inches, dual-stencilled to meet the requirements of both specification ASTM A252, Grades 1 to 3, and specification API 5L, with bevelled ends and in random lengths, for use as foundation piles.

Additional Product Information

[30] The most common grades of piling pipe are made to ASTM A500, ASTM A252 (including “modified” ASTM A252 with increased yield strength) or comparable internationally-recognized specifications. The vast percentage of piling pipe is made from carbon steel, although small amounts of piling pipe may be made with high-strength low-alloy (HSLA) steel or of other steel grades depending on project requirements.

[31] Piling pipe is produced either through electrical-resistance welding (“ERW”) or seamless processes. ERW pipe production is either by longitudinal welding or by spiral (also called helical-butt or helical lap) welding. Regardless of the production process, welded and seamless piling pipe are identical in terms of physical, tensile and other properties. They are covered by the same ASTM or comparable specifications and are fully substitutable in terms of end-use applications.

[32] The most common North American specification for piling pipe is ASTM A500 and/or ASTM A252. Piling pipe can also be produced to higher standards which allows the goods to be dual-certified or multiple-certified for other applications, such as Oil Country Tubular Goods (casing), API-5L (line pipe) or A53 (standard pipe). Casing, line pipe and some types of standard pipe are produced to more stringent standards than piling pipe which allows them to be fully substituted in piling pipe applications.

[33] The goods are referred to as “piling pipe”. However, other names can be used interchangeably, including: pipe piles, driven piles, drilled shafts, caissons, mini caissons, micro piles, piers and casings.

Production Process

[34] In ERW production, hot-rolled steel coil is passed through a series of rollers to form a tubular shape and the edges of the strip are heated electrically and welded together under heat and pressure. Once the round is welded, the pipe passes through a series of cold-forming stands to size it to the appropriate dimension and then cut to length.

[35] In spiral/helical welding, pipe of different diameters can be made from a single coil of hot-rolled steel strip. Instead of slitting along its length as in ERW processes, the coil is un-rolled and then re-coiled in spiral fashion on a coiler to the desired outside dimension prior to welding. The welding process is more complex and hence more expensive than the ERW welding process because of the spiral form of the steel coil. However, the end product is identical to ERW pipe in its inherent properties.

[36] Piling pipe is produced by the Complainant with plain ends and in standard, unpainted finish. After testing for quality control purposes, the pipe is stencilled, bundled and then loaded on trucks at the Complainant's factory-gate for shipping, either by road or by rail. The goods are normally sold in orders of pounds/tons and bundled in railcar quantities.

Classification of Imports

[37] Prior to January 1, 2012, the subject goods were usually classified under the following Harmonized System (HS) classification codes:

7306.30.10.14	7306.30.90.14
7306.30.10.19	7306.30.90.19
7306.30.10.24	7306.30.90.24
7306.30.10.29	7306.30.90.29
7306.30.10.34	7306.30.90.34
7306.30.10.39	7306.30.90.39

[38] With the January 1, 2012 changes to the Customs Tariff, the equivalent HS codes are now:

7306.30.00.14	7306.30.00.29
7306.30.00.19	7306.30.00.34
7306.30.00.24	7306.30.00.39

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

LIKE GOODS

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

[41] Piling pipe produced by the domestic industry competes directly with and have the same end uses as the piling pipe imported from China. The goods produced in Canada are completely substitutable with piling pipe produced in China. Therefore, the CBSA has concluded that piling pipe produced by the Canadian industry constitutes like goods to the piling pipe produced in China. Piling pipe can be considered as a single class of goods notwithstanding that the piling pipe from China may be further differentiated in terms of seamless or welded.

CANADIAN INDUSTRY

[42] As previously stated, the Complainant accounts for a major proportion of domestic production of like goods in Canada.

IMPORTS INTO CANADA

[43] During the preliminary phase of the investigations, the CBSA refined the estimated volume of imports based on information from CBSA import entry documentation and other information received from exporters and importers.

[44] The following table presents the CBSA's analysis of imports of certain steel piling pipe for purposes of the preliminary determinations:

**Imports of Certain Steel Piling Pipe
(January 1, 2011 – March 31, 2012)**

Imports into Canada	% of Total Import Volume
China	57%
All Other Countries	43%
Total Imports	100%

INVESTIGATION PROCESS

[45] Regarding the dumping investigation, information was requested from known and potential exporters, vendors and importers, concerning shipments of subject piling pipe released into Canada during the Dumping POI of January 1, 2011 to March 31, 2012. In addition, known and possible exporters and producers of the goods, along with the GOC, were requested to respond to the section 20 RFI for the purposes of the section 20 inquiry.

[46] Regarding the subsidy investigation, information related to potential actionable subsidies was requested from known and potential exporters and the GOC concerning financial contributions made to exporters or producers of subject piling pipe released into Canada during the Subsidy POI of January 1, 2011 to March 31, 2012.

[47] After reviewing the responding exporters' responses to the RFIs, supplemental RFIs were sent to clarify information submitted by the companies.

[48] Preliminary determinations are based on the information available to the President at the time of the preliminary determinations. Any additional information provided in supplemental RFI responses will be taken into consideration during the final phase of the investigations.

DUMPING INVESTIGATION

Section 20 Inquiry

[49] Section 20 of SIMA may be applied to determine the normal value of goods in a dumping investigation where certain conditions prevail in the domestic market of the exporting country. In the case of a prescribed country under paragraph 20(1)(a) of SIMA,¹ it is applied where, in the opinion of the President, domestic prices are substantially determined by the government of that country and there is sufficient reason to believe that they are not substantially the same as they would be if they were determined in a competitive market. Where section 20 is applicable, the normal values of goods are not determined using domestic prices or costs in that country.

[50] For purposes of a dumping proceeding, the CBSA proceeds on the presumption that section 20 of SIMA is not applicable to the sector under investigation absent sufficient information to the contrary. The President may only form an opinion where there is sufficient information that the conditions set forth in paragraph 20(1)(a) of SIMA exist in the sector under investigation.

[51] The CBSA is also required to examine the price effect resulting from substantial government determination of domestic prices and whether there is sufficient information on the record for the President to have reason to believe that the resulting domestic prices are not substantially the same as they would be in a competitive market.

[52] For the purpose of this investigation, the Complainant requested that section 20 be applied in the determination of normal values due to the alleged existence of the conditions set forth in paragraph 20(1)(a) of SIMA. The Complainant provided information to support these allegations concerning the Chinese carbon and alloy steel pipe sector, which includes piling pipe.

[53] At the initiation of the investigation, the CBSA had sufficient evidence, supplied by the Complainant and from its own research and from past investigations, to support the initiation of a section 20 inquiry to examine the extent of GOC involvement in pricing in the carbon and alloy steel pipe sector, which includes piling pipe. The information indicated that Chinese prices in this sector have been influenced by various GOC industrial policies. Consequently, the CBSA sent section 20 RFIs to the GOC and all known Chinese carbon and alloy steel pipe producers and exporters to obtain information on the matter.

¹ China is a prescribed country under section 17.1 of the *Special Import Measures Regulations*.

Preliminary Results of the Section 20 Inquiry

[54] In response to the section 20 RFIs, the CBSA received a substantially complete and timely response from two exporters, Juyi and Huludao.

[55] The following is the CBSA's analysis of the relevant factors that are present in the Chinese steel industry and which affect the carbon and alloy steel pipe sector, which includes piling pipe.

Industrial Policies

[56] As cited in previous section 20 inquiries², *The Development Policies for the Iron and Steel Industry – Order of the National Development and Reform Commission (No. 35)*, (National Steel Policy - NSP)³ was promulgated on July 8, 2005 and outlines the GOC future plans for the Chinese domestic steel industry. The major objectives of the NSP are:

- the structural adjustment of the Chinese domestic steel industry;
- industry consolidations through merger and acquisitions;
- the regulations of technological upgrading with new standards for the steel industry;
- measures to reduce material and energy consumption and enhance environmental protection;
- government supervision and management in the steel industry.

[57] On March 20, 2009, the GOC promulgated the *Blueprint for the Adjustment and Revitalization of the Steel Industry (2009 Steel Revitalization/Rescue Plan)*⁴, issued by the General Office of the State Council. This macro-economic policy was the GOC's response to the international financial crisis and is also the action plan for the steel industry for the period between 2009 and 2011. This plan includes the following major tasks:

- maintain the stability of the domestic market and improve the export environment;
- strictly control the total output of steel and accelerate the process of eliminating what is backward (obsolete);
- enhance enterprise reorganization and improve the industrial concentration level;
- spend more on technical transformation and promote technical progress;
- optimize the layout of the steel industry and overall arrangements of its development;

² *Certain Seamless Steel Casing (2008)*, *Certain Oil Country Tubular Goods (2010)*, *Certain Carbon Steel Welded Pipe (2008 & 2011)*, and *Certain Pup Joints (2011)*.

³ CBSA Exhibit 38 (PRO) – Exhibit 1

⁴ CBSA Exhibit 38 (PRO) – Exhibit 2

- adjust the steel product mix and improve the product quality;
- maintain stable import of iron ore resources and rectify the market order;
- develop domestic and overseas resources and guarantee the safety of the industry.

[58] There are common measures between the two GOC policies but, in addition, the 2009 Steel Revitalization/Rescue Plan is an acceleration of some major objectives of the NSP, in that there continues to be the strict control of new additions to steel production capacity, more stipulated mergers and acquisitions to consolidate the Chinese steel industry into larger conglomerates and also a focus on product quality.

[59] Further support that the domestic prices are substantially determined by the GOC and are not substantially the same as they would be in a competitive market in the Chinese steel industry can be found in the GOC's new macro-economic policy entitled, *12th Five-Year Plan: Iron and Steel (Development Plan for the Steel Industry)*⁵.

[60] The *12th Five-Year Plan: Iron and Steel (Development Plan for the Steel Industry)* is a relatively new policy document that was released by the GOC's Ministry of Industry and Information Technology on November 7, 2011. It serves as the guiding document for the development of the Chinese steel industry for the 2011-2015 period and its directives include:

- increased mergers and acquisitions to create larger, more efficient steel companies;
- GOC restrictions on steel capacity expansion;
- upgrading of steel industry technology;
- greater GOC emphasis on high-end steel products;
- GOC directed relocation of iron and steel companies to coastal areas.

[61] Also included in this plan are minimum requirements for steel production in order to eliminate smaller players in the market. Through this plan, the GOC is continuing its reform and restructuring of the Chinese steel industry. The GOC's target is that by 2015, China's top 10 steel producers will represent 60 % of the country's total steel output. According to the NSP (2005), the long-range GOC target for mergers and acquisitions is to have the top 10 Chinese steel producers account for 70 % of total national steel production by 2020. This plan is the next development stage of GOC directives aimed at achieving this long-range 2020 target.

[62] The *12th Five-Year Plan: Iron and Steel (Development Plan for the Steel Industry)* also addresses existing issues in the steel industry with the directive to strictly control expansion of steel production capacity, accelerate the development of new material for steel and producer service and to continue to advance mergers and restructuring.

⁵ CBSA Exhibit 38 (PRO) – Exhibit 5

[63] In addition, to the overall *12th Five-Year Plan: Iron and Steel (Development Plan for the Steel Industry)* as a whole, there is also a companion Five-Year Plan for the pipe industry. The “*China Steel Pipe Industry 12th Five-Year Plan*” was released by the Steel Pipe Branch of the China Steel Construction Society. It was confirmed by the China Iron and Steel Association (CISA), in the pup joint Section 20 inquiry, that the Steel Pipe Branch is one of its member institutions. The CBSA considers CISA to be “government” as it is under the administration of the State-owned Assets Supervision and Administration Commission of the State Council (SASAC) as per its Articles of Association.

[64] This plan directs that the output of steel pipe should be controlled at 67 - 75 million metric tonnes (mmt). In addition, to controlling the capacity of the steel pipe production, the plan also addresses the issue of overcapacity which was estimated to be 15 mmt, of which 8 mmt is surplus seamless pipe and 7 mmt is surplus welded pipe. The concern is that the overcapacity in the industry is resulting in price wars and “disorderly competition”. This has resulted in companies earning low profits or losing money.

[65] Therefore the main task of the *12th Five-Year Plan: Iron and Steel (Development Plan for the Steel Industry)* is to control total volume by eliminating obsolete (backward) production and controlling new production capacity. The scope of the GOC’s reforms in the Chinese pipe sector is to be obtained by industry concentration targets through mergers and acquisitions by the end of 2015. Clearly, these GOC objectives are likely to conflict with the commercial interests of steel pipe producers by affecting production volumes, competition and ultimately prices.

Domestic Prices

[66] As noted, welded piling pipe is a downstream steel product that uses hot-rolled steel (coil) as its main raw material input. In fact, hot-rolled steel coil accounts for a substantial proportion of its total cost of production. Based on this information, the CBSA reviewed independent pricing for hot-rolled steel coil, the main raw material input for piling pipe, as a surrogate price analysis, since the CBSA had very limited information on domestic market price of steel pipe given the export-driven nature of the cooperating exporters.

[67] For purposes of this preliminary determination, a comparison of hot-rolled steel coil prices from China, United States of America - East of the Mississippi River, Western Europe and the World Export Market, as published by *SteelBenchmarker*, was completed for the period January 2011 to March 2012.

[68] The significance of this price analysis is that it indicates that the Chinese hot-rolled steel coil price is always significantly below any of the other reported prices. The pricing differential, as per the CBSA’s analysis, was between 9% and 38% during the POI. Given that hot-rolled steel coil is a commodity product freely traded on the world market, this apparent discrepancy, in conjunction with the macro-economic policies of

the GOC, supports the contention that domestic prices of hot-rolled steel coil in China are not the same as they would be if they were determined under competitive market conditions. This would also impact the domestic prices of downstream products such as piling pipe, since its manufacture involves the conversion of hot-rolled steel coil by forming and welding the substrate into a tubular form.

[69] As per this analysis, the Chinese prices of hot-rolled steel coil, and correspondingly piling pipe, compared to world prices, provide a reasonable indication that there are other factors present in the Chinese domestic steel industry than the forces of supply and demand. In making corporate decisions, Chinese steel enterprises must be ever mindful of the GOC's macro-economic policies including GOC measures on steel production capacity, mergers, etc. As a result, corporate decisions based on market dynamics of supply and demand must comply with the GOC's directives and mandates.

Relationship between the Piling Pipe Sector and Other Steel Sectors in China

[70] The President of the CBSA has issued opinions in respect to the following steel sectors that domestic prices are substantially influenced by the GOC and that they are not substantially the same as they would be if they were determined in a competitive market:

- certain pup joints (2011)
- certain hot-rolled carbon steel plate and high strength low-alloy steel plate (2010)
- certain flat hot-rolled carbon and alloy steel sheet and strip (2010)
- certain carbon steel welded pipe (2008 & 2011)
- certain oil country tubular goods (2010)
- certain seamless carbon or alloy steel oil and gas well casing (2008)

[71] The domestic selling prices of the above cited steel product sectors have been found by the CBSA to be not the same as they would be if they were determined under competitive market conditions. As a result, in the case of related downstream steel products such as piling pipe, there is sufficient reason to believe that the domestic prices are not substantially the same as they would be if they were determined in a competitive market.

Summary of the Preliminary Results of the Section 20 Inquiry

[72] The wide range and material nature of the GOC measures have resulted in significant influence on the Chinese steel industry including the carbon and alloy steel pipe sector, which includes piling pipe. Based on the preceding, for the purposes of the preliminary determination, the President is of the opinion that:

- domestic prices are substantially determined by the GOC and
- there is sufficient reason to believe that the domestic prices are not substantially the same as they would be in a competitive market.

[73] During the final stage of the dumping investigation, the CBSA will continue the section 20 inquiry and further verify and analyze relevant information. The President may reaffirm his opinion that the conditions of section 20 exist in the carbon and alloy steel pipe sector, which includes piling pipe, as part of the final phase of the investigation, or conclude that the determination of normal values may be made using domestic selling prices and costs in China.

Normal Value

[74] For purposes of a preliminary determination of dumping, normal values are generally estimated on the basis of domestic selling prices of the goods in the country of export, or on the full cost of the goods including administrative, selling and all other costs plus a reasonable amount for profit.

[75] For purposes of this preliminary determination, normal values could not be estimated on the basis of domestic selling prices in China or on the full cost of goods plus profit, because the President formed the opinion that domestic prices in the carbon and alloy steel sector, which includes piling pipe, in China are substantially determined by the GOC and there is sufficient reason to believe that the domestic prices are not substantially the same as they would be in a competitive market.

[76] Where domestic prices are substantially determined by the GOC and there is sufficient reason to believe that the domestic prices are not substantially the same as they would be in a competitive market, the CBSA may estimate normal values using the selling price, or the total cost and profit, of like goods sold by producers in a surrogate country, pursuant to paragraph 20(1)(c) of SIMA. However, sufficient surrogate country data respecting domestic pricing and costing information relating to the like goods was not available to the CBSA.

[77] Where normal values cannot be estimated as per the methodology under paragraph 20(1)(c), SIMA provides an alternative methodology to calculate normal values under paragraph 20(1)(d), using re-sales in Canada of like goods imported from a third country. The CBSA determined that this provision could also not be used given that the importers did not provide sufficient re-sale information, in addition to the lack of information from producers in surrogate countries.

[78] Accordingly, given the absence of information, the CBSA has used an alternative method to estimate normal values based on estimated costs of production plus an amount for profit in surrogate countries for purposes of the preliminary determination by using the *SteelBenchmarker* world price of hot rolled coils as the benchmark, plus a conversion factor (i.e. the costs incurred in forming and welding the hot-rolled steel coils into a tubular form, and finishing and testing the product), which was calculated using cost information provided by two Canadian steel pipe producers. This conversion factor accounts for the costs incurred by a producer of piling pipe to convert hot-rolled steel sheet to the subject goods, and includes an amount for profit.

Export Price

[79] For purposes of a preliminary determination, the export price of goods sold to importers in Canada is generally estimated based on the lesser of the adjusted exporter's sale price for the goods or the adjusted importer's purchase price. These prices are adjusted, where necessary, by deducting the costs, charges, expenses, duties and taxes resulting from the exportation of the goods.

[80] For purposes of the preliminary determination, export prices were estimated for Juyi and Huludao on the basis of information provided by the companies. For all other exporters, the export price was estimated on the basis of the declared selling price as per customs import data.

Preliminary Dumping Results by Exporter

[81] Specific margin of dumping details relating to each of the exporters that provided a substantially complete response to the CBSA's dumping RFI are as follows:

Guangzhou Juyi Steel Pipe Co., Ltd. (Juyi)

[82] As previously explained, the CBSA is of the opinion that the domestic prices of piling pipe in China are not substantially the same as they would be in a competitive market and that accordingly, normal values should be estimated based on methods of section 20 using information from producers in a surrogate country. Given the current absence of surrogate pricing or cost information, import pricing from other countries or any other piling pipe pricing that would be usable for the purposes of a preliminary determination, normal values were estimated by using the *SteelBenchmarker* price of hot rolled coils as the benchmark, plus the conversion factor, which includes an amount for profit.

[83] Export prices were estimated as per section 24 of SIMA, based on the exporter's selling price, adjusted to take into account all costs, charges and expenses incurred in preparing the goods for shipment to Canada and resulting from the exportation and shipment of the goods.

[84] Margins of dumping were estimated by comparing the total estimated normal value with the total estimated export price. When the export price is less than the total normal value, the difference is the margin of dumping. The estimated margin of dumping for Juyi is 78.4%, expressed as a percentage of the export price.

[85] Additional information was requested from Juyi to both verify and augment information they have already provided. The information provided by the company will be fully considered by the CBSA for the final determination.

Huludao City Steel Pipe Industrial Co., Ltd. (Huludao)

[86] As previously explained, the CBSA is of the opinion that the domestic prices of piling pipe in China are not substantially the same as they would be in a competitive market and that accordingly, normal values should be estimated based on methods of section 20 using information from producers in a surrogate country. Given the current absence of surrogate pricing or cost information, import pricing from other countries or any other piling pipe pricing that would be usable for the purposes of a preliminary determination, normal values were estimated by using the *SteelBenchmarker* price of hot rolled coils as the benchmark, plus the conversion factor, which includes an amount for profit.

[87] Export prices were estimated as per section 24 of SIMA, based on the exporter's selling price, adjusted to take into account all costs, charges and expenses incurred in preparing the goods for shipment to Canada and resulting from the exportation and shipment of the goods.

[88] Margins of dumping were estimated by comparing the total estimated normal value with the total estimated export price. The estimated margin of dumping for Huludao is 84.2%, expressed as a percentage of the export price.

[89] Additional information was requested from Huludao to both verify and augment information they have already provided. The information provided by the company will be fully considered by the CBSA for the final determination.

All Other Exporters - Margin of Dumping

[90] For all other exporters, including the exporters that did not provide information in response to the CBSA's RFI, the normal values were estimated by advancing the estimated export price by the highest amount by which a normal value exceeded an estimated export price (i.e. 96.2%), excluding anomalies, on a sale by a cooperating exporter, expressed as a percentage of export price.

[91] As such, normal values for these other exporters were estimated by advancing the export price of the goods by 96.2%.

[92] Export prices were estimated using customs declarations for the subject goods imported into Canada during the dumping POI.

[93] Margins of dumping were estimated by comparing the total estimated normal value with the total estimated export price, which was estimated to be 96.2%, expressed as a percentage of the export price.

Summary of Preliminary Results of Dumping Investigation

[94] The determination of the volume of dumped goods is calculated by taking into consideration each exporter's net aggregate dumping results. Where a given exporter has been determined to be dumping on an overall or net basis, the total quantity of exports attributable to that exporter (i.e. 100%) is considered dumped. Similarly, where a given exporter's net aggregate dumping results are zero, then the total quantity of exports considered to be dumped by that exporter is zero.

[95] In calculating the estimated margin of dumping for the country, the overall estimated margins of dumping found in respect of each exporter are weighted according to each exporter's volume of subject piling pipe exported to Canada during the Dumping POI.

[96] Based on the preceding, 100% of piling pipe from China was dumped by an estimated weighted average margin of dumping of 91.3%, expressed as a percentage of the export price.

[97] Pursuant to paragraph 35(1)(a) of SIMA, the President is required to terminate an investigation prior to the preliminary determination if he is satisfied that the margin of dumping of the goods of a country is insignificant or that the volume of dumped goods of a country is negligible. Pursuant to subsection 2(1) of SIMA, a margin of dumping of less than 2% is defined as insignificant, and a volume of dumped goods from a country forming less than 3% of total imports is considered negligible.

[98] The estimated weighted average margin of dumping of certain steel piling pipe from China is above 2% and is, therefore, not insignificant. As well, the volume of dumped goods from China is above 3%, and is, therefore, not negligible.

SUMMARY OF RESULTS – DUMPING

[99] The following table provides a summary of the results for the dumping investigation for the period of January 1, 2011 to March 31, 2012:

Country	Estimated Volume of Dumped Goods as Percentage of Country Imports	Estimated Weighted Average Margin of Dumping	Volume of Country Imports as Percentage of Total Imports	Estimated Volume of Dumped Goods as Percentage of Total Imports
China	100%	91.3%	57%	57%

SUBSIDY INVESTIGATION

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

[101] Pursuant to subsection 2(1.6) of SIMA, there is a financial contribution by a government of a country other than Canada where:

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

[102] Where subsidies exist they may be subject to countervailing measures if they are specific in nature. According to subsection 2(7.2) of SIMA a subsidy is considered to be specific when it is limited, in a legislative, regulatory or administrative instrument, or other public document, to a particular enterprise within the jurisdiction of the authority that is granting the subsidy; or is a prohibited subsidy.

[103] The following terms are defined in section 2 of SIMA. A “prohibited subsidy” is either an export subsidy or a subsidy or portion of subsidy that is contingent, in whole or in part, on the use of goods that are produced or that originate in the country of export. An “export subsidy” is a subsidy or portion of a subsidy contingent, in whole or in part, on export performance. An “enterprise” is defined as including a group of enterprises, an industry and a group of industries.

[104] Notwithstanding that a subsidy is not specific in law, under subsection 2(7.3) of SIMA a subsidy may also be considered specific having regard as to whether:

- (a) there is exclusive use of the subsidy by a limited number of enterprises;
- (b) there is predominant use of the subsidy by a particular enterprise;

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

[105] For purposes of a subsidy investigation, the CBSA refers to a subsidy that has been found to be specific as an “actionable subsidy,” meaning that it is subject to countervailing measures if the persons engaged in the production, manufacture, growth, processing, purchase, distribution, transportation, sale, export or import of goods under investigation have benefited from the subsidy.

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

[107] At initiation, the CBSA identified 100 potential subsidy programs in the following eight categories:

1. Special Economic Zones (SEZ) Incentives and other Designated Areas;
2. Grants and Grant-equivalents;
3. Equity Programs;
4. Preferential Loan Programs;
5. Preferential Income Tax Programs;
6. Relief from Duties and Taxes on Materials and Machinery;
7. Reduction in Land Use Fees; and
8. Goods/Services Provided by the Government at Less than Fair Market Value.

[108] Details regarding these potential subsidies were provided in the *Statement of Reasons* issued for the initiation of this investigation. This document is available through the CBSA website at the following address: www.cbsa-asfc.gc.ca/sima-lmsi.

Preliminary Phase of the Subsidy Investigation

[109] In conducting its investigation, the CBSA sent a subsidy RFI to the GOC, as well as to the potential exporters located in China that had been identified through internal CBSA documentation. Information was requested in order to establish whether there had been financial contributions made by any level of government, including SOEs possessing, exercising or vested with government authority, and, if so, to establish if a benefit has been conferred on persons engaged in the production, manufacture, growth,

processing, purchase, distribution, transportation, sale, export or import of certain steel piling pipe; and whether any resulting subsidy was specific in nature. The GOC was also requested to forward the RFIs to all subordinate levels of government that had jurisdiction over the exporters. The exporters were requested to forward a portion of the RFI to their input suppliers, who were asked to respond to questions pertaining to their legal characterization as SOEs.

[110] The CBSA received responses to the subsidy RFI from the following three exporters: Huludao⁶, Juyi⁷, and Benxi⁸. The GOC did not provide a response to the subsidy RFI.

[111] For the preliminary determination, the CBSA has estimated an amount of subsidy for two of the exporters in China, Huludao and Juyi, based on the information provided in their responses to the subsidy RFI. The CBSA was unable to estimate a company-specific amount of subsidy for Benxi as there was insufficient information on the record to do so.

[112] The information received from Huludao indicated that it received benefits from the following programs:

- *Program 53 - Grant - Special Supporting Fund for Commercialization of Technological Innovation and Research Findings*
- *Program 98: Input Materials Provided by Government at Less than Fair Market Value*

[113] While conducting its investigation, the CBSA also found that Huludao received benefits in the form of government loans at preferential rates.

[114] The information received from Juyi indicated that it received benefits from the following program:

- *Program 98: Input Materials Provided by Government at Less than Fair Market Value*

[115] A summary of the preliminary results is included below, whereas an outline of the findings for the named subsidy programs can be found in **Appendix 2**.

[116] During the final stage of the investigation, the identified potential subsidy programs will be further analyzed. In addition, any other potential subsidy programs that are subsequently identified may be considered for the purposes of the final decision.

⁶ CBSA Exhibits S48 (PRO).

⁷ CBSA Exhibits S55 (PRO).

⁸ CBSA Exhibits S57 (PRO).

Summary of Preliminary Results of Subsidy Investigation

[117] For the purposes of the preliminary determination, the estimated total amount of subsidy for the Huludao is 8.2% of the export price. The estimated total amount of subsidy for Juyi is 11.8% of the export price.

[118] For all other exporters, the amount of subsidy has been estimated based on:

- (1) the highest subsidy amount estimated with respect to *Program 98: Input Materials Provided by Government at Less than Fair Market Value* for one of the cooperating exporters;
- (2) the amount of each of the other two subsidy programs included for Huludao; plus
- (3) the highest subsidy amount for the actionable subsidy programs in (2) above, applied to each of the remaining 98 potentially actionable subsidy programs, for which information is not available or has not been provided.

[119] Using the above methodology, the estimated amount of subsidy for all other exporters is 13.9%, expressed as a percentage of the export price.

[120] As a result of the above methodology, 100% of the subject goods imported from China are subsidized. The estimated overall weighted average amount of subsidy is equal to 12.6% of the export price.

[121] The estimated amounts of subsidy of 8.2% and 11.8% will be applied to imports of subject goods from Huludao and Juyi, respectively, during the provisional period. The amount of subsidy calculated for all other exporters, estimated to be 13.9% of the export price, is applicable to imports of subject goods during the provisional period from any other exporters.

[122] Under subsection 35(1) of SIMA, if, at any time before the President makes a preliminary determination, the President is satisfied that the amount of subsidy on the goods of a country is insignificant or the actual and potential volume of subsidized goods of a country is negligible, the President must terminate the investigation with respect to that country. Under subsection 2(1) of SIMA, an amount of subsidy of less than 1% of the value of the goods is considered insignificant and a volume of subsidized goods of less than 3% of total imports is considered negligible, the same threshold for the volume of dumped goods.

[123] However, according to section 41.2 of SIMA, the President is required to take into account Article 27.10 of the *WTO Agreement on Subsidies and Countervailing Measures* when conducting a subsidy investigation. This provision stipulates that a countervailing duty investigation involving a product from a developing country should be terminated as soon as the authorities determine that the overall level of subsidies granted upon the product in question does not exceed 2% of its value calculated on a per unit basis or the volume of subsidized imports represents less than 4% of the total imports of the like product in the importing Member's market.

[124] SIMA does not define or provide any guidance regarding the determination of a “developing country” for purposes of Article 27.10 of the WTO *Agreement on Subsidies and Countervailing Measures*. As an administrative alternative, the CBSA refers to the *Development Assistance Committee List of Official Development Assistance Recipients* (DAC List of ODA Recipients) for guidance.⁹ As China is included in the listing, the CBSA will extend developing country status to China for purposes of this investigation. Therefore, the investigation will be terminated if the amount of subsidy does not exceed 2% of its value calculated on a per unit basis or if the volume of subsidized goods represents less than 4% of total imports of like goods.

[125] The following table illustrates that the estimated amount of subsidy respecting China is not insignificant, nor is the volume of subsidized goods negligible.

SUMMARY OF RESULTS – SUBSIDY

[126] The following table provides a summary of the results for the subsidy investigation for period of January 1, 2011 to March 31, 2012:

Country	Estimated Volume of Subsidized Goods as Percentage of Country Imports	Estimated Weighted Average Amount of Subsidy*	Volume of Country Imports as Percentage of Total Imports	Estimated Volume of Subsidized Goods as Percentage of Total Imports
China	100%	12.6%	57%	57%

*As percentage of the export price

DECISIONS

[127] Based on the information available to the President, on August 2, 2012, the President made preliminary determinations of dumping and subsidizing respecting certain steel piling pipe originating in or exported from the People’s Republic of China, pursuant to subsection 38(1) of SIMA.

⁹ The Organization for Economic Co-operation and Development, DAC List of ODA Recipients as at October 2011, the document is available at: http://www.oecd.org/document/45/0,3746,en_2649_34447_2093101_1_1_1_1.00.html.

PROVISIONAL DUTY

[128] Pursuant to subsection 8(1) of SIMA, provisional duties, payable by the importer in Canada, will be applied to dumped and subsidized subject piling pipe that are released during the provisional period commencing on the day the preliminary determinations are made, and ending on the earlier of the day on which the President causes the investigations to be terminated pursuant to subsection 41(1) or the day on which the Tribunal makes an order or finding. The imposition of provisional duties is needed to prevent the injury which, as per the Tribunal's preliminary determination, was caused by the dumping and subsidizing of subject piling pipe.

[129] Provisional countervailing duty is based on the estimated amount of subsidy and is expressed as a percentage of export price of the goods. Provisional anti-dumping duty is based on the estimated margin of dumping, also expressed as a percentage of the export price of the goods. **Appendix 1** contains the estimated margins of dumping, estimated amounts of subsidy, and the rates of provisional duties, payable on subject goods released from the CBSA on and after August 2, 2012.

[130] Importers are required to pay provisional duties in cash or by certified cheque. Alternatively, they may post security equal to the amount payable. Importers should contact their CBSA regional customs office if they require further information on the payment of provisional duty or the posting of security. If the importers of such goods do not indicate the required SIMA code or do not correctly describe the goods in the import documents, an administrative monetary penalty could be imposed. The imported goods are also subject to the *Customs Act*. As a result, failure to pay duties within the specified time will result in the application of the provisions of the *Customs Act* regarding interest.

FUTURE ACTION

The Canada Border Services Agency

[131] The CBSA will continue its investigations of the dumping and subsidizing and the President will make final decisions by October 31, 2012.

[132] If the President is satisfied that the goods were dumped and/or subsidized, and that the margin of dumping or amount of subsidy is not insignificant, final determinations will be made. Otherwise, the President will terminate the investigations and any provisional duties paid, or security posted, will be returned to importers.

The Canadian International Trade Tribunal

[133] The Tribunal has begun its inquiry into the question of injury to the Canadian industry. The Tribunal is expected to issue its findings by November 30, 2012.

[134] If the Tribunal finds that the dumping has not caused injury, retardation or is not threatening to cause injury, the proceedings will be terminated and all provisional anti-dumping duties collected, or security posted, will be returned.

[135] If the Tribunal makes a finding that the dumping has caused injury, retardation or is threatening to cause injury, anti-dumping duties in an amount equal to the margin of dumping will be levied, collected and paid on imports of subject piling pipe.

[136] If the Tribunal finds that the subsidizing has not caused injury, retardation or is not threatening to cause injury, the proceedings will be terminated and all provisional countervailing duties collected, or security posted, will be returned.

[137] If the Tribunal makes a finding that the subsidizing has caused injury, retardation or is threatening to cause injury, countervailing duties in the amount equal to the amount of subsidy on the imported goods will be levied, collected and paid on imports of subject piling pipe.

[138] For purposes of the preliminary determinations of dumping or subsidizing, the CBSA has responsibility for determining whether the actual and potential volume of dumped or subsidized goods is negligible. After preliminary determinations of dumping or subsidizing, the Tribunal assumes this responsibility. In accordance with subsection 42(4.1) of SIMA, the Tribunal is required to terminate its inquiry in respect of any goods if the Tribunal determines that the volume of dumped or subsidized goods from a country is negligible.

RETROACTIVE DUTY ON MASSIVE IMPORTATIONS

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

[140] In respect of importations of subsidized goods that have caused injury, this provision is only applicable where the CBSA has determined that the whole or any part of the subsidy on the goods is a prohibited subsidy. In such a case, the amount of countervailing duty applied on a retroactive basis will equal the amount of subsidy on the goods that is a prohibited subsidy. An export subsidy is a prohibited subsidy according to subsection 2(1) of SIMA.

UNDERTAKINGS

[141] After a preliminary determination of dumping, exporters may give a written undertaking to revise selling prices to Canada so that the margin of dumping or the injury caused by the dumping is eliminated. Similarly, after a preliminary determination of subsidizing, the government of a country may give a written undertaking to eliminate the subsidy on the goods or to eliminate the injurious effect of the subsidy by limiting the amount of the subsidy or the quantity of goods exported to Canada. Exporters, with the consent of their government, may also undertake to revise their selling prices so that the injurious effect of the subsidy is eliminated.

[142] Acceptable undertakings must account for all, or substantially all, of the exports to Canada of the dumped and subsidized goods. In the event that an undertaking is accepted, the required payment of provisional duty on the goods would be suspended.

[143] In view of the time needed for consideration of undertakings, written undertaking proposals should be made as early as possible, and no later than 60 days after the preliminary determinations of dumping and subsidizing. Further details regarding undertakings can be found in the CBSA's Memorandum D14-1-9, available online at www.cbsa-asfc.gc.ca/E/pub/cm/d14-1-9/d14-1-9-e.html.

[144] SIMA allows all interested parties to make representations concerning any undertaking proposals. The CBSA will maintain a list of interested parties and will notify them should an undertaking proposal be received. Persons wishing to be notified must provide their name, address, telephone, fax, or email address, to one of the officers listed below. Interested parties may also consult the CBSA website noted below for information on undertakings offered in this investigation. A notice will be posted on the CBSA website when an undertaking proposal is received. Interested parties have nine days from the date the undertaking offer is received to make representations.

PUBLICATION

[145] A notice of these preliminary determinations of dumping and subsidizing will be published in the *Canada Gazette* pursuant to paragraph 38(3)(a) of SIMA.

INFORMATION

[146] This *Statement of Reasons* has been provided to persons directly interested in these proceedings. It is also posted on the CBSA's website, in both English and French, at the address below. For further information, please contact the officers identified as follows:

Mail: SIMA Registry and Disclosure Unit
Anti-dumping and Countervailing Directorate
Canada Border Services Agency
100 Metcalfe Street, 11th Floor
Ottawa, Ontario, Canada
K1A 0L8

Telephone: Ian Gallant 613-954-7186
Richard Pragnell 613-954-0032

Fax: 613-948-4844

Email : simaregistry-depotlmsi@cbsa-asfc.gc.ca

Website : www.cbsa-asfc.gc.ca/sima-lmsi



Caterina Ardito-Toffolo
Acting Director General
Anti-dumping and Countervailing Directorate

Attachments

APPENDIX 1 – SUMMARY OF ESTIMATED MARGINS OF DUMPING, AMOUNTS OF SUBSIDY, AND PROVISIONAL DUTIES PAYABLE

Exporter	Estimated Margin of Dumping*	Estimated Amount of Subsidy*	Total Provisional Duties Payable*
Guangzhou Juyi Steel Pipe Co., Ltd.	78.4%	11.8%	90.2%
Huludao City Steel Pipe Industrial Co., Ltd.	84.2%	8.2%	92.4%
All Other Exporters (of subject goods originating in or exported from China)	96.2%	13.9%	110.1%

*As a percentage of export price.

APPENDIX 2 - SUMMARY OF PRELIMINARY FINDINGS FOR NAMED SUBSIDY PROGRAMS

As noted in the body of this document, the GOC did not submit a response to the subsidy RFI. This would normally prevent the CBSA from estimating specific amounts of subsidy for the responding exporters and result in the use of other available information. However, in recognition of the amount of cooperation and the volume of information provided by the responding exporters, the CBSA has estimated an amount of subsidy for Juyi and Huludao based on the information provided in their responses to the subsidy RFI.

This appendix consists of descriptions of the potentially actionable subsidy programs from which the responding exporters benefited from during the course of the POI in the current investigation, followed by a listing of the other potentially actionable subsidy programs identified by the CBSA.

POTENTIALLY ACTIONABLE SUBSIDY PROGRAMS USED BY THE RESPONDING EXPORTERS IN THE CURRENT INVESTIGATION

The CBSA has used the best information available to describe the potentially actionable subsidy programs used by the responding exporters in the current investigation. This includes using information obtained from CBSA research on potential subsidy programs in China, information provided by the responding exporters and descriptions of programs that the CBSA has previously publicly published in recent *Statement of Reasons* relating to subsidy investigations involving China.

Program 53 - Grant - Special Supporting Fund for Commercialization of Technological Innovation and Research Findings

One of the exporters reported receiving benefits under this program. The exporter provided very limited information with respect to this program while the GOC provided none.

On the basis of the limited available information, this program constitutes a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA; i.e. a practice of government that involves a direct transfer of funds. This grant confers a direct benefit to the recipient in the form of a grant, and the benefit is equal to the amount of the grant provided.

Due to the lack of a response by the GOC and the lack of details provided by the exporter, there is not sufficient information on the record to determine whether the grant is specific pursuant to sub-section 2(7.2) of SIMA. In this regard, a subsidy is specific when it is limited, in law or in fact to a particular enterprise within the jurisdiction of the authority that is granting the subsidy or if it constitutes a prohibited subsidy, as defined in subsection 2(1) of SIMA. This program does not appear to be generally available to all enterprise in China and thus appears to be specific.

While the exporter argued that this subsidy should not be allocated to subject goods, the CBSA allocated the full benefit over all goods produced by the exporter during the POI, in light of the lack of a response by the GOC and the lack of details provided by the exporter which would corroborate the argument.

Program 98: Input Materials Provided by Government at Less than Fair Market Value

This program relates to the provision, by the GOC, of goods or services at prices lower than the fair market value of the goods or services in the territory of the government providing the subsidy. Specifically, the CBSA investigated the acquisition of hot-rolled steel coils from state-owned Enterprises (SOEs) or state-controlled enterprises given the significance of the cost of steel in proportion to the overall cost of production and sale of the subject goods. State-owned or state-controlled steel suppliers may be considered to constitute “government” if they possess, exercise or are vested with government authority, which may be indicated by the following factors:

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

In order to determine whether the exporter acquired its raw material from “government”, the CBSA requested detailed information from the exporters regarding their acquisition of raw material. The Subsidy RFI also contained a small questionnaire intended for the domestic steel suppliers. The exporters were instructed to forward such questionnaire to their domestic steel suppliers. This questionnaire requested information regarding the ownership status of the supplier and other relevant information with respect to assessing whether the supplier is considered “government”.

Information was requested from exporters with respect to the ownership status of their raw material suppliers. Responding exporters indicated that a significant amount of their purchases of hot rolled steel coil were from SOEs. Further, information was also requested from the GOC with respect to the ownership status of the steel producers and with respect to governmental measures affecting the steel industry as a whole. Neither the GOC nor the suppliers of hot rolled steel coil provided complete responses to the CBSA’s questionnaires.

This lack of cooperation significantly impeded the CBSA’s ability to properly assess whether the steel suppliers are “government” or to corroborate the information provided by the exporters. Based on the information provided by the exporters, in addition to other publically available information, the CBSA finds that the prevalence of SOEs has significant influence in the hot rolled steel coil sector in China, and that exporters of subject goods to Canada acquired hot rolled steel coils from Chinese SOEs.

Due to the lack of cooperation by the GOC and the limited information available regarding state-owned raw material suppliers, the CBSA has not been able to perform the in-depth level of analysis necessary to determine whether all suppliers that provided hot rolled steel coil to the

exporters of subject goods are SOEs, and whether the SOEs are considered to be possessing, exercising, or vested with governmental authority. Notwithstanding, the CBSA will attempt to obtain further evidence in this regard during the final stage of the investigation.

Nevertheless, based on the information provided in the section 20 inquiry, the CBSA has determined that there is evidence that the GOC exercises meaningful control over the steel sector, which includes producers of hot rolled coil. Accordingly, for the purposes of the preliminary determination, the CBSA is of the opinion that the government exercises meaningful control over the steel sector, and therefore all domestic steel suppliers are considered “government”.

Having determined that there is a financial contribution, as defined in paragraph 2(1.6)(c) of SIMA¹⁰, the CBSA estimated whether the financial contribution conferred a benefit to the exporter. This estimate involved the comparison of the price at which the goods were provided by the government with the fair market value of the goods in China. Given that the CBSA considered all domestic suppliers in China to be “government” and given the absence of information on imported steel by any of the exporters, the CBSA looked for an appropriate benchmark outside of China. While information had been requested from steel pipe producers in surrogate countries in the course of this investigation, none provided a response to the CBSA. The CBSA therefore used the *SteelBenchmarker* price which was considered to be the best information available on the record.

The CBSA then calculated the difference between the acquisition price, as submitted by the exporters, and the benchmark price for each exporter’s purchase and multiplied the difference by the purchased tonnage. The CBSA then calculated a weighted average benefit per metric tonne. The benefit was considered to be specific because it is limited to downstream steel producers only.

Other Programs – Loans from Public Banks at Preferential Rates

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

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

¹⁰ The government provides goods or services, other than general infrastructure, or purchases goods.

Given the lack of cooperation by the GOC, the CBSA lacked information on the financial sector in China to conclusively determine whether the financial institutions possess “government” characteristics. For the purposes of the preliminary determination, the CBSA therefore considered all banks as “government”. During the final stage of the investigation, the CBSA will further analyze the financial sector in China for positive evidence of government control over the financial institutions.

In order to assess whether or not there was a financial contribution, the CBSA established a benchmark to which it could compare the loan interest rates submitted by the exporters. For this purpose, the CBSA used the People’s Bank of China (PBC) benchmark rates that were in effect during the POI, which was available on the record¹¹.

The CBSA considered the difference between the manufacturers’ loan interest rates that are below the PBC rates to constitute a financial contribution pursuant to paragraph 2(1.6)(b) of SIMA; i.e. amounts that would otherwise be owing and due to the government are exempted or deducted or amounts that are owing and due to the government are forgiven or not collected. The above confers a benefit to manufacturers of piling pipe by way of reducing their financial costs upon obtaining loans from a financial institution.

Due to the lack of a response by the GOC, there is not sufficient information on the record to determine whether the subsidy is specific pursuant to sub-section 2(7.2) of SIMA. However, the CBSA believes that access to government loans at preferential rates to be limited to certain enterprises only.

OTHER POTENTIALLY ACTIONABLE SUBSIDY PROGRAMS

The following programs are also included in the current investigation. Questions concerning these programs were included in the RFIs sent to the GOC and to all known exporters of the subject goods in China. Without a complete response to the subsidy RFI from the GOC, the CBSA does not have detailed descriptions of these programs; nor does it have sufficient information to determine that any of these programs do not constitute actionable subsidy programs. In other words, the CBSA has, to date, not determined if any of these programs should be removed from the investigation. The CBSA will continue to investigate these programs in the final phase of the investigation.

I. Special Economic Zone (SEZ) Incentives and other Designated Areas

- Program 1: Preferential Tax Policies for Enterprises with Foreign Investment (FIEs) Established in Special Economic Zones (excluding Shanghai Pudong Area)
- Program 2: Preferential Tax Policies for FIEs Established in the Coastal Economic Open Areas and in the Economic and Technological Development Zones
- Program 3: Preferential Tax Policies for FIEs Established in the Pudong Area of Shanghai

¹¹ CBSA Exhibits S068 (NC).

- Program 4: Preferential Tax Policies in the Western Regions
- Program 5: Corporate Income Tax Exemption and/or Reduction in SEZs and other Designated Areas
- Program 6: Local Income Tax Exemption and/or Reduction in SEZs and other Designated Areas
- Program 7: Exemption/Reduction of Special Land Tax and Land Use Fees in SEZs and Other Designated Areas
- Program 8: Tariff and Value-added Tax (VAT) Exemptions on Imported Materials and Equipment in SEZs and other Designated Areas
- Program 9: Income Tax Refund where Profits Re-invested in SEZs and other Designated Areas
- Program 10: Preferential Costs of Services and/or Goods Provided by Government or State-owned Enterprises (SOEs) in SEZs and Other Designated Areas
- Program 11: VAT Exemptions for the Central Region
- Program 12: Income Tax Refund for Enterprises Located in Tianjin Jinnan Economic Development Area

II. Grants and Grant-equivalents

- Program 13: The State Key Technology Renovation Projects
- Program 14: Reimbursement of Anti-dumping and/or Countervailing Legal Expenses by the Local Governments
- Program 15: Repaying Foreign Currency Loan by Returned VAT
- Program 16: Government Export Subsidy and Product Innovation Subsidy
- Program 17: Export Assistance Grant
- Program 18: Research & Development (R&D) Assistance Grant
- Program 19: Innovative Experimental Enterprise Grant
- Program 20: Superstar Enterprise Grant
- Program 21: Awards to Enterprises Whose Products Qualify for “Well-Known Trademarks of China” or “Famous Brands of China”
- Program 22: Export Brand Development Fund
- Program 23: Provincial Scientific Development Plan Fund
- Program 24: Technical Renovation Loan Interest Discount Fund
- Program 25: Venture Investment Fund of Hi-Tech Industry
- Program 26: National Innovation Fund for Technology Based Firms
- Program 27: Guangdong – Hong Kong Technology Cooperation Funding Scheme
- Program 28: Grants for Encouraging the Establishment of Headquarters and Regional Headquarters with Foreign Investment
- Program 29: Innovative Small and Medium-Sized Enterprise Grants
- Program 30: Product Quality Grant
- Program 31: 2009 Energy-saving Fund
- Program 32: Energy-Saving Technique Special Fund
- Program 33: Grants to Privately-Owned Export Enterprises
- Program 34: Grants for Export Activities
- Program 35: Grants for International Certification
- Program 36: Emission Reduction and Energy-saving Award
- Program 37: Grant for Market Promotion and Trade Development

Program 38: Refund of Land Transfer Fee
 Program 39: Grant – Assistance for Exhibition Booth Fees
 Program 40: Grant – Patent Application Assistance
 Program 41: Grant – State Service Industry Development Fund
 Program 42: Grant – Changzhou Five Major Industries Development Special Fund
 Program 43: Grant – Ecological Garden Enterprise Reward
 Program 44: Grant – Municipal Construction Reward
 Program 45: Grant – Cleaning-production Qualified Enterprise Reward
 Program 46: Grant – Provisional Industry Promotion Special Fund
 Program 47: Grant – Jiangsu Province Finance Supporting Fund
 Program 48: Grant - Water Pollution Control Special Fund for Taihu Lake
 Program 49: Grant – Provincial Foreign Economy and Trade Development Special Fund
 Program 50: Grant – Subsidy from Water Saving Office
 Program 51: Grant – Insurance Expense Compensation
 Program 52: Grant – Industrial Science and Technology Breakthrough Special Fund
 Program 54: Grant – Changzhou City Key Supporting Industry Upgrading Special Fund
 Program 55: Grant – Special Fund for Fostering Stable Growth of Foreign Trade in 2009
 Program 56: Grant – Financial Subsidies from Wei Hai City Gao Cun Town Government
 Program 57: Grant – Policy on Value-added Tax for Recyclable Resources
 Program 58: Grant – Large Taxpayer Award
 Program 59: Grant – Resources Conservation and Environment Protection Grant
 Program 60: Grant – Wendeng Government (Shandong)
 Program 61: Jiangdu City Industrial Economy Performance Award (Jiangsu)
 Program 62: Changzhou Qishuyan District Environmental Protection Fund (Jiangsu)
 Program 63: Changzhou Technology Plan (Jiangsu)
 Program 64: Supportive Fund Provided by the Government of Xuyi County, Jiangsu
 Program 65: Enterprise Innovation Award of Qishuyan District (Jiangsu)
 Program 66: Environment Protection Award (Jiangsu)
 Program 67: Enterprise Technology Centers (e.g. Tianjin City and Jinnan District)
 Program 68: Liaoning High-Tech Products & Equipment Export Interest Assistance
 Program 69: Five Points, One Line Strategy in Liaoning Province
 Program 70: Accelerated Depreciation on Fixed Assets in Binhai New Area of Tianjin
 Program 71: Allowance to Pay Loan Interest (Zhongshan City, Guangdong)
 Program 72: Supporting Fund for Non-refundable Export Tax Loss on Mechanical & Electrical Product and High-tech Product (Jiangmen City)
 Program 73: International Market Fund for Export Companies (Jiangmen City)
 Program 74: International Market Fund for Small- and Medium-sized Export Companies)
 Program 75: Business Development Overseas Support Fund (Foshan)
 Program 76: Refund from Government for Participating in Trade Fair (Foshan)
 Program 77: Interim Measures of Fund Management of Allowance for Zhongshan Enterprises to Attend Domestic and Overseas Fair (Zhongshan)
 Program 78: Reimbursement of Foreign Affairs Services Expenses (Foshan)
 Program 79: Award for Advanced Enterprises

III. Equity Programs

Program 80: Debt-to-Equity Swaps

Program 81: Exemptions for SOEs from Distributing Dividends to the State

IV. Preferential Loan Programs

Program 82: Loans and Interest Subsidies provided under the Northeast Revitalization Program

Program 83: Loan From Local Finance Bureau

V. Preferential Income Tax Programs

Program 84: Reduced Tax Rate for Productive FIEs Scheduled to Operate for a Period not Less Than 10 Years

Program 85: Preferential Tax Policies for Foreign Invested Export Enterprises

Program 86: Preferential Tax Policies for FIEs which are Technology Intensive and Knowledge Intensive

Program 87: Preferential Tax Policies for the Research and Development of FIEs

Program 88: Preferential Tax Policies for FIEs and Foreign Enterprises Which Have Establishments or Places in China and are Engaged in Production or Business Operations Purchasing Domestically Produced Equipment

Program 89: Preferential Tax Policies for Domestic Enterprises Purchasing Domestically Produced Equipment for Technology Upgrading Purpose

Program 90: Income Tax Refund for Re-investment of FIE Profits by Foreign Investors

Program 91: VAT and Income Tax Exemption/Reduction for Enterprises Adopting Debt-to-Equity Swaps

Program 92: Corporate Income Tax Reduction for New High-Technology Enterprises

Program 93: Pre-tax Deduction of Enterprise R&D Expenses for Enterprises in the New and High Technology Fields

VI. Relief from Duties and Taxes on Materials and Machinery

Program 94: Exemption of Tariff and Import VAT for the Imported Technologies and Equipment

Program 95: Relief from Duties and Taxes on Imported Material and Other Manufacturing Inputs

VII. Reduction in Land Use Fees

Program 96: Reduction in Land Use Fees, Land Rental Rates, and Land Purchase Prices

Program 97: Deed Tax Exemptions For Land Transferred through Merger or Restructuring

VIII. Goods/Services Provided by Government at Less than Fair Market Value

Program 99: Utilities Provided by Government at Less than Fair Market Value

Program 100: Acquisition of Government Assets at Less than Fair Market Value