



Canada Border  
Services Agency

Agence des services  
frontaliers du Canada

4214-36  
AD/1396  
4218-34  
CVD/132

OTTAWA, May 29, 2012

## STATEMENT OF REASONS

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

**CERTAIN CARBON STEEL WELDED PIPE ORIGINATING IN OR EXPORTED  
FROM CHINESE TAIPEI, THE REPUBLIC OF INDIA, THE SULTANATE OF OMAN,  
THE REPUBLIC OF KOREA, THAILAND, THE REPUBLIC OF TURKEY AND  
THE UNITED ARAB EMIRATES**

**and the subsidizing of**

**CERTAIN CARBON STEEL WELDED PIPE ORIGINATING IN OR EXPORTED  
FROM THE REPUBLIC OF INDIA, THE SULTANATE OF OMAN AND  
THE UNITED ARAB EMIRATES**

## DECISION

Pursuant to subsection 31(1) of the *Special Import Measures Act*, the President of the Canada Border Services Agency initiated investigations on May 14, 2012, respecting the alleged injurious dumping of certain carbon steel welded pipe originating in or exported from Chinese Taipei, the Republic of India, the Sultanate of Oman, the Republic of Korea, Thailand, the Republic of Turkey and the United Arab Emirates and the alleged injurious subsidizing of certain carbon steel welded pipe originating in or exported from the Republic of India, the Sultanate of Oman and the United Arab Emirates.

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

**Canada**

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## SUMMARY

[1] On March 23, 2012, the Canada Border Services Agency (CBSA) received a written complaint from Novamerican Steel Inc. of Montreal, Quebec and Bolton Steel Tube Co. Ltd. of Bolton, Ontario (the Complainants) alleging that imports of certain carbon steel welded pipe originating in or exported from Chinese Taipei, the Republic of India (India), the Sultanate of Oman (Oman), the Republic of Korea, Thailand, the Republic of Turkey (Turkey) and the United Arab Emirates (UAE) are being dumped and that imports of certain carbon steel welded pipe originating in or exported from India, Oman, and the UAE are being subsidized. The complainants allege that the dumping and subsidizing have caused injury and are threatening to cause injury to the Canadian industry producing these goods.

[2] On April 13, 2012, pursuant to paragraph 32(1)(a) of the *Special Import Measures Act* (SIMA), the CBSA informed the Complainants that the complaint was properly documented. The CBSA also notified the governments of Chinese Taipei, India, Oman, the Republic of Korea, Thailand, Turkey and the UAE that a properly documented complaint had been received and provided the governments of India, Oman and the UAE with the non-confidential version of the subsidy portion of the complaint. Although the governments of India, Oman and the UAE were entitled to consultations prior to the initiation of the investigations, pursuant to Article 13.1 of the *Agreement on Subsidies and Countervailing Measures*, none of the governments requested consultations.

[3] The Complainants provided evidence to support the allegations that certain carbon steel welded pipe from Chinese Taipei, India, Oman, the Republic of Korea, Thailand, Turkey and the UAE has been dumped and that certain carbon steel welded pipe from India, Oman and the UAE has been subsidized. The evidence also discloses 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] On May 14, 2012, pursuant to subsection 31(1) of SIMA, the President of the CBSA (President) initiated investigations respecting the dumping of certain carbon steel welded pipe from Chinese Taipei, India, Oman, the Republic of Korea, Thailand, Turkey and the UAE and the subsidizing of certain carbon steel welded pipe from India, Oman and the UAE.

## INTERESTED PARTIES

### **Complainants**

[5] The Complainants are major producers of carbon steel welded pipe, accounting for a major proportion of the production of like goods<sup>1</sup> in Canada. The Complainants' goods are produced at manufacturing facilities in Montreal, Quebec, and Bolton, Ontario.

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<sup>1</sup> Refer to the definition of like good in the Like Goods section below.

[6] The names and addresses of the Complainants are:

Novamerican Steel Inc.  
6001 Irwin Street  
Montréal, Québec H8N 1A1

Bolton Steel Tube Co. Ltd.  
455A Piercey Road  
Bolton, Ontario L7E 5B8

[7] Another major producer of like goods, Quali-T-Tube of Bromont, Quebec, provided a letter to the Complainants indicating its support of the complaint.

[8] Besides the three major producers of like goods, there are a number of manufacturers of tubular products in Canada whose main business is not carbon steel welded pipe but who do produce and sell small quantities of like goods on an irregular basis. These companies are: Atlas Tube, Evraz Inc. NA, Lakeside Steel Inc., Tenaris, and Welded Tube of Canada.

### **Exporters**

[9] The CBSA has identified 205 potential exporters of the subject goods<sup>2</sup> from CBSA import documentation and from information submitted in the complaint.

### **Importers**

[10] The CBSA has identified 112 potential importers of the subject goods from CBSA import documentation.

### **Government of India, Government of Oman, and Government of UAE**

[11] For the purposes of this investigation, “Government of India”, “Government of Oman”, and “Government of UAE”, in addition to the federal or central government refers to any provincial, state, municipal or other local or regional government in that country, any person, agency or institution acting for, or on behalf of, or under the authority of any law passed by, the government of that country or that provincial, state, municipal or other local or regional government, and any association of sovereign states of which that country is a member.

## **PRODUCT INFORMATION**

### **Definition**

[12] For the purpose of these investigations, subject goods are defined as:

carbon steel welded pipe, commonly identified as standard pipe, in the nominal size range from ½ inch up to and including 6 inches (12.7 mm to 168.3 mm in outside diameter) inclusive, in various forms and finishes, usually supplied to meet ASTM A53, ASTM A135, ASTM A252, ASTM A589, ASTM A795, ASTM F1083 or Commercial Quality, or AWWA C200-97 or equivalent specifications, including water well casing, piling pipe, sprinkler pipe and fencing pipe, but excluding oil and gas line pipe made to

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<sup>2</sup> Refer to the definition of subject good in the Product Information section below.

API specifications exclusively, originating in or exported from Chinese Taipei, the Republic of India, the Sultanate of Oman, the Republic of Korea, Thailand, the Republic of Turkey and the United Arab Emirates

### **Additional Product Information**

[13] Carbon steel welded pipe (CSWP), also commonly referred to as standard pipe, covers a wide range of pipe products generally used in plumbing and heating applications for the low-pressure conveyance of water, steam, natural gas, air, and other liquids and gases. CSWP, or standard pipe, may also be used in air conditioning systems, in sprinkler systems for fire protection, as structural support for fencing, as piling, as well as for a variety of other mechanical and light load-bearing applications.

[14] Although CSWP is generally produced to industry standards such as ASTM<sup>3</sup> A53, ASTM A135, ASTM A252, ASTM A589, ASTM A795, ASTM F1083, Commercial Quality and AWWA<sup>4</sup> C200-97, it may also be produced to foreign standards such as BS<sup>5</sup> 1387 or to proprietary specifications as is often the case with fencing pipe. While standard pipe may be manufactured to any of the standards mentioned above, the ASTM A53 specification is the most common as it is considered to be the highest quality and is suitable for welding, coiling, bending and flanging.

[15] The size of CSWP is generally specified by two values: a nominal pipe size (NPS) and a schedule. The NPS relates roughly to the inside diameter of the pipe while the schedule relates to the wall thickness. For a given NPS, the wall thickness will increase as the schedule number increases. For example, CSWP with an NPS of 1 inch (NPS 1) and made to ASTM A53, Schedule 40 requirements will have an outside diameter of 1.315 inches and a wall thickness of 0.133 inch while the same pipe meeting the requirements of ASTM A53, Schedule 80 will have an outside diameter of 1.315 inches and a wall thickness of 0.179 inch.

[16] Standard pipe may be sold with a lacquer finish, or a black finish as it is sometimes referred to in the industry. It may also be sold in a galvanized finish which means it has been treated with zinc. Both types of finish are intended to inhibit rust although the galvanizing process will deliver a superior result. Galvanized pipe will sell at a premium to black standard pipe because of this, and the fact that zinc costs much more than lacquer.

### **Production Process**

[17] Carbon steel welded pipe is generally produced in mills using either the electric resistance welding (ERW) process or the continuous welding (CW) process. Both processes begin with coils of flat-rolled steel sheet being slit into strips, the widths of which are equal to the circumferences of the pipe to be manufactured.

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<sup>3</sup> American Society for Testing and Materials (ASTM).

<sup>4</sup> American Water Works Association.

<sup>5</sup> British Standard.

[18] In the ERW process, the steel strip is passed through a series of rollers to form a tubular shape. The edges are then heated electrically and welded together under heat and pressure. The ERW welding process produces an internal and external weld flash or bead which is generally trimmed from both sides of the weld.

[19] In the CW process, the steel strip is heated to a welding temperature of approximately 2,600° Fahrenheit in a gas-fired furnace. The hot strip is then passed through a series of rollers to form a tubular shape, with the edges being butted together under pressure to form a weld to which no filler metal is added.

[20] Although not as prevalent as the aforementioned methods, standard pipe may also be produced using a combination of the ERW process and a hot stretch reduction mill. Under this method, pipe shells are first produced using the ERW process. The shells are then heated in a furnace and are passed through a stretch reduction mill. The mill reduces the outside diameter of the pipe and can be used to increase, maintain or reduce the thickness of the pipe walls.

[21] Once the basic pipe is formed using one of the three manufacturing processes explained above, it is cut to length, straightened and tested. The pipe ends may then be further processed, i.e. cropped, faced and reamed, threaded, coupled, rolled and /or cut grooved. Finishes such as lacquer or zinc (galvanizing) may be applied to the surface of the pipe depending on the intended application. Lastly, the pipe is stencilled and bundled prior to shipment.

#### **Classification of Imports**

[22] The subject goods are usually classified under the following Customs Tariff Harmonized System (HS) classification numbers:

<u>Prior to January 1, 2012</u>	<u>As of January 1, 2012</u>
7306.30.10.14	7306.30.00.14
7306.30.10.24	7306.30.00.24
7306.30.10.34	7306.30.00.34
7306.30.90.14	7306.30.00.14
7306.30.90.19	7306.30.00.19
7306.30.90.24	7306.30.00.24
7306.30.90.29	7306.30.00.29
7306.30.90.34	7306.30.00.34
7306.30.90.39	7306.30.00.39

[23] The Customs Tariff was amended on January 1, 2012. The table above shows the Customs Tariff HS classification numbers for the subject goods prior to January 1, 2012 and those in effect as of January 1, 2012. The tariff classification numbers prior to January 1, 2012 are shown as these were the numbers in effect in the period covered by the complaint (i.e. 2009 to 2011).

[24] The listing of HS classification numbers is for convenience of reference only. Refer to the product definition for authoritative details regarding the subject goods.

### **LIKE GOODS**

[25] 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.

[26] CSWP produced by the domestic industry competes directly with, has the same end uses as, and can be substituted for, the subject goods. Therefore, the CBSA has concluded that the CSWP produced by the Canadian industry constitutes like goods to the subject goods.

[27] The CBSA is of the opinion that subject and like goods constitute only one class of goods. The Tribunal has previously recognized CSWP as a single class of goods in NQ-2008-001.<sup>6</sup>

### **THE CANADIAN INDUSTRY**

[28] As previously stated, the Complainants account for the major proportion of known domestic production of like goods.

[29] Subsection 31(2) of SIMA requires that the following conditions for standing be met in order to initiate an investigation:

- the complaint is supported by domestic producers whose production represents more than fifty per cent of the total production of like goods by those domestic producers who express either support for or opposition to the complaint; and
- the production of the domestic producers who support the complaint represents twenty-five per cent or more of the total production of like goods by the domestic industry.

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

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<sup>6</sup> *Carbon Steel Welded Pipe*, Inquiry No. NQ-2008-001, Reasons issued September 4, 2008, para. 45.

## CANADIAN MARKET

[31] According to the Complainants, Canadian producers generally sell the like goods to distributors and to large volume end users. The end users are typically companies in the plumbing, heating and construction businesses. Canadian distributors and end users may purchase directly from the Canadian mills, from importers or directly from foreign producers, both in named countries and other countries.

[32] The Complainants provided estimates respecting the Canadian market for CSWP. The Complainants estimated the market based on their domestic sales, the estimated sales of other Canadian producers, and on publicly available import data obtained from Statistics Canada adjusted for certain tariff codes.

[33] The CBSA conducted its own analysis of imports of subject goods. Due to the large volume of imports to be examined, the analysis involved reviewing a representative sample of imports from the named countries to determine the volume of subject goods imported from each country.

[34] A review of CBSA import data demonstrated similar trends and volumes with respect to imports of subject good compared to information provided by the Complainants.

[35] Detailed information regarding the volume of subject imports and domestic production cannot be divulged for confidentiality reasons. The CBSA, however, has prepared the following table to show the estimated import share of subject goods in Canada.

**Estimated Import Volumes of Subject Goods**  
**(as a % of total imports)**

<b>COUNTRY</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>
<b>Imports:</b>			
Chinese Taipei	7%	10%	15%
India	7%	5%	9%
Oman	0%	0%	4%
Rep. of Korea	17%	16%	10%
Thailand	7%	11%	11%
Turkey	10%	11%	9%
UAE	1%	2%	6%
<b>Total – Named Countries</b>	<b>49%</b>	<b>55%</b>	<b>64%</b>
<b>Total – Other Countries</b>	<b>51%</b>	<b>45%</b>	<b>36%</b>



## **EVIDENCE OF DUMPING**

[36] The Complainants allege that subject goods from Chinese Taipei, India, Oman, the Republic of Korea, Thailand, Turkey and the UAE have been injuriously dumped into Canada. Dumping occurs when the normal value of the goods exceeds the export price to importers in Canada.

[37] Normal values are generally based on the domestic selling price of like goods in the country of export where competitive market conditions exist or on the full cost of the goods plus a reasonable amount for profits.

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

[39] Estimates of normal value and export price by both the Complainants and the CBSA are discussed below. In both cases, the period examined was from January 1 to December 31, 2011.

### **Normal Value**

[40] The Complainants state that they were unable to obtain reliable domestic sales information for CSWP for any of the named countries. In addition, in instances where domestic market pricing of CSWP was publicly available, the selling prices were below the cost of production and, in certain cases, below the cost of hot rolled steel sheet,<sup>7</sup> the primary raw material used in producing CSWP. In either case, the Complainants were unable to estimate normal values using the methodology set out in section 15 of SIMA.

[41] As a result, the Complainants estimated normal values for the subject goods using the methodology set out in paragraph 19(b) of SIMA. Under this methodology normal values are determined as the aggregate of the cost of production of the goods, a reasonable amount for administrative, selling and other costs, and a reasonable amount for profit.

[42] Given the commodity nature of CSWP, the Complainants used their own costs as a basis to determine the costs of the subject goods when estimating normal values for black standard pipe and galvanized standard pipe in each of the named countries. However, the Complainants adjusted the material costs, labour costs and profit in instances where it found publicly-available information that would serve to better approximate the normal values of the subject goods in each of the countries.

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<sup>7</sup> See Exhibits 10 and 11 of the non-confidential complaint.

[43] In estimating normal values for subject goods from India, Oman, Turkey and UAE, the Complainants used the average costs in 2011 for hot-rolled coil (HRC) obtained from the trade publication Steel Business Briefing (SBB).<sup>8</sup> SBB is recognized as a reliable independent source of information with respect to the steel industry.

[44] The Complainants also relied upon other sources of information when calculating cost-plus normal values. For labour rates in various countries the complainants turned to the International Labour Organization's (ILO) Laborsta Database and the United States Department of Labour's Bureau of Labour Statistics (BLS).<sup>9</sup>

[45] To determine an appropriate amount for profits to use in the estimate of normal values, the Complainants obtained profit information contained in the annual reports of several publicly-traded pipe companies in India and in the Republic of Korea. The average profit derived from the Indian producers was used as the profit figure when estimating normal values for all subject goods from the named countries other than the Republic of Korea because there were significantly more pipe and tube producers in India than in the Republic of Korea.

[46] For the purpose of its analysis, the CBSA estimated normal values for black standard pipe and galvanized standard pipe in each of the seven named countries using the same cost-plus methodology used by the Complainants and most of the same costs used by the Complainants but with some modifications. In estimating the normal values for subject goods from Chinese Taipei, the Republic of Korea and Thailand, the CBSA replaced the Complainants' hot-rolled coil (HRC) costs with HRC costs for Asia as reported in the trade publication Steel Business Briefing as these costs are considered to be more representative.

[47] Another element of the Complainants' cost-plus methodology that was adjusted was the amount for profits applied to subject goods from the named countries other than India and the Republic of Korea. The CBSA was satisfied with the profit figures calculated by the Complainants for India and the Republic of Korea as they were based on the profits found in the annual reports of publicly-traded companies in those countries. The CBSA was able to obtain publicly-available profit figures to apply to the estimated normal values of subject goods from Oman and Thailand. For subject goods from the three remaining countries (Chinese Taipei, Turkey and UAE) where no domestic profit information could be found, the CBSA used the average profit earned by the pipe producers in India, the Republic of Korea, Oman and Thailand.

[48] Although the CBSA was satisfied that the Complainants' estimated costs fairly represent the costs of the subject goods, the cost and profit changes noted above were undertaken by the CBSA to better approximate, and to more conservatively estimate, the normal values.

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<sup>8</sup> See Exhibit 11 of the non-confidential complaint.

<sup>9</sup> See Exhibit 16 of the non-confidential complaint.

## Export Price

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

[50] The Complainants estimated export prices in one of two ways. In instances where the Complainants had specific information on price quotations in the Canadian market, the Complainants used the quoted prices as the basis for estimating export price. Starting with the quoted price the Complainants deducted amounts for the importer's profit, ocean freight, port charges in Canada, and inland freight and port charges in the country of export. The Complainants employed the methodology above when estimating the export price of black standard pipe and galvanized standard pipe from India, Oman, Turkey and the UAE.

[51] In the case of Chinese Taipei, the Republic of Korea and Thailand, where the Complainants had no specific information on price quotations in the Canadian market, the Complainants estimated export price based on the declared value for duty (VFD) of subject goods imported into Canada in 2011 as reported by Statistics Canada.<sup>10</sup> Starting with the VFD, the Complainants deducted amounts for inland freight and port charges in the country of export to arrive at an Ex Works value for the black standard pipe and galvanized standard pipe.

[52] In its own estimation of export price, the CBSA relied on actual import data from commercial and customs documentation. Due to the large volume of carbon steel welded pipe products imported into Canada, customs information pertaining to a sample of imports in the period January 1 to December 31, 2011 was examined. It should be noted that the CBSA did not deduct from the declared selling prices any amounts for inland freight and port charges in the country of export as was done by the Complainants. The reason for this is that, while the Complainants' estimates of these charges appear reasonable, the CBSA does not have specific information on these charges. Consequently, the CBSA used the VFD amounts as declared on the customs documentation to estimate the export prices. By not making a deduction for the aforementioned export charges, the CBSA's estimates of export price and margins of dumping are somewhat more conservative than those of the Complainants.

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<sup>10</sup> See Exhibit 18 of the non-confidential complaint.

### **Estimated Margins of Dumping**

[53] The CBSA estimated margins of dumping for the subject goods by country. The dumping margins were calculated by deducting the CBSA's estimated export prices from the CBSA's estimated normal values and expressing the result as a percentage of the export price. As explained above, the estimated export prices are based on an analysis of a representative sample of importations while the estimated normal values are based largely on the Complainants' cost and profit estimates as modified by the CBSA. The margins of dumping estimated by the CBSA for each named country are shown in the table below.

**CBSA'S ESTIMATES OF MARGINS OF DUMPING**  
(expressed as a percentage of export price)

<b>COUNTRY</b>	<b>Margin of Dumping</b>
<b>Chinese Taipei</b>	29%
<b>India</b>	69%
<b>Oman</b>	50%
<b>Rep. of Korea</b>	29%
<b>Thailand</b>	33%
<b>Turkey</b>	24%
<b>UAE</b>	42%

### **MARGIN OF DUMPING AND VOLUME OF DUMPED GOODS**

[54] Under section 35 of SIMA, if, at any time before the President makes a preliminary determination the President is satisfied that the margin of dumping of the goods of a country is insignificant or the actual and potential volume of dumped goods of a country is negligible, the President must terminate the investigation with respect to that country.

[55] Pursuant to subsection 2(1) of SIMA, a margin of dumping of less than 2% of the export price is defined as insignificant and a volume of dumped goods is considered negligible if it accounts for less than 3% of the total volume of goods that are released into Canada from all countries that are of the same description as the dumped goods.

[56] On the basis of the estimated margins of dumping and the estimated volume of dumped imports for the period of January 1, 2011 to December 31, 2011, summarized in the following table, the estimated margins of dumping and the estimated volumes of dumped goods are greater than the thresholds outlined above.

## ESTIMATED MARGIN OF DUMPING AND VOLUME OF DUMPED GOODS

January 1 to December 31, 2011

COUNTRY	Estimated Margin of Dumping (as a % of export price)	Estimated Volume of Dumped Goods (as a % of total imports)
Chinese Taipei	29%	15%
India	69%	9%
Oman	50%	4%
Rep. of Korea	29%	10%
Thailand	33%	11%
Turkey	24%	9%
UAE	42%	6%
Other Countries		36%
Total Imports (All Countries)		100%

### EVIDENCE OF SUBSIDIZING

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

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

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

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

[60] 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.

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

- 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.

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

[63] The Complainant alleged that the exporters of subject goods originating in India, Oman and the UAE have benefited from actionable subsidies provided by their respective governments, which may include the governments of the provinces or other jurisdictions in which the exporters are located.

## INDIA

[64] In identifying subsidy programs which they believe to be applicable to subject goods from India, the Complainants relied on information from previous CBSA and United States Department of Commerce subsidy investigations, WTO's Trade Policy Reviews, steel industry reports and various government publications. A general description of the alleged subsidy programs was provided in the complaint, together with the documents that formed the basis for the Complainants' allegations.

[65] The Complainants identified 40 subsidy programs and have alleged that all of the programs have conferred benefits on the Indian producers of subject goods, benefits which in turn have resulted in the countervailable subsidizing of Indian exports of subject goods to Canada. The identified programs may be grouped into the following seven categories:

- I. Special Economic Zones (SEZ);
- II. Export Oriented Units (EOU);
- III. Grants;
- IV. Preferential Loan Programs;
- V. Relief from Duties and Taxes on Materials and Machinery;
- VI. Goods/Services provided by the Government of India (GOI) at Less Than Fair Market Value; and
- VII. Subsidy Programs Provided by the State Government of Maharashtra (SGOM).

[66] The Complainants were unable to calculate the exact amount of subsidy received by the exporters in India for each alleged subsidy program. However, they did provide a comprehensive description of the programs cited and were able to estimate that the total amount of subsidy for the 40 alleged programs was 20% - 43% of the export price of the subject goods.<sup>11</sup>

[67] Information from the CBSA's previous subsidy investigations involving India as well as other reference material reviewed by the CBSA or included in the complaint, provide support for the Complainants' allegations.

[68] In the case of programs where an enterprise's eligibility or degree of benefit is contingent upon export performance or the use of goods that are produced or originate in the country of export, such programs would be considered prohibited subsidies as defined in subsection 2(1) of SIMA.

[69] For those programs where incentives are provided to enterprises operating in SEZs or other designated areas, the CBSA considers that these may constitute actionable subsidies for the reason that eligibility is limited to enterprises operating in such regions, and are therefore, specific and actionable.

[70] As well, the CBSA is satisfied that there is sufficient evidence indicating that the exporters of subject goods may receive benefits in the form of grants, relief from duties or taxes, and the provision of goods and services, and are not generally granted to all companies in India.

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<sup>11</sup> See Exhibit 79 of the non-confidential complaint.

[71] Of the 40 alleged subsidy programs identified by the Complainants, 35 will be investigated by the CBSA, together with an additional program identified under the Grants category. Certain programs identified by the complainant had eligibility requirements, which the CBSA had previously ruled to be non-specific in nature,<sup>12</sup> some did not constitute a financial contribution by the GOI<sup>13</sup> and one had not yet been implemented.<sup>14</sup>

[72] A full listing of all programs to be investigated by the CBSA, and a description of the legislative authority to do so, may be found in **Appendix 1**.

## OMAN

[73] The Complainants relied on WTO's Trade Policy Review<sup>15</sup> in identifying subsidy programs, which they believe are also applicable to subject goods from Oman. A general description of the alleged subsidy programs was provided in the complaint, along with the documents that formed the basis for the Complainants' allegations.

[74] The Complainants identified six subsidy programs and alleged that all these identified programs have conferred benefits on the Omani producers of subject goods, benefits which in turn have resulted in the countervailable subsidizing of Omani exports of subject goods to Canada. The following is a list of the alleged subsidy programs identified by the Complainants:

- Program 1: Tariff exemptions on imported equipment, machinery, raw materials and packaging materials;
- Program 2: Land and buildings for less than fair market value;
- Program 3: Electricity, water and natural gas for less than fair market value;
- Program 4: Soft loans for industrial projects;
- Program 5: Post-shipment financing loans; and
- Program 6: Pre-shipment export credit guarantees

[75] The Complainants did not have information available to calculate the exact amounts of subsidy for the alleged subsidy programs. However, the Complainants did estimate that the amount of subsidy for each of the alleged subsidy programs should be equal to 1% - 3% of the export price. As a result, the total amount of subsidy was estimated to be 8% - 24% of the export price.<sup>16</sup>

[76] Based on the information available, the CBSA finds that Programs 1 to 4 may be considered specific as they are only available for producers located in one of Oman's seven Industrial Estates<sup>17</sup> or designated industrial zones. Programs 5 & 6 are likely to be export subsidies and contingent on exports.

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<sup>12</sup> Statement of Reasons, preliminary determination of *Certain Copper Pipe Fittings*, November 3, 2006.

<sup>13</sup> See paragraph 114 of the non-confidential complaint.

<sup>14</sup> See Exhibit 65 of the non-confidential complaint.

<sup>15</sup> See Exhibit 83 of the non-confidential complaint.

<sup>16</sup> See Exhibit 89 of the non-confidential complaint.

<sup>17</sup> See Exhibit 84 of the non-confidential complaint.



[77] Therefore, the CBSA will be requesting additional information on all of the six alleged subsidy programs in pursuing its investigation. A listing of the programs to be investigated by the CBSA, and a description of the legislative authority to do so, may be found in **Appendix 2**.

## UAE

[78] The Complainants referred to the WTO's Trade Policy Review<sup>18</sup> and reports from the Organisation for Economic Co-operation and Development<sup>19</sup> in identifying subsidy programs, which they believe are applicable to subject goods from the UAE. A general description of the alleged subsidy programs was provided, and the documents that formed the basis for these allegations were included in the complaint.

[79] Altogether, the Complainants identified ten subsidy programs and alleged that all the programs have conferred benefits on the Emirati producers of subject goods, which in turn have resulted in the countervailable subsidizing of Emirati exports of subject goods to Canada. The alleged subsidy programs identified by the Complainants may be grouped as follows:

- Program 1: Income Tax exemptions
- Program 2: Duty exemptions on imports and exports
- Program 3: Electricity for less than fair market value
- Program 4: Water for less than fair market value
- Program 5: Land and/or buildings for less than fair market value
- Program 6: Preferential export lending provided by the Emirates Industrial Bank
- Program 7: Preferential regulatory treatment

[80] The Complainants did not have information available to calculate the exact amounts of subsidy for the alleged subsidy programs. However, the Complainants did estimate that the amount of subsidy for each of the alleged subsidy programs should be equal to 1%-3% of the export price. As a result, the total amount of subsidy was estimated to be 8% - 24% of the export price.<sup>20</sup>

[81] In its analysis, the CBSA found that Programs 1 to 4 may be specific because they are available only to certain companies or industries, while Programs 1 and 2 are also likely to be specific in that they are only available for producers located in government established industrial areas or Free Zones. Program 6 appears to be an export subsidy that is contingent on exports.

[82] However, the CBSA notes that the benefits provided under Program 7 do not involve a direct transfer of funds; they do not constitute foregone revenue; nor do they entail the government providing any goods or services. As such, the benefits do not give rise to a "financial contribution" within the meaning set forth in SIMA, and the CBSA will therefore not further examine this program unless sufficient additional information justifies its investigation.

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<sup>18</sup> See Exhibit 92 of the non-confidential complaint.

<sup>19</sup> See Exhibit 90 of the non-confidential complaint.

<sup>20</sup> See Exhibit 96 of the non-confidential complaint.

[83] Therefore, the CBSA will be requesting additional information on six of the alleged subsidy programs when pursuing its investigation. A listing of the programs to be investigated by the CBSA, and a description of the legislative authority to do so, may be found in **Appendix 3.**

### **Estimated Amount of Subsidy**

[84] As stated previously, the Complainants were unable to accurately determine the total amount of subsidy respecting the subject goods. However, the cited programs are believed to significantly lower the cost of production of the subject goods. The CBSA estimated the amount of subsidy conferred on producers of the subject goods by comparing the weighted average export prices of subject goods with their estimated cost of production. These are the same export prices and cost figures that were used in the CBSA's estimation of normal values for India, Oman and the UAE.

[85] The amounts of subsidy are estimated to be 34% in India, 35% in Oman and 19% in the UAE, expressed as a percentage of the export prices.

### **AMOUNT OF SUBSIDY AND VOLUME OF SUBSIDIZED GOODS**

[86] Under section 35 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 export price of the goods is considered insignificant and a volume of subsidized goods of less than 3% of the total imports of goods that are of the same description as the subsidized goods that are released into Canada from all countries is considered negligible.

[87] 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 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.

[88] 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.<sup>21</sup> As India is included in the listing, the CBSA extends to it developing country status for purposes of this investigation.

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<sup>21</sup> The Organization for Economic Co-operation and Development, DAC List of ODA Recipients as at January 1, 2012. The document is available at [www.oecd.org/dac/stats/dacelist](http://www.oecd.org/dac/stats/dacelist).

[89] On the basis of the estimated amounts of subsidy and the import data for the period of January 1, 2011 to December 31, 2011, summarized in the following table, the estimated amounts of subsidy and the estimated volumes of subsidized goods are greater than the thresholds outlined above.

**ESTIMATED AMOUNTS OF SUBSIDY AND VOLUME OF SUBSIDIZED GOODS  
January 1, 2011 to December 31, 2011**

<b>COUNTRY</b>	<b>Estimated Amount of Subsidy (as a % of export price)</b>	<b>Estimated Volume of Subsidized Goods (as a % of total imports)</b>
<b>India</b>	34%	9%
<b>Oman</b>	35%	4%
<b>UAE</b>	19%	6%
<b>Other Countries</b>		81%
<b>Total Imports</b>		100%

### **SUBSIDY CONCLUSION**

[90] Information provided in the complaint, gathered through the CBSA's own research and/or made available through public documents, together indicates that sufficient evidence exists in India, Oman and the UAE respecting subsidy programs that benefit the producers of subject goods. Furthermore, the information available indicates that, in all likelihood, the volume of subsidized goods is not negligible and the amount of subsidy is not insignificant. Consequently, the CBSA has concluded that sufficient grounds are present to warrant the commencement of a subsidy investigation involving these three countries.

### **EVIDENCE OF INJURY**

[91] The Complainants allege that the subject goods have been dumped and subsidized and that such dumping and subsidizing have caused or are threatening to cause material injury to the CSWP industry in Canada.

[92] SIMA refers to material injury caused to the production of like goods in Canada. The CBSA has accepted that the CSWP produced by the Complainants are like goods to those imported from China.

[93] In support of its allegations, the Complainants provided evidence of reduced market share, price undercutting and price suppression, lost sales, diminished sales revenues, reduced profitability, underutilization of capacity, and reduced employment and plant shutdowns.

## Reduced Market Share

[94] Based on the Complainants' estimate of imports into the Canadian market,<sup>22</sup> the volumes of subject goods imports went from 35,305 MT in 2009 to 69,244 MT in 2011, an increase of almost 100%. This dramatic surge in imports resulted in the market share of subject goods increasing from 26% in 2009 to 35% in 2011. Over this same period of time the domestic industry's market share fell from 33% to 28%.

## Price Undercutting and Price Suppression

[95] The Complainants allege that dumped and subsidized imports of subject goods have captured market share at the expense of the Canadian industry by aggressively undercutting their prices. Despite the added expense of shipping CSWP great distances, CSWP from the subject countries is still priced substantially below the prices offered by the Canadian producers.<sup>23</sup> Not only are the average selling prices from the subject countries substantially lower than those of the Complainants, but they are also substantially lower than those of other non-subject countries, undercutting the prices of all other imports by between \$328 to \$807/MT from 2009 to 2011.<sup>24</sup>

[96] To illustrate injury suffered in the form of price suppression the Complainants point to the relationship between the price of CSWP and the price of hot-rolled steel sheet, the major cost component in producing CSWP. Based on information in the complaint pertaining to the selling prices of hot-rolled coil (HRC) in the U.S. Midwest,<sup>25</sup> the average price of HRC increased from \$US 531/MT in 2009 to \$US 814/MT in 2011, an increase of more than 50%.

[97] In comparison, based on the Complainants' information, the domestic industry's average selling price of CSWP was \$1,130/MT in 2009 and \$1,172/MT in 2011.<sup>26</sup> This price rise of \$42/MT equates to an increase of less than 4% over the period. The Complainants contend that, despite having faced increasing costs in recent years, they have been unable to pass these cost increases along to customers because of the availability of low-priced imports of subject goods.

[98] The Complainants provided a number of examples of price suppression in the Canadian market in the form of low-priced offers. In many instances the Complainants were forced to reduce their prices to customers to compete with the imported subject goods.

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<sup>22</sup> See Exhibit 9 of the non-confidential complaint.

<sup>23</sup> See paragraph 272 of the non-confidential complaint.

<sup>24</sup> See paragraph 273 of the non-confidential complaint.

<sup>25</sup> See Exhibit 106 of the confidential complaint.

<sup>26</sup> See Exhibit 9 of the non-confidential complaint.

[99] The Complainants contend that, despite marketing efforts in Western Canada, Canadian producers have been unable to sell CSWP in this market due to the presence of low-priced imports of subject goods, and especially from such countries as Chinese Taipei and Thailand.<sup>27</sup> To illustrate their lack of success in selling into the Western Canadian market the Complainants compared the average declared value of \$839/MT<sup>28</sup> for black standard pipe over 4.5 inches from Thailand in 2011 to the average market price of hot-rolled sheet in Canada in 2011 of \$824/MT.<sup>29</sup>

### **Lost Sales**

[100] The complaint contains documentation of instances where sales to Canadian customers were lost to alleged dumped and subsidized imports of subject goods.

### **Diminished Sales Revenues**

[101] The complaint contains confidential evidence of declining sales revenue for carbon steel welded pipe products.

### **Reduced Profitability**

[102] The complaint also contains confidential evidence of net losses suffered in 2009 to 2011 on sales of CSWP.<sup>30</sup>

### **Underutilization of Capacity**

[103] The Complainants furnished confidential capacity utilization rates. While the complaint cites that sales volume increased somewhat in 2011, this was the result of the decision to compete with the import pricing of subject goods in order to maintain capacity utilization. Even with this approach, production has been at very low levels of capacity utilization.<sup>31</sup>

### **Reduced Employment and Plant Shutdowns**

[104] The Complainants contend that dumped imports have had a drastic impact on employment. Examples of reduced employment include the closure of a finishing center in August 2011 for three weeks due to insufficient sales orders and where there used to be two day shifts and one night shift in the tube mill, there is now one day shift and no night shift.<sup>32</sup>

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<sup>27</sup> See paragraphs 290-293 of the non-confidential complaint.

<sup>28</sup> See Exhibit 18 of the non-confidential complaint.

<sup>29</sup> See Exhibit 11 of the non-confidential complaint.

<sup>30</sup> See Exhibit 101 of the confidential complaint.

<sup>31</sup> See Exhibit 102 of the confidential complaint.

<sup>32</sup> See Exhibits 101 and 102 of the non-confidential complaint.

## **THREAT OF INJURY**

[105] The Complainants contend that the domestic carbon steel welded pipe industry is also threatened with additional injury from the allegedly dumped and subsidized imports whose volume has increased by nearly 100% from 2009 to 2011.<sup>33</sup>

[106] Without protection the Complainants believe that the domestic industry will be threatened by imports of subject goods from the named countries for the following reasons: the producers of the subject goods in the named countries are highly export-oriented as evidenced by a number of anti-dumping and countervailing duty findings imposed by jurisdictions around the world against similar steel products from many of the named countries;<sup>34</sup> foreign trade remedy actions against carbon steel welded pipe, such as the US International Trade Commission's preliminary injury finding against such goods from India, Oman and the UAE,<sup>35</sup> threaten to divert exports into the Canadian market; mills in the subject countries have massive production capacity, many times that of the entire Canadian market; and standard pipe is a fungible commodity product that is sold on the basis of price and the Complainants are aware of continuing low-priced offers in the Canadian market.

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

[107] The CBSA finds that the Complainants have provided sufficient evidence that there is a reasonable indication that they have suffered injury due to the alleged dumping and subsidizing of subject goods imported into Canada. There is a reasonable indication that the injury the Complainants have suffered in terms of reduced market share, price undercutting and price suppression, lost sales, diminished sales revenues, reduced profitability, underutilization of capacity, and reduced employment and plant shutdowns is related to the price advantage the alleged dumping and subsidizing has produced between the subject imports and the Canadian produced goods.

[108] The CBSA also finds that the Complainants have provided sufficient evidence that there is a reasonable indication that continued alleged dumping and subsidizing of subject goods imported into Canada threaten to cause injury to the Canadian industry producing these goods.

## **CONCLUSION**

[109] Based on information provided in the complaint, other available information, and the CBSA's internal data on imports, there is evidence that certain carbon steel welded pipe originating in or exported from Chinese Taipei, India, Oman, the Republic of Korea, Thailand, Turkey and the UAE has been dumped and that certain carbon steel welded pipe originating in or exported from India, Oman and the UAE has been subsidized, and there is a reasonable indication that such dumping and subsidizing has caused and is threatening to cause injury to the Canadian industry. As a result, based on the CBSA's examination of the evidence and its own analysis, dumping and subsidy investigations were initiated on May 14, 2012.

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<sup>33</sup> See Exhibit 9 of the non-confidential complaint.

<sup>34</sup> See Exhibit 103 of the non-confidential complaint.

<sup>35</sup> See Exhibit 107 of the non-confidential complaint.

## **SCOPE OF THE INVESTIGATION**

[110] The CBSA will conduct investigations to determine whether the subject goods have been dumped and/or subsidized.

[111] The CBSA has requested information from all potential exporters and importers to determine whether or not subject goods imported into Canada during the period of investigation of January 1, 2011 to December 31, 2011, were dumped. The information requested will be used to determine the normal values, export prices and margins of dumping.

[112] The CBSA has also requested information from the Government of India, the Government of Oman and the Government of the UAE and all potential exporters in those countries to determine whether or not subject goods imported into Canada during the period of investigation of January 1, 2011 to December 31, 2011, were subsidized. The information requested will be used to determine the amounts of subsidy.

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

## **FUTURE ACTION**

[114] The Canadian International Trade Tribunal (Tribunal) will conduct a preliminary inquiry to determine whether the evidence discloses a reasonable indication that the alleged dumping and subsidizing of the goods has caused or is threatening to cause injury to the Canadian industry. The Tribunal must make its decision within 60 days after the date of the initiation of the investigations. If the Tribunal concludes that the evidence does not disclose a reasonable indication of injury to the Canadian industry, the investigations will be terminated.

[115] If the Tribunal finds that the evidence discloses a reasonable indication of injury to the Canadian industry and the CBSA investigations reveal that the goods have been dumped and/or subsidized, the CBSA will make a preliminary determination(s) of dumping and/or subsidizing within 90 days after the date of the initiation of the investigations, by August 13, 2012. Where circumstances warrant, this period may be extended to 135 days from the date of the initiation of the investigations.

[116] If, in respect of the named country, the CBSA investigation(s) reveal that imports of the subject goods have not been dumped and/or subsidized, that the margin of dumping and/or amount of subsidy is insignificant or that the actual and potential volume of dumped or subsidized goods is negligible, the investigation(s) will be terminated.

[117] Imports of subject goods released by the CBSA on and after the date of a preliminary determination of dumping and/or subsidizing may be subject to provisional duty in an amount not greater than the estimated margin of dumping or the estimated amount of subsidy on the imported goods.

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

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

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

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

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

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

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

### **UNDERTAKINGS**

[124] After a preliminary determination of dumping by the CBSA, an exporter may submit a written undertaking to revise selling prices to Canada so that the margin of dumping or the injury caused by the dumping is eliminated. An acceptable undertaking must account for all or substantially all of the exports to Canada of the dumped goods.



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

[126] Interested parties may provide comments regarding the acceptability of undertakings within nine days of the receipt of an undertaking by the CBSA. The CBSA will maintain a list of parties who wish to be notified should an undertaking proposal be received. Those who are interested in being notified should provide their name, telephone and fax numbers, mailing address and e-mail address to one of the officers identified in the "Information" section of this document.

[127] If an undertaking were to be accepted, the investigations and the collection of provisional duty would be suspended. Notwithstanding the acceptance of an undertaking, an exporter may request that the CBSA's investigations be completed and that the Tribunal complete its injury inquiry.

#### **PUBLICATION**

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

#### **INFORMATION**

[129] Interested parties are invited to file written submissions presenting facts, arguments, and evidence that they feel are relevant to the alleged dumping and subsidizing. Written submissions should be forwarded to the attention of one of the officers identified below.

[130] To be given consideration in this phase of these investigations, all information should be received by the CBSA by June 20, 2012.

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

[132] Confidential information submitted to the President will be disclosed on written request to independent counsel for parties to these proceedings, subject to conditions to protect the confidentiality of the information. Confidential information may also be released to the Tribunal, any court in Canada, or a WTO/NAFTA dispute settlement panel. Additional information respecting the Directorate's policy on the disclosure of information under SIMA may be obtained by contacting one of the officers identified below or by visiting the CBSA's Web site.

[133] The investigation schedules and a complete listing of all exhibits and information are available at <http://www.cbsa-asfc.gc.ca/sima-lmsi/i-e/menu-eng.html>. The exhibits listing will be updated as new exhibits and information are made available.

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

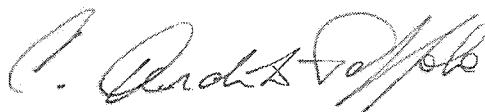
**Mail:** SIMA Registry and Disclosure Unit  
Anti-dumping and Countervailing Directorate  
Canada Border Services Agency  
100 Metcalfe Street, 11<sup>th</sup> floor  
Ottawa, Ontario K1A 0L8  
Canada

**Telephone:** Patrick Mulligan 613-952-6720  
Vera Hutzuliak 613-954-0689

**Fax:** 613-948-4844

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

**Web site:** <http://www.cbsa-asfc.gc.ca/sima-lmsi>



Caterina Ardito-Toffolo  
A/Director General  
Anti-dumping and Countervailing Directorate

DESCRIPTION OF IDENTIFIED PROGRAMS AND INCENTIVES - INDIA

Evidence provided by the Complainants suggests that the Government of India may have provided support to manufacturers of subject goods in the following manner.

Alleged Subsidy Programs to be Investigated by the CBSA

**I. Special Economic Zones (SEZ)**

- Program 1: Duty-free imports of capital goods and raw materials, components, consumables, intermediates, spare parts and packing material
- Program 2: Income tax exemption for SEZ units under Section 10AA of the *Income Tax Act*
- Program 3: Exemption from minimum alternate tax under Section 115JB of the *Income Tax Act*
- Program 4: Exemption from central sales tax on purchases of capital goods and raw materials, components, consumables, intermediates, spare parts and packing material
- Program 5: Exemption from service tax including education cesses
- Program 6: Discounted electricity rates for SEZ units
- Program 7: Discounted land fees and leases for SEZ units

**II. Export Oriented Units (EOU)**

- Program 8: Duty-free importation of capital goods and other materials
- Program 9: Reimbursement of central sales tax (CST) on goods manufactured in India
- Program 10: Exemption from central excise duty on goods procured from Domestic Tariff Area (DTA) and on goods manufactured in India
- Program 11: Duty drawback on fuel procured from domestic oil companies
- Program 12: Credit for paid service tax
- Program 13: Exemption from income tax as per Section 10A and 10B of the *Income Tax Act*

**III. Grants**

- Program 14: Assistance to states for developing export infrastructure and allied activities
- Program 15: Market access initiative
- Program 16: Market development assistance
- Program 17: Meeting expenses for statutory compliances in buyer country for trade related matters
- Program 18: Towns of export excellence
- Program 19: Brand promotion and quality
- Program 20: Test houses

- Program 21: Export and trading houses
- Program 22: Focus market scheme
- Program 23: Focus product scheme
- Program 24: Research & development financial assistance

**IV. Preferential Loan Programs**

- Program 25: Pre-shipment, post-shipment and other preferential financing

**V. Relief from Duties and Taxes on Materials and Machinery**

- Program 26: Export promotion capital goods (EPCG) scheme
- Program 27: Advance authorisation scheme
- Program 28: Duty-free import authorisation (DFIA) scheme
- Program 29: Duty entitlement pass book (DEPB) scheme

**VI. Goods/Services provided by GOI at Less Than Fair Market Value**

- Program 30: Purchase of hot-rolled steel from state-owned enterprises for less than fair market value
- Program 31: Provision of captive mining rights for minerals including iron ore and coal
- Program 32: Purchase of iron ore from state-owned enterprises for less than fair market value

**VII. Subsidy Programs provided by the State Government of Maharashtra (SGOM)**

- Program 33: Exemption from electricity duty
- Program 34: Refund of Octroi duty or entry tax (in lieu of Octroi)
- Program 35: Special incentives for mega projects
- Program 36: Exemption from sales tax and other levies

**Determinations of Subsidy and Specificity**

Available information indicates that the programs identified under: *SEZs; Export Oriented Units; Relief from Duties and Taxes on Materials and Machinery; and Subsidy programs by the State Government of Maharashtra*, may constitute financial contributions pursuant to paragraph 2(1.6)(b) of SIMA, in that amounts that would otherwise be owing and due to the government are reduced and/or exempted, and would confer a benefit to the recipient equal to the amount of the reduction/exemption.

*Grants* may constitute financial contributions pursuant to paragraph 2(1.6)(a) of SIMA in that they involve the direct transfer of funds or liabilities or the contingent transfer of funds or liabilities; and pursuant to paragraph 2(1.6)(b) of SIMA as amounts owing and due to the government that are forgiven or not collected.

*Goods/Services Provided by Government at Less than Fair Market Value* may constitute a financial contribution pursuant to paragraph 2(1.6)(c) of SIMA as they involve the provision of goods or services, other than general governmental infrastructure.

In the case of *Preferential Loan Programs*, the GOI's financial contribution would be established under paragraph 2(1.6)(d) of SIMA, where the Government permits or directs a non-governmental body to carry out practices of the Government involving the direct transfer of funds.

Benefits limited to enterprises located in certain areas under the *SEZs* program category may be considered specific pursuant to paragraph 2(7.2)(a) of SIMA. As well, *Goods/Services Provided by Government at Less than Fair Market Value* and *Subsidy programs by the State Government of Maharashtra* and certain *Grants* may be considered specific pursuant to subsection 2(7.3) of SIMA in that the manner in which discretion is exercised by the granting authority indicates that the subsidy may not be generally available.

Subsidies provided under the program categories: *Export Oriented Units; Preferential Loan Programs; Relief from Duties and Taxes on Materials and Machinery*; and certain *Grants* may constitute specific subsidies under paragraph 2(7.2)(b) of SIMA as available information indicates that they are contingent upon export performance and may therefore be prohibited subsidies as defined in subsection 2(1) of SIMA.

**DESCRIPTION OF IDENTIFIED PROGRAMS AND INCENTIVES - OMAN**

Evidence provided by the Complainants suggests that the Government of Oman may have provided support to manufacturers of subject goods in the following manner.

**Alleged Subsidy Programs to be Investigated by the CBSA**

- Program 1: Tariff exemptions on imported equipment, machinery, raw materials and packaging materials
- Program 2: Land and buildings for less than fair market value
- Program 3: Electricity, water and natural gas for less than fair market value
- Program 4: Soft loans for industrial projects provided by the Oman Development Bank
- Program 5: Post-shipment financing scheme provided by the Export Credit Guarantee Agency
- Program 6: Pre-shipment credit guarantees provided by the Export Credit Guarantee Agency

**Determinations of Subsidy and Specificity**

*Tariff exemptions on imported equipment, machinery, raw materials and packaging materials, and Soft loans for industrial projects provided by the Oman Development Bank* may constitute financial contributions pursuant to paragraph 2(1.6)(b) of SIMA, in that amounts that would otherwise be owing and due to the government are reduced and/or exempted, and would confer a benefit to the recipient equal to the amount of the reduction/exemption.

*Land and buildings for less than fair market value and Electricity, water and natural gas for less than fair market value* may constitute financial contributions pursuant to paragraph 2(1.6)(c) of SIMA as they involve the provision of goods or services, other than general governmental infrastructure.

In the case of *Post-shipment financing and Pre-shipment credit guarantees provided by the Export Credit Guarantee Agency*, the financial contribution would be established under paragraph 2(1.6)(d) of SIMA, where the Government permits or directs a non-governmental body to carry out practices of the Government involving the direct transfer of funds.

Benefits limited to enterprises located in certain areas under the programs: *Tariff exemptions on imported equipment, machinery, raw materials and packaging materials; Soft loans for industrial projects provided by the Oman Development Bank; Land and buildings for less than fair market value; and Electricity, water and natural gas for less than fair market value* may be considered specific pursuant to paragraph 2(7.2)(a) of SIMA.

Subsidies provided under the *Post-shipment financing and Pre-shipment credit guarantees provided by the Export Credit Guarantee Agency* programs may constitute specific subsidies under paragraph 2(7.2)(b) of SIMA as available information indicates that they are contingent upon export performance and may therefore be prohibited subsidies as defined in subsection 2(1) of SIMA.

**DESCRIPTION OF IDENTIFIED PROGRAMS AND INCENTIVES - UAE**

Evidence provided by the Complainants suggests that the Government of the UAE may have provided support to manufacturers of subject goods in the following manner.

**Alleged Subsidy Programs to be Investigated by the CBSA**

- Program 1: Income Tax exemptions
- Program 2: Duty exemptions on imports and exports
- Program 3: Electricity for less than fair market value
- Program 4: Water for less than fair market value
- Program 5: Land and/or buildings for less than fair market value
- Program 6: Preferential export lending provided by the Emirates Industrial Bank (EIB)

**Determinations of Subsidy and Specificity**

*Income Tax Exemptions* and *Duty Exemptions on Import and Exports* may constitute financial contributions pursuant to paragraph 2(1.6)(b) of SIMA, in that amounts that would otherwise be owing and due to the government are reduced and/or exempted, and would confer a benefit to the recipient equal to the amount of the reduction/exemption.

*Electricity for less than fair market value; Water for less than fair market value; and Land and/or buildings for less than fair market value* may constitute financial contributions pursuant to paragraph 2(1.6)(c) of SIMA as they involve the provision of goods or services, other than general governmental infrastructure.

In the case of *Preferential export lending provided by the Emirates Industrial Bank*, the financial contribution would be established under paragraph 2(1.6)(d) of SIMA, where the Government permits or directs a non-governmental body to carry out practices of the Government involving the direct transfer of funds.

The programs: *Income Tax exemptions; Duty exemptions on imports and exports; Water for less than fair market value* and *Land and/or buildings for less than fair market value* may be considered specific pursuant to subsection 2(7.3) of SIMA in that the manner in which discretion is exercised by the granting authority indicates that the subsidy may not be generally available. As well, benefits limited to enterprises located in certain areas under the programs *Income Tax exemptions* and *Duty exemptions on imports and exports* may be considered specific pursuant to paragraph 2(7.2)(a) of SIMA.

Benefits provided under the program *Preferential export lending provided by the Emirates Industrial Bank* may constitute specific subsidies under paragraph 2(7.2)(b) of SIMA as available information indicates that they are contingent upon export performance and may therefore be prohibited subsidies as defined in subsection 2(1) of SIMA.

1. The first part of the document is a list of names and addresses.

2. The second part of the document is a list of names and addresses.

