



OTTAWA, September 4, 2013

## **STATEMENT OF REASONS**

**Concerning the preliminary determinations with respect to the dumping of**

**CERTAIN COPPER TUBE ORIGINATING IN OR EXPORTED  
FROM THE FEDERATIVE REPUBLIC OF BRAZIL,  
THE HELLENIC REPUBLIC,  
THE PEOPLE'S REPUBLIC OF CHINA, THE REPUBLIC OF KOREA  
AND THE UNITED MEXICAN STATES**

**and the subsidizing of**

**CERTAIN COPPER TUBE ORIGINATING IN OR EXPORTED FROM  
THE PEOPLE'S REPUBLIC OF CHINA**

## **DECISION**

Pursuant to subsection 38(1) of the *Special Import Measures Act*, on August 20, 2013, the President of the Canada Border Services Agency made preliminary determinations respecting the alleged injurious dumping of circular copper tube with an outer diameter of 0.2 inch to 4.25 inches (0.502 centimetre to 10.795 centimetres) excluding industrial and coated or insulated copper tube, originating in or exported from the Federative Republic of Brazil, the Hellenic Republic, the People's Republic of China, the Republic of Korea and the United Mexican States, and the alleged injurious subsidizing of these goods originating in or exported from the People's Republic of China.

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

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## **SUMMARY OF EVENTS**

[1] On April 2, 2013, the Canada Border Services Agency (CBSA) received a written complaint from Great Lakes Copper Inc. (GLC) of London, Ontario (the complainant), alleging that imports into Canada of certain copper tube originating in or exported from the Federative Republic of Brazil (Brazil), the Hellenic Republic (Greece), the People's Republic of China (China), the Republic of Korea and the United Mexican States (Mexico) are being injuriously dumped and that imports into Canada of certain copper tube originating in or exported from China are being injuriously subsidized. The complainant alleges that the dumping and subsidizing have caused injury and are threatening to cause injury to the Canadian industry producing these goods.

[2] On April 22, 2013, pursuant to paragraph 32(1)(a) of the *Special Import Measures Act* (SIMA), the CBSA informed the complainant that the complaint was properly documented. The CBSA also notified the governments of Brazil, Greece, China, the Republic of Korea and Mexico that a properly documented complaint had been received and provided the Government of China (GOC) with the non-confidential version of the subsidy complaint. 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*; however, no such consultations took place.

[3] The complainant provided evidence to support the allegations that certain copper tube from Brazil, Greece, China, the Republic of Korea and Mexico has been dumped and that certain copper tube from China 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 15, 2013, the GOC provided written representations opposing the initiation of dumping and subsidizing investigations on certain copper tube originating in or exported from China.

[5] On May 22, 2013, pursuant to subsection 31(1) of SIMA, the President of the CBSA (President) initiated investigations respecting the dumping of certain copper tube from Brazil, Greece, China, the Republic of Korea and Mexico and the subsidizing of certain copper tube 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 copper tube from the named countries have caused injury or retardation or are threatening to cause injury to the Canadian industry producing the goods.

[7] On June 28, 2013, the Government of Mexico (GOM) provided written comments with respect to the initiation of the dumping investigation of certain copper tube originating in and exported from Mexico.

[8] On July 22, 2013, pursuant to subsection 37.1(1) of SIMA, the Tribunal made a preliminary determination that there is evidence that discloses a reasonable indication that the dumping and subsidizing of certain copper tube from the named countries have caused injury or are threatening to cause injury.

[9] On August 20, 2013, as a result of the CBSA's preliminary investigations and pursuant to subsection 38(1) of SIMA, the President made preliminary determinations of dumping of certain copper tube originating in or exported from Brazil, Greece, China, the Republic of Korea and Mexico and of subsidizing of certain copper tube originating in or exported from China.

### **PERIOD OF INVESTIGATION**

[10] The period of investigation with respect to dumping (dumping POI), covered all subject goods<sup>1</sup> released into Canada from May 1, 2012 to April 30, 2013.

[11] The period of investigation with respect to subsidizing (subsidy POI), covered all subject goods released into Canada from January 1, 2012 to April 30, 2013.

### **PROFITABILITY ANALYSIS PERIOD**

[12] The profitability analysis period (PAP) covered domestic sales and costing information for goods sold from May 1, 2012 to April 30, 2013.

### **INTERESTED PARTIES**

#### **Complainant**

[13] The complainant is the sole Canadian producer of like goods in Canada.<sup>2</sup> These goods are produced at a manufacturing facility in London, Ontario.

[14] The name and address of the complainant is:

Great Lakes Copper Inc.  
1010 Clarke Road  
London, Ontario  
N5V 3B2

[15] GLC began operations in London, Ontario, on April 21, 1958, as an extension of Wolverine Tube, Inc., Detroit, Michigan. In 1998, it expanded by acquiring assets from Noranda Metal, which included two additional plants, one located in Montreal, Quebec, and the other in New Westminster, British Columbia. The Montreal and New Westminster facilities have since closed, leaving London as the only remaining manufacturing facility of certain copper tube in Canada.

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<sup>1</sup> Refer to the definition of subject goods in the Product Information section below

<sup>2</sup> Refer to the definition of like goods in the Like Goods section below

[16] In July of 2008, GLC was bought by private Canadian investors. Since then, the company has invested over \$10 million to reduce costs, broaden product lines and enhance distribution facilities.

### **Importers**

[17] At the initiation of the investigations, the CBSA identified 40 potential importers of the subject goods from information provided by the complainant and CBSA import entry documentation over the period of January 1, 2012 to April 30, 2013.

[18] The CBSA sent an importer Request for Information (RFI) to all potential importers of the goods. The CBSA received eight responses to the importer RFI, with varying degrees of completeness.

### **Exporters**

[19] At the initiation of the investigations, the CBSA identified 43 potential exporters and producers of the subject goods from information provided by the complainant and CBSA import entry documentation. The CBSA sent a dumping RFI to each potential exporter and section 20 and subsidy RFIs to each potential exporter and producer in China.

[20] The CBSA received six responses to the exporter dumping RFI, two responses to the exporter subsidy RFI and two responses to the exporter section 20 RFI. All responses were substantially complete and could be used for the purposes of the preliminary determinations.

### **Surrogate Producers**

[21] As part of the section 20 inquiry, surrogate country RFIs were sent to all known exporters and producers of copper tube in the Commonwealth of Australia, the Republic of Chile, the Republic of India, the Kingdom of Thailand, the United Kingdom and the United States of America. A total of 79 RFIs were sent to these producers requesting domestic selling and costing information for certain copper tube produced at their facilities.

[22] The CBSA did not receive any responses to the surrogate country RFIs.

### **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, 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. The GOC did not respond to the subsidy and section 20 RFIs.

## **PRODUCT INFORMATION**

### **Definition**

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

Circular copper tube with an outer diameter of 0.2 inch to 4.25 inches (0.502 centimetre to 10.795 centimetres) excluding industrial and coated or insulated copper tube, originating in or exported from the Federative Republic of Brazil, the Hellenic Republic, the People's Republic of China, the Republic of Korea and the United Mexican States.

Circular copper tube with an outer diameter of 0.2 inch to 4.25 inches (0.502 centimetre to 10.795 centimetres) excluding industrial and coated or insulated copper tube will hereafter be referred to as Copper Tube.

### **Additional Product Information<sup>3</sup>**

[26] Copper Tube sold in Canada is manufactured to a variety of American Society for Testing and Materials (ASTM) standards and grades. The outer diameter range of the tube includes diameters that are within the allowable tolerances within each standard. Canadian Copper Tube standards and grades are as follow:

#### **Canadian Copper Tube Standards and Grades**

<b>Tube Grade</b>	<b>Standard</b>	<b>Application</b>
Type K	ASTM B88	Domestic water service and distribution, solar, fuel/fuel oil, natural gas, liquefied petroleum gas, snow melting
Type L	ASTM B88	Domestic water service and distribution, solar, fuel/fuel oil, natural gas, liquefied petroleum gas, snow melting
Type M	ASTM B88	Domestic water service and distribution, solar, compressed air
Type DWV	ASTM B306	Drainage waste, vent
Type ACR	ASTM B280, B68	Air conditioning, refrigeration
Type Medical Gas	ASTM B819	Medical gas uses (e.g., hospitals)

[27] There are numerous widely accepted applications of Copper Tube. These include but are not limited to plumbing, heating, cooling and medical (MED) gas use. Copper Tube is produced in straight lengths and in coils, in diameters that correspond with plumbing, air conditioning/ refrigeration (ACR) and MED gas applications.

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<sup>3</sup> Dumping Exhibit 2 (NC) – Copper Tube Complaint – Pages 4-5

[28] Tube grades for plumbing Copper Tube include:

- Type L (ordinarily used in residential and commercial potable water systems);
- Type K (typically used in underground or high pressure applications);
- Type M (ordinarily used in residential potable water systems); and
- Type DWV (drainage, waste and vent).

[29] Type L, K and M Copper Tube is primarily used for potable water applications, water recirculation systems and heating systems (e.g., solar, geothermal, etc.). Applications include above and below ground, indoor and outdoor systems and can be used in residential, commercial and industrial buildings.

[30] DWV Copper Tube is primarily used for above ground vent and drain lines.

[31] Tube grades for refrigeration Copper Tube include:

- ACR;
- MED-L/ACR; and
- MED-K.

[32] ACR Copper Tube is primarily supplied as soft annealed coils for various refrigeration and air conditioning applications.

[33] In Canada, plumbing Copper Tube must be third party certified to insure that the requirements of the standard are met.

[34] The subject goods do not include industrial copper tube and coated or insulated copper tube. Industrial copper tube is a custom-made product made to specific dimensions (e.g., outer diameter, inside diameter, wall thickness and length), tolerances and temper as specified by the customer and is normally made in sizes that differ from those in which Copper Tube is offered. Coated or insulated copper tube has a polyethylene/polyvinylchloride or foam coating.

#### **Production Process<sup>4</sup>**

[35] Copper Tube production process begins with the raw material, which may be either copper scrap, newly refined copper (copper cathode) or copper ingots. The choice of which raw material that is used depends on economic factors, such as cost and availability, and on the technical capabilities of the plant's melting furnaces. Copper accounts for approximately 80% to 90% of the total cost of Copper Tube and is traded internationally on a daily basis on two primary markets, the London Metal Exchange (LME) and the Commodity Exchange, Inc. (COMEX), a division of the New York Mercantile Exchange (NYMEX).

[36] Copper scrap is most often in the form of recycled Copper Tube, cable or wire that has been stripped of its insulation and/or baled Copper Tube that has been removed from demolished buildings. Another common form, referred to as "home" or "runaround" scrap, is the scrap that

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<sup>4</sup> Dumping Exhibit 2 (NC) – Copper Tube Complaint – Pages 8-12

has been generated within the tube mill itself. Copper cathode is one of the purest metals in common usage, containing at least 99.95% copper. It is produced in large electrolytic cells that refine the relatively impure blister copper from smelting and refining furnaces. Copper ingots are cast from re-melted cathode or refined scrap and resemble large bricks. They are used mainly by tube mills that operate small melting furnaces, whose doors are not large enough to accommodate cathodes or large bales of scrap.

[37] The raw material is melted in a furnace, which in a large tube mill may hold up to 20 tons of metal. The furnace's primary function is to melt the copper and if the raw materials are only in the form of home scrap, cathode or ingots, a simple shaft furnace suffices. This type of furnace cannot be used to refine metal.

[38] In most mills, the molten metal is then transferred into a holding furnace or tundish, either of which acts as a reservoir for the casting process and allows more raw materials to be melted. The holding furnace/tundish is heated just enough to maintain the molten metal at a constant temperature. To protect the copper from oxidation, the liquid metal surface may be covered with a blanket or with graphite powder.

[39] From the holding furnace/tundish, the copper is then cast by either the continuous or semi-continuous casting method. Using the continuous method, the molten metal is poured into a furnace where it travels into water cooled cylindrical graphite molds which force the copper to freeze quickly. As the copper cools it solidifies and is gripped and withdrawn in short steps. At the same time, more molten copper flows into the mold from behind. Slowly a solid log or hollow shell (i.e., hole in the center) of pure copper is formed. As the copper emerges from the casting machine, the log is cut into approximately two-foot sections or the shell is cut into approximately 30 to 60-foot sections. These sections, each weighing approximately 400 to 2,400 pounds, are now known as billets or shells. Using the semi-continuous method, the casting is done vertically and the operation has to be interrupted when the length of the log reaches the depth of the pit beneath the molds. In this process, the water-cooled floor of the mold cavity seals the mold until the first volume of copper freezes. Molten metal is then added to the mold at the same rate as the floor is withdrawn downward. When the resulting log reaches the desired length, the mold is withdrawn upward and the billet is removed from the pit.

[40] In a modification of these processes, some newer Copper Tube facilities utilize a cast and roll method whereby the casting mold containing a central water-cooled core produces a very thick-walled pipe (called a tube round) which is then rolled in a continuous process.

[41] The next step is to reheat the billet to approximately 1,535 degrees Fahrenheit (i.e., 835 degrees Celsius) to make the copper pliable. A rod, called a piercing mandrel, is then driven lengthwise through the center of the billet. This step is not necessary if the billet is cast as a tube round. Piercing can take place either immediately before or concurrently with the extrusion process.

[42] In mills that utilize the extrusion process, the billet heated to the proper hot-working temperature, is then placed in the chamber of an extrusion press. The horizontally mounted chamber contains a die at one end and a hydraulically driven ram at the other. The face of the ram is fitted with a dummy block that is slightly smaller in diameter than the billet. The ram



may also be fitted with a piercing mandrel, or if the billet is hollow, with a rod that matches the diameter of the cast hole in the billet but is slightly smaller than the hole in the die at the opposite end of the chamber. As the ram moves forward, the copper is forced over the mandrel and through the hole in the die, causing a long hollow tube to be extruded out of the press. The length can vary depending on the capabilities of each mill. As the extruded tube emerges from the die, rollers carry it along on a run-out table so that it remains straight until it is cooled enough to handle.

[43] In mills that utilize the rolling process, the shell less than 12 inches in diameter is fed into a high reduction rolling mill, either by cylinder or continuous sleds. The rolling mill has a series of rolling heads that press on the outside of the shells causing a reduction in the outer diameter and wall thickness of the shell. Further, a mandrel is present during the rolling process to maintain a specific inside diameter of the shell. The reduced diameter shell travels down the run out table. The nose and tail of the shell are then removed leaving only a good shell. The remaining portion is coiled into a large coil and passed down to the drawing section of the mill.

[44] The drawing process simply involves pulling the hollow tube through a series of hardened steel dies to reduce its diameter. Before each step, the tube is pointed at one end to fit through the next die, whereupon it is gripped by automatic jaws attached to a drawing machine. A mandrel, which is either fixed or floating depending on the process, is placed inside the tube. As the tube is drawn through the drawing machine, the mandrel and die act together to reduce both the tube's outer diameter as well as its wall thickness. The mandrel also determines the inner surface of the tube. The tube is drawn in several stages until the desired diameter and wall thickness is attained.

[45] As Copper Tube is sold in either a hard drawn condition in straight lengths or in a soft annealed state in coils, the next steps in the manufacturing process depend largely upon the type of product that is being produced. Copper Tube that is being sold in straight lengths will be passed through a series of straightening rolls that are arranged in a slight zigzag pattern. The rolls' positions are set such that the tube is bent slightly less at each step in the series. The Copper Tube emerges straight and ready to be cut to length. Copper Tube that is being sold in coils is treated in a similar manner, however, the only difference being the position of the rolls. For coils, they are set as to impart a bend of appropriate radius to the Copper Tube as it emerges.

[46] Copper Tube that is to be sold in coils is passed through a continuous annealing furnace or an in-line induction furnace operating at approximately 1,300 degrees Fahrenheit (i.e., 704 degrees Celsius). For continuous annealing, the furnace is essentially a long heated box filled with a protective atmosphere to prevent the copper from oxidizing. For plants without this type of furnace, a bell shape furnace is used. This furnace looks like a large cylindrical church bell, the open bottom of which can be sealed to keep the air out. Coils of tube to be annealed are stacked under the bell and heated in a protective atmosphere. Annealed Copper Tube can be visually distinguished from hard drawn Copper Tube by its matte surface finish. Aside from the appearance and stiffness, however, annealed and hard drawn tubes have the same qualities and in general act identically when in contact with fluids.

## **Classification of Imports**

[47] Prior to 2012, imports of the subject goods were usually classified in Section XV of the *Customs Tariff* under the following Harmonized System (HS) classification numbers:

7411.10.00.11	Copper tubes and pipes of refined copper for plumbing, unworked, of an outer diameter not exceeding 105 millimetres (i.e., 4.13 inches); and
7411.10.00.20	Copper tubes and pipes of refined copper for ACR, unworked.

[48] As of 2012, imports of the subject goods are now usually classified in Section XV of the *Customs Tariff* under the following HS classification numbers:

7411.10.00.10	Copper tubes and pipes of refined copper for plumbing, unworked; and
7411.10.00.20	Copper tubes and pipes of refined copper, for ACR, unworked.

[49] The subject goods may also be classified under the following HS classification numbers:

7411.10.00.31	Copper tubes and pipes of refined copper - Other, unworked: - Industrial or commercial; and
7411.10.00.39	Copper tubes and pipes of refined copper - Other, unworked: - Other.

[50] The HS classification numbers prior to January 1, 2012, are shown as these were the numbers in effect during part of the period covered by the complaint (i.e., 2010 to 2012).

[51] 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**

[52] 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 the uses and other characteristics of which closely resemble those of the other goods.

[53] Copper Tube produced by the Canadian 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 Copper Tube produced by the Canadian industry constitutes like goods to the subject goods.

[54] At the initiation of the investigations, after considering questions of use, physical characteristics and all other relevant factors, the CBSA was of the opinion that subject and like goods constitute only one class of goods. However, as stated in the Tribunal's *Determination and Reasons – Preliminary Injury Inquiry No. PI-2013-002 Circular Copper Tube*, the Tribunal finds that the issue of classes of goods merits further consideration and will be requesting the CBSA to collect separate information in respect of three potential classes of goods, those being plumbing, air conditioning/refrigeration and medical gas Copper Tube.

### **THE CANADIAN INDUSTRY**

[55] As previously stated, the complainant, GLC, is the sole producer of like goods in Canada.

### **IMPORTS INTO CANADA**

[56] 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.

[57] The following table presents the CBSA's analysis of imports of Copper Tube for purposes of the preliminary determinations:

**Import Volumes of Copper Tube  
(May 1, 2012 to April 30, 2013)**

<b>Imports into Canada</b>	<b>% of Total Import Volume</b>
Brazil	5.8%
Greece	3.3%
China	17.6%
Republic of Korea	29.0%
Mexico	8.8%
All Other Countries	35.5%
<b>Total Imports</b>	<b>100.0%</b>

### **REPRESENTATIONS FROM THE GOVERNMENT OF CHINA**

[58] The GOC provided written comments with respect to the complaint on May 15, 2013, before the initiation on May 22, 2013.<sup>5</sup> In those comments, the GOC argued that the subsidy investigation concerning Copper Tube should not be initiated. The CBSA was not able to consider these representations for the initiation of the investigation as they were received just prior to the initiation.

[59] The GOC representations and the CBSA's response are summarized in **Appendix 1**.

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<sup>5</sup> Dumping Exhibit 13 (NC)

## **REPRESENTATIONS FROM THE GOVERNMENT OF MEXICO**

[60] The Government of Mexico (GOM) made representations with respect to the initiation of the dumping investigation of Copper Tube.<sup>6</sup>

[61] The GOM representations and the CBSA's response are summarized in **Appendix 2**.

## **INVESTIGATION PROCESS**

[62] Regarding the dumping investigation, information was requested from all known and potential exporters, vendors and importers, concerning shipments of Copper Tube released into Canada during the dumping POI of May 1, 2012 to April 30, 2013.

[63] Regarding the subsidy investigation, information related to potential actionable subsidies was requested from all known and potential exporters in China and from the GOC, concerning financial contributions made to exporters or producers of Copper Tube released into Canada during the subsidy POI of January 1, 2012 to April 30, 2013.

[64] After reviewing the responses to the RFIs, supplemental RFIs were sent to each of the responding parties to clarify information provided in the submissions.

[65] Several parties requested an extension to respond to the RFIs.<sup>7</sup> The CBSA did not agree to these requests as the reasons identified in the request letters did not constitute unforeseen circumstances or unusual burdens. At that time, the CBSA relayed that it could not guarantee that submissions received after the due date would be taken into consideration for purposes of the preliminary phase of the investigations.

[66] 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. During the final phase of the investigations, submissions will be verified. The results of these verifications will be taken into consideration for the President's final decision. The CBSA received substantially complete responses from six exporters: one exporter located in each of Brazil, Greece, the Republic of Korea and Mexico and two exporters from China.

## **DUMPING INVESTIGATION**

### **Normal Values**

[67] Normal values are generally estimated based on the domestic selling prices of like goods in the country of export, in accordance with the methodology of section 15 of SIMA, or on the aggregate of the cost of production of the goods, a reasonable amount for administrative, selling and all other costs, plus a reasonable amount for profits, in accordance with the methodology of paragraph 19(b) of SIMA.

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<sup>6</sup> Dumping Exhibit 68 (NC)

<sup>7</sup> CBSA Administrative Record Copper Tube Dumping and Subsidy Investigations

## **Export Prices**

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

## **Margin of Dumping**

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

## **Preliminary Results of the Dumping Investigation**

[70] Copper Tube imported into Canada is produced to ASTM standards that in many instances dictate the outer diameter, inner diameter, wall thickness and allowable tolerances, among other things, within each of the standards. Copper Tube sold in Canada for plumbing applications must be third party certified to insure that the requirements of the standards are met.

[71] The CBSA's preliminary investigations revealed that Copper Tube sold in each of the named countries is either produced to other international standards that do not meet ASTM standards or is produced to ASTM standards that do not require third party certification and do not meet the Canadian requirements of the standards.

[72] Submissions received from the co-operative exporters indicated that they do not sell like goods in their respective domestic markets. The complainant also noted this issue in its complaint.

[73] Based on the foregoing, the CBSA was unable to estimate normal values in accordance with the provisions of section 15 of SIMA based on sales of like goods in the country of export. For purposes of the dumping preliminary determination, the CBSA was, however, able to estimate normal values for each of the co-operative exporters based on the aggregate of the cost of production of the goods, a reasonable amount for administrative, selling and all other costs, plus a reasonable amount for profits, using the methodology of paragraph 19(b) of SIMA. Further analysis and verification of this issue will continue during the final phase of the investigations.

[74] For those exporters that did not submit a complete response to the RFI, normal values were estimated by advancing the export prices by the highest amount by which the normal value exceeded the export price on an individual transaction for an exporter that provided a complete response to the RFI.

[75] In calculating the estimated margin of dumping for each named country, the estimated margin of dumping found in respect of each exporter was weighted according to each exporter's volume of subject Copper Tube exported to Canada during the dumping POI.

[76] Estimated margin of dumping details relating to each of the exporters that provided a complete response to the RFI are presented in a summary table in **Appendix 3** while estimated margin of dumping details relating to each named country are presented in a summary table at the end of this section.

## **Brazil**

### Paranapanema S.A.

[77] Paranapanema, S.A. (Paranapanema) is a producer and exporter of subject goods. Paranapanema is a public corporation, listed on the Brazilian Stock Exchange.

[78] Paranapanema provided a substantially complete response to the dumping RFI, including a database of domestic sales of Copper Tube of the same general category as the goods sold to the importer in Canada and details on the full cost of production, administrative, selling and other costs associated with the sales. A review of Paranapanema's financial statements revealed that Paranapanema purchased its raw material (copper) from a related division of the company. An examination of Paranapanema's monthly copper costs provided in the submission revealed considerable differences between its costs and those of the LME or COMEX. The CBSA was not able to verify the accuracy of the transfer price between the division of the company supplying the raw material and the division that produced the Copper Tube. Since copper represents a major proportion of the total cost of the goods, since the company's copper costs differed significantly from LME and COMEX, and since these costs were based on transfer price from related divisions of the same company, the CBSA did not to accept the company's copper costs for purposes of estimating normal values, and instead substituted LME copper costs. Normal values were estimated using a cost-plus methodology based upon the provisions of paragraph 19(b) of SIMA, based on the aggregate of the cost of production of the goods (with a substitution of the company's copper costs with those costs provided from the LME), a reasonable amount for administrative, selling and other costs and a reasonable amount for profits. The full cost of production was estimated in accordance with paragraph 11(1)(a) of the *Special Import Measures Regulations* (SIMR), based on Paranapanema's unverified cost data (with substitution of LME copper costs) associated with the subject goods shipped to Canada. The amount for administrative, selling and other costs was estimated in accordance with subparagraph 11(1)(c)(i) of the SIMR, based on unverified domestic costs that were reasonably attributable to Paranapanema's domestic sales. The amount for profits was estimated in accordance with subparagraph 11(1)(b)(ii) of the SIMR, based on Paranapanema's profitable domestic sales of Copper Tube of the same general category as the goods sold to the importer in Canada during the PAP with substitution of the LME copper costs.

[79] The total estimated normal value was then compared with the total export price estimated in accordance with the provisions of section 24 for the subject goods imported into Canada during the dumping POI from Paranapanema. The estimated margin of dumping for Paranapanema is 12.1%, expressed as a percentage of the export price.

## Greece

### Halcor Metal Works S.A.

[80] Halcor Metal Works S.A. (Halcor) is a producer and exporter of subject goods. The company is a public corporation, listed on the Athens Stock Exchange.

[81] Halcor provided a substantially complete response to the dumping RFI, including a database of domestic sales of Copper Tube of the same general category as the goods sold to the importer in Canada and details on the full cost of production, administrative, selling and other costs associated with the sales. Normal values were estimated using a cost-plus methodology based upon the provisions of paragraph 19(b) of SIMA, based on an aggregate of the cost of production of the goods, a reasonable amount for administrative, selling and other costs, and a reasonable amount for profits. The full cost of production was estimated in accordance with paragraph 11(1)(a) of the SIMR, based on Halcor's unverified cost data associated with the subject goods shipped to Canada. The amount for administrative, selling and other costs was estimated in accordance with subparagraph 11(1)(c)(i) of the SIMR, based on unverified domestic costs that were reasonably attributable to Halcor's domestic sales. The amount for profits was estimated in accordance with subparagraph 11(1)(b)(ii) of the SIMR, based on Halcor's profitable domestic sales of Copper Tube of the same general category as the goods sold to the importers in Canada during the PAP. The domestic sales used to determine the amount for profits were those sales made at the trade level nearest and subsequent to the importers in Canada, as there were no domestic sales made at the same trade level as the importers in Canada. As such, in determining the amount for profits, a trade level adjustment was made to the selling prices to account for those direct selling expenses incurred in the domestic market that were not incurred on sales to Canada, in accordance with paragraph 9(a) of the SIMR.

[82] The total estimated normal value was then compared with the total export price estimated in accordance with the provisions of section 24 for the subject goods imported into Canada during the dumping POI from Halcor. The estimated margin of dumping for Halcor is 12.7%, expressed as a percentage of the export price.

## China

### Section 20 Inquiry

[83] Section 20 of SIMA may be 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.<sup>8</sup>

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<sup>8</sup> China is a prescribed country under section 17.1 of the *Special Import Measures Regulations*.

[84] For purposes of a dumping investigation, 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. However, where there is sufficient information, the President may 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.

[85] The CBSA is required to determine whether the government of that country substantially determines 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.

[86] For purposes of this investigation, the complainant requested that section 20 be applied in the determination of normal values for China 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 copper sector, which includes Copper Tube. The complainant cited specific GOC policies, such as the *Admittance Qualification of Chinese Copper Smelting Industry*, *Chinese Support Plan for Nonferrous Metals Industry* and *China's Five-Year Plan*.<sup>9</sup>

[87] At the initiation of the investigation, the CBSA had sufficient evidence, supplied by the complainant, 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 copper sector, which includes Copper Tube. 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, all known copper producers, and exporters and producers of Copper Tube in China to obtain information on this matter.

### **Preliminary Results of the Section 20 Inquiry**

[88] The CBSA received a joint response to the section 20 RFI from two related exporters/producers and their associated trading company. The RFI responses contained a number of pertinent documents, some of which were identified at initiation in the complaint and through the CBSA's research.

[89] The following is the CBSA's analysis of the relevant factors that are present in the Chinese non-ferrous industry and which affect the copper sector, including Copper Tube.

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<sup>9</sup> Dumping Exhibit 2 (NC) – Copper Tube Complaint – Pages 18-20



## ***Industrial Policies***

### *The Admittance Qualification of Chinese Copper Smelting*

[90] Issued on June 2006 by the National Development and Reform Commission, the conditions of access to the copper smelting industry were formulated according to relevant national laws, codes and industrial policies for purposes of accelerating structural adjustment, normalizing the behavior of investment in the copper smelting industry and promoting sustainable development of China's copper industry.<sup>10</sup>

[91] The requirements addressed the following:

- Enterprise Layout Scale and External Condition;
- Process and Equipment;
- Energy Consumption;
- Comprehensive Resource Utilization;
- Environmental Protection; and
- Supervision and Management.

[92] The conditions highlighted that newly built or reconstructed copper smelting projects must conform to the requirements of national industrial policies and plans. The conditions imposed various restrictions and requirements on smelting operations, including specification of plant layouts and production capacity, equipment requirements and limits on energy consumption.

### *Plan for Adjustment and Revival of Non-ferrous Metal Industry*

[93] The plan issued by the State Council on May 2009, covered the planning period of 2009 to 2011. The objective of the plan was to achieve stable operation of the non-ferrous metal industry in 2009 and maintain strong growth in 2011. In addition, the plan called for further optimization of the industry structure and enhanced capacity for technological innovation in order to establish sustainable development of the non-ferrous metal industry.<sup>11</sup>

[94] Measures outlined in the plan include the following:

- stabilizing the market demand and production operation;
- improving the production and operating situation of enterprises;
- eliminating out-of-date copper smelting production capacity and facilities;
- restructuring enterprises through mergers; and
- guaranteeing resource capacity/supply of copper.

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<sup>10</sup> Dumping Exhibit 075 (NC) - Hailiang Section 20 Response – Exhibit 4

<sup>11</sup> Dumping Exhibit 075 (NC) - Hailiang Section 20 Response – Exhibit 3

*Industrial Restructuring and Upgrading Plan (2011 to 2015)*

[95] The most recent version of the plan [Guo Fa (2011) No. 47] issued by the State Council in December 2011, covers the period from 2011 to 2015. With respect to the non-ferrous metal industry, the plan called for further elimination of out-of-date production facilities, including imperial smelting furnaces, electric furnaces, reverberating furnaces, etc., in the copper smelting field and elimination of out-of-date production processes and equipment involving recycled copper.<sup>12</sup>

*12th Five-Year Development Plan for the Nonferrous Metals Industry*

[96] The plan published by the Ministry of Industry and Information Technology in January 2012, forecasted increased demand for non-ferrous metals including refined copper. The main objectives of the plan include achieving progress in the restructuring and upgrading within the non-ferrous metal industry, increasing the annual industrial added value by over 10% on average and improving the industrial development quality and benefit.<sup>13</sup>

[97] Specific objectives of the plan include the following:

- production output of refined copper is controlled at 6.5 million metric tonnes;
- annual production output growth rate for refined copper is targeted at 7.3%;
- elimination of out-of-date smelting production facilities and further reduction of energy consumption;
- large and medium enterprises establish technological innovation with R&D input of 1.5% of income;
- optimization of industrial layout and organization, and further increase of industrial concentration; and
- acceleration of international mining capacity and expansion of smelting capacity.

*State Council Work Notice on Further Strengthening Phase Out Backward Production, Guo Fa (2010) No. 7*

[98] The notice on further eliminating out-of-date production facilities was issued for purposes of carrying out the Scientific Outlook on Development, quickening the conversion of economic development and promoting industrial structure adjustment, optimization and upgrading, as well as energy savings and emission reductions.<sup>14</sup>

[99] With respect to the copper sector, the plan called for the elimination of the copper smelting processes and equipment, including imperial smelting furnaces, electric furnaces and reverberating furnaces.

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<sup>12</sup> Dumping Exhibit 075 (NC) - Hailiang Section 20 Response – Exhibit 1

<sup>13</sup> Dumping Exhibit 075 (NC) - Hailiang Section 20 Response – Exhibit 2

<sup>14</sup> Dumping Exhibit 075 (NC) - Hailiang Section 20 Response – Exhibit 5

*The Catalogue for the Guidance of Foreign Investment Industries (Amended in 2011)*

[100] Approved by the State Council and effective as of January 30, 2012, the catalogue sets out rules and guidance for the prospecting and exploitation of copper ores. The catalogue encourages the production of high tech non-ferrous metallurgical materials, such as Copper Tube and restricts non-ferrous metal refining of copper.<sup>15</sup>

[101] The GOC's policies and measures outlined above illustrate that the GOC is closely administering the nonferrous industry and the copper sector, including Copper Tube in China. The scope of the GOC's macro-economic policies and measures provide a compelling factual basis that the GOC is influencing the Chinese copper sector, including Copper Tube. The use of such policies and measures can dramatically change the demand and supply balance in the domestic market and can materially alter the domestic prices of refined copper, and therefore, the domestic prices of Copper Tube.

***GOC Ownership and Control of Suppliers***

[102] At the initiation of the dumping investigation, the complainant provided evidence to demonstrate that the nonferrous industry in general and the copper sector in China are largely state-owned and/or controlled by the central government or by regional and local authorities. The complainant identified the following state-owned enterprises:<sup>16</sup>

- Jiangxi Copper Corporation (Jiangxi Copper), a state-owned enterprise, engaged in the production and processing of refined copper;
- Zijin Mining Group, a large-scale state-owned mining group in China involved in the production of refined copper;
- Jinchuan Group Co. Ltd., a large state-owned enterprise and producer of refined copper in China;
- Yunnan Copper Group (Yunnan Copper), a unit of Chinalco, producing refined copper in China; and
- the China Nonferrous Metal Mining (Group) Co. Ltd. (Nonferrous Metal), a large scale enterprise under the management of the State-owned Assets Supervision and Administration of the State Council (SASAC) with copper mining and smelting operations in China, Africa and South America.

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<sup>15</sup> Catalogue for the Guidance of Foreign Investment Industries (Amended in 2011). Available at: [http://www.fdi.gov.cn/1800000121\\_39\\_1925\\_0\\_7.html](http://www.fdi.gov.cn/1800000121_39_1925_0_7.html)

<sup>16</sup> Dumping Exhibit 001 (NC) - Confidential Copper Tube Complaint – Pages 16, paragraph 43

[103] The CBSA identified two additional state-owned enterprises involved in the production of refined copper:

- Tongling Non-Ferrous Metal Corp. (Tongling Corp) is a large scale enterprise that engages mainly in copper mining, mineral processing, smelting, refining and copper products processing. On its corporate Web site, the company states that it receives special support from the GOC and receives preferential support from the Anhui Provincial government;<sup>17</sup> and
- China Daye Non-Ferrous Metals Mining Limited (China Daye), is a state-owned enterprise in Hubei Province. The company is involved in the production of raw copper and refined copper with operations in southeast Hubei, the Yangtze River Delta, the Pearl River Delta, Hunan, Xinjiang, Hong Kong, Kyrgyzstan and the Republic of Mongolia.<sup>18</sup>

[104] In addition, according to the report, *Sustainable Development of the Chinese Copper Market*, the top five Chinese refined copper producers in terms of output are Jiangxi Copper, Tongling Corp., Yunnan Copper, Jinchuan Group and China Daye, all of which have been identified above as state-owned enterprises. As of 2008, the five companies represent approximately 60% of the national total output of refined copper.<sup>19</sup> The degree of state-ownership in the copper sector provides further evidence that the GOC through extensive use of industrial policies and measures, strongly influences the supply and price of refined copper.

[105] Without a complete response to the section 20 RFI from the GOC or producers of copper in China, the CBSA was not able to confirm the ownership status of the copper producers. The CBSA will continue to investigate the existence of state-ownership in the copper sector, including Copper Tube, during the final phase of the investigations.

### ***Import and Export Controls***

[106] At the initiation of the dumping investigation, the CBSA found evidence that the GOC maintains export controls on refined copper, the major raw material input used in the production of Copper Tube.

[107] One study reported that China is the largest consumer of copper globally. The gap between China's refined copper consumption and production has been widening over the past few years. As a consequence, China relies heavily on copper imports to satisfy its demands.<sup>20</sup>

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<sup>17</sup> Tongling Nonferrous Metal Corp. website. Available at: [www.tnmg.com.cn/english/](http://www.tnmg.com.cn/english/)

<sup>18</sup> China Daye Nonferrous Metals Mining Limited website. Available at: [www.hk661.com/html/about\\_profile.php](http://www.hk661.com/html/about_profile.php)

<sup>19</sup> Sustainable Development of the Chinese Copper Market, January 2010, available at: [www.iisd.org/publications/pub.aspx?pno=1420](http://www.iisd.org/publications/pub.aspx?pno=1420)

<sup>20</sup> Integration of International and Mainland China Copper Futures Trading. June 2012. Available at: <http://hkmerc.com/en/Media-Centre/Media-Coverage/Integration-International-China-Copper-F.html>

[108] Over the past several years, the GOC has made substantial changes to import and export tariffs. Since January 1, 2008, China has eliminated the 2% tax on the importation of refined copper.<sup>21</sup> As reported by Shanghai Metals Market, according to the *2013 Tariff Implementation Plan* issued by the State Council on December 17, 2012, the tariff rate for refined copper will be maintained at 0%. On the other hand, before 2012, the GOC imposed a 5% tariff on refined copper exports, however, it was announced that the export tax was to be cancelled in January 2013.<sup>22</sup>

[109] The report, *Sustainable Development of the Chinese Copper Market*, noted that one of the guiding principles for Chinese foreign trade is to “promote the healthy development of the copper industry and copper enterprises, stop blind investment, include foreign trade policy to match the threshold requirements for copper smelters, lift VAT rebate on export of copper products with high added value and give support to exporters when they are in difficulty.”<sup>23</sup>

[110] The same report also identified a major policy on copper-related imports. The National Development and Reform Commission, the Ministry of Commerce and the Ministry of Finance, jointly issued a Circular on December 9, 2005, with respect to the exportation of high-energy consumption, heavy pollution products and resource products. The Circular prohibited the export of refined copper made from import copper scrap or concentrate as of January 1, 2006.<sup>24</sup>

[111] While the GOC has stated that many of these policies are intended to address environmental and resource efficiency issues, these measures are impacting the demand and supply balance in the domestic market and materially affecting the domestic prices of affected products. An analysis of the effect of export restrictions is provided in the World Trade Organization (WTO) Trade Policy Review report for China, which dismisses the effectiveness of export restriction tools in meeting the GOC stated goals and focuses on the actual impact for the effected products and industries:

*However, whether intended or not, export restraints for whatever reason tend to reduce export volumes of the targeted products and divert supplies to the domestic market, leading to a downward pressure on the domestic prices of these products. The resulting gap between domestic prices and world prices constitutes implicit assistance to domestic downstream processors of the targeted products and thus provides them a competitive advantage. Insofar as China is a major supplier of such a product, export restraints may also shift the terms of trade in China's favour. Also, some export restrictions might be imposed to pre-empt imposition of import restrictions by governments in export markets.*<sup>25</sup>

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<sup>21</sup> China to Remove Import Tax on Alumina and Refined Copper . December 26, 2007. Available at: [www.resourceinvestor.com/2007/12/26/china-to-remove-import-tax-on-alumina-and-refined](http://www.resourceinvestor.com/2007/12/26/china-to-remove-import-tax-on-alumina-and-refined)

<sup>22</sup> Shanghai Metals Market. December 28, 2012. Available at: [www.metal.com/newscontent/44133\\_news-feature-2013-tariff-implementation-plan](http://www.metal.com/newscontent/44133_news-feature-2013-tariff-implementation-plan)

<sup>23</sup> Sustainable Development of the Chinese Copper Market, January 2010, available at: [www.iisd.org/publications/pub.aspx?pno=1420](http://www.iisd.org/publications/pub.aspx?pno=1420)

<sup>24</sup> Ibid

<sup>25</sup> Attachment 10 – WTO, Trade Policy Review Body. “Trade Policy Review, Report by the Secretariat, China”, WT/TPR/S/230/REV.1, July 5, 2010, page 44

[112] These GOC restraints limited or prevented the export of refined copper resulting in an artificial increase in the level of supply of refined copper in the Chinese domestic market, causing downward pressure on domestic prices. As part of the final investigations, the CBSA must determine whether or not the export tariff on refined copper was in fact cancelled.

[113] As indicated earlier, the CBSA did not receive a response to the section 20 RFI from the GOC. As such, the CBSA has limited information on the record to base its decision with respect to import and export controls. The CBSA will continue to investigate the existence of import and export controls in the copper sector, including Copper Tube, during the final phase of the investigation.

### *Chinese Domestic Copper Price Analysis*

[114] The CBSA requested copper pricing from the GOC, copper producers in China and Copper Tube producers in China. The GOC did not respond to the RFIs, nor did any copper producers. However, the CBSA did receive copper purchase prices from two Copper Tube exporters/producers in China that provided a section 20 RFI response.

[115] One indicator of the domestic price of refined copper in China is the price of copper futures traded on the Shanghai Futures Exchange (SHFE). Trading on the SHFE is only open to corporations organized and registered in China.<sup>26</sup> The CBSA obtained information from the Metal Exchange, an independent publisher of various metal prices including copper, in order to compare prices of copper in the SHFE with the LME and the COMEX.<sup>27</sup> Metal Exchange is an independent publisher of various metal prices including copper.

[116] The CBSA's analysis of contract pricing indicates that COMEX prices and LME prices fluctuate closely to one another, while the SHFE prices diverge significantly above and below the prices on the other two exchanges. In addition, it is interesting to note that during periods of high copper prices, it appears that copper prices on the SHFE are noticeably lower compared to prices on the other two exchanges.

[117] The CBSA analyzed the copper cathode purchases of the two producers in China. During the period of January 1, 2012 to April 30, 2013, the producers' purchase prices of copper cathode in the domestic market ranged from 0.2% to 8.9% below their import purchase prices of copper cathode in the same given month.

[118] It should be noted that a slight difference in copper input prices can provide a significant advantage to the Copper Tube producers in China as the cost of copper accounts for approximately 80% to 90% of the total cost of production of Copper Tube.

[119] Given that copper is a commodity product freely traded on the world market this discrepancy further indicates that domestic prices of copper in China are not being determined under competitive market conditions. Since copper comprises a large percentage of the cost of

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<sup>26</sup> Shanghai Futures Exchange. "Guidelines for Membership of Shanghai Futures Exchange", Chapter 2.2.

<sup>27</sup> See Appendix 1 attached - COMEX, LME, SHFE Copper Prices – 2010 to 2013

Copper Tube, the low cost of copper in China clearly impacts the prices of Copper Tube in China, such that they are not substantially the same as they would be in a competitive market.

### ***Chinese Domestic Copper Tube Analysis***

[120] The CBSA conducted a price analysis on domestic prices of Copper Tube. Although domestic price data for Copper Tube is not publicly available, since the dumping investigation involves multiple countries, the CBSA was able to obtain domestic sales information from the other four countries named in the investigation. The analysis shows that prices of Copper Tube in China were significantly lower than in the other named countries.

[121] During the POI, prices for copper tube coil in China were on average 19.8%, 24.9%, 3.0%, and 9.1% lower compared to average prices for copper tube coil in Brazil, Greece, the Republic of Korea and Mexico, respectively. Similarly, prices for straight copper tube in China were on average 26.8%, 32.6%, 3.6%, and 4.6% lower compared to average prices for straight products in Brazil, Greece, the Republic of Korea and Mexico, respectively.

[122] This price discrepancy further indicates that, as with copper, domestic prices of Copper Tube in China are not substantially the same as they would be in a competitive market.

### **Summary of the Preliminary Results of the Section 20 Inquiry**

[123] The wide range and material nature of the GOC measures have resulted in significant influence on the Chinese non-ferrous industry including the copper sector, which includes Copper Tube. Based on the preceding, 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.

[124] 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 affirm his opinion that the conditions of section 20 exist in the copper sector, which includes Copper Tube, 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 Values – Section 20**

[125] As noted previously, at a preliminary determination, normal values of goods sold to importers in Canada are generally estimated based on the domestic selling prices of like goods in the country of export or on the cost of production of the goods, a reasonable amount for administrative, selling and all other costs, and a reasonable amount for profits.

[126] 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 the conditions of paragraph 20(1)(a) of SIMA exist in the copper sector, which includes Copper Tube, in China.

[127] Where section 20 conditions exist, the CBSA may estimate normal values using the selling prices, or the total costs and profit, of like goods sold by producers in a surrogate country designated by the President in accordance with the provisions of paragraph 20(1)(c) of SIMA. However, sufficient surrogate country data respecting domestic pricing and costing information relating to the like goods was not provided to the CBSA.

[128] The CBSA could not use domestic sales information from the other cooperative exporters located in Brazil, Greece, the Republic of Korea, or Mexico as the models of Copper Tube exported from China during the dumping POI did not match with the models of Copper Tube sold domestically in those respective countries. The CBSA will examine this issue during the final phase of the investigations.

[129] Where normal values cannot be estimated 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 not be used given that the importers did not provide sufficient re-sale information.

[130] Accordingly, given the lack of surrogate pricing information, import pricing from other countries or any other Copper Tube pricing that would be usable for the purposes of a preliminary determination under paragraphs 20(1)(c) and 20(1)(d) of SIMA, normal values were estimated using a cost-based methodology.

[131] Using this methodology, normal values were estimated using the cost of production of the goods plus an amount for administrative, selling and all other costs, and an amount for profits based on the information from cooperative exporters located in Brazil, Greece, the Republic of Korea, or Mexico.

Hong Kong Hailiang Metal Trading Limited, Shanghai Hailiang Copper Co., Ltd., and Zhejiang Hailiang Co., Ltd.

[132] The response to the CBSA's dumping RFI was submitted jointly by Hong Kong Hailiang Metal Trading Limited (HK Hailiang), Shanghai Hailiang Copper Co., Ltd. (SH Hailiang) and Zhejiang Hailiang Co., Ltd. (ZJ Hailiang), collectively referred to as Hailiang. During the POI, exports to Canada were produced and shipped from China by SH Hailiang and ZJ Hailiang, and sold through their associated trading company, HK Hailiang. SH Hailiang and HK Hailiang are limited liability companies and ZJ Hailiang is a public company listed on the Shenzhen Stock Exchange.

[133] Hailiang provided a substantially complete response to the dumping RFI, including a database of export sales, a database of domestic sales of Copper Tube of the same general category and details on the full cost of production, administrative, selling and other costs associated with the sales.

[134] The normal values for exports from these producers in China were estimated on the above-mentioned cost-based methodology.



[135] As noted previously, the cost of copper accounts for approximately 80% to 90% of the total cost of production of Copper Tube.<sup>28</sup> For purposes of the estimating the normal value, the cost of copper reflecting LME copper prices was used.

[136] In addition, as other input costs (i.e., labour and factory overhead) are specific to the production process of the exporter, these costs provide an accurate method to determine the additional costs incurred to convert copper into the Copper Tube shipped to Canada. The CBSA will further investigate the issue of input costs during the final phase of the investigation.

[137] As section 20 market conditions affect domestic selling prices in China, the CBSA could not use domestic sales in China to determine an amount for administrative, selling, all other costs and an amount for profits. For this purpose, the CBSA used information provided from the four cooperative exporters located in Brazil, Greece, the Republic of Korea, and Mexico. Based on their information, the CBSA estimated an amount for administrative, selling and all other costs and an amount for profits.

### SH Hailiang

[138] On the basis of the above-mentioned cost-based methodology, the total estimated normal value was then compared with the total export price estimated in accordance with the provisions of section 24 for the subject goods imported into Canada during the dumping POI from SH Hailiang. The estimated margin of dumping for SH Hailiang is 12.0%, expressed as a percentage of the export price.

### ZJ Hailiang

[139] On the basis of the above-mentioned cost-based methodology, the total estimated normal value was then compared with the total export price estimated in accordance with the provisions of section 24 for the subject goods imported into Canada during the dumping POI from ZJ Hailiang. The estimated margin of dumping for ZJ Hailiang is 4.6%, expressed as a percentage of the export price.

## **Republic of Korea**

### Nungwon Metal Ind. Co. Ltd.

[140] Nungwon Metal (Nungwon) is a producer and exporter of subject goods. Nungwon is a limited liability company.

[141] Nungwon provided a substantially complete response to the dumping RFI, including a database of domestic sales of Copper Tube of the same general category and details on the full cost of production, administrative, selling and other costs associated with the sales. Normal values were estimated using a cost-plus methodology based upon the provisions of paragraph 19(b) of SIMA, based on the aggregate of the cost of production of the goods, a reasonable amount for administrative, selling and all other costs, and a reasonable amount for

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<sup>28</sup> Dumping Exhibit 001 (NC) – Copper Tube Complaint

profits. The full cost of production was estimated in accordance with paragraph 11(1)(a) of the SIMR, based on Nungwon's unverified cost data associated with the subject goods shipped to Canada. The amount for administrative, selling and other costs was estimated in accordance with subparagraph 11(1)(c)(i) of the SIMR, based on unverified domestic costs that were reasonably attributable to Nungwon's domestic sales. The amount for profits was estimated in accordance with subparagraph 11(1)(b)(ii) of the SIMR, based on Nungwon's profitable domestic sales of Copper Tube of the same general category sold in the domestic market during the PAP.

[142] The total estimated normal value was then compared with the total export price estimated in accordance with the provisions of section 24 for the subject goods imported into Canada during the dumping POI from Nungwon. The estimated margin of dumping for Nungwon is 6.0%, expressed as a percentage of the export price.

## **Mexico**

### Nacional De Cobre, S.A. DE C.V.

[143] Nacional De Cobre, S.A. DE C.V. (Nacobre) is a producer and exporter of subject goods. Nacobre is a privately-held corporation.

[144] Nacobre provided a substantially complete response to the dumping RFI, including a database of domestic sales of Copper Tube of the same general category and details on the full cost of production, general, selling administrative and other costs associated with the sales. Normal values were estimated using a cost-plus methodology based upon the provisions of paragraph 19(b) of SIMA, based on the aggregate of the cost of production of the goods, a reasonable amount for administrative, selling and all other costs, and a reasonable amount for profits. The full cost of production was estimated in accordance with paragraph 11(1)(a) of the SIMR, based on Nacobre's unverified cost data associated with the subject goods shipped to Canada. The amount for administrative, selling and other costs was estimated in accordance with subparagraph 11(1)(c)(i) of the SIMR, based on unverified domestic costs that were reasonably attributable to Nacobre's domestic sales. The amount for profits was estimated in accordance with subparagraph 11(1)(b)(ii) of the SIMR, based on Nacobre's profitable domestic sales of Copper Tube of the same general category sold in the domestic market during the PAP.

[145] The total estimated normal value was then compared with the total export price estimated in accordance with the provisions of section 24 for the subject goods imported into Canada during the dumping POI from Nacobre. The estimated margin of dumping for Nacobre is 17.6%, expressed as a percentage of the export price.

## **All Other Exporters – Margin of Dumping**

[146] For all other exporters, the normal values and related margins of dumping were based on the highest amount by which an estimated normal value exceeded an estimated export price (109.8%), on an individual transaction during the dumping POI as estimated for an exporter with a complete submission. Export prices were obtained through CBSA import entry documentation for the subject goods imported into Canada during the dumping POI.

[147] As such, normal values for these other exporters were estimated by advancing the estimated export price of the goods by 109.8%.

### **Summary of the Preliminary Results of the Dumping Investigation**

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

#### **Summary of Preliminary Results of the Dumping Investigation Period of Investigation – May 1, 2012 to April 30, 2013**

Country	Estimated Volume of Dumped Goods as Percentage of Country Imports	Estimated Margin of Dumping	Estimated Volume of Country Imports as Percentage of Total Imports	Estimated Volume of Dumped Goods as Percentage of Total Imports
Brazil	100%	12.1%	5.8%	5.8%
Greece	100%	12.7%	3.3%	3.3%
China	100%	12.2%	17.6%	17.6%
Republic of Korea	100%	19.0%	29.0%	29.0%
Mexico	100%	32.3%	8.8%	8.8%

[149] Under subsection 35(1) 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.

[150] The estimated margins of dumping of certain Copper Tube from the above countries are above 2% and are, therefore, not insignificant. As well, the volumes of dumped goods from the countries noted above are above 3%, and are, therefore, not negligible.

## **SUBSIDY INVESTIGATION**

[151] 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.

[152] 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.

[153] 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.

[154] 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.

[155] 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.

[156] 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.

[157] Financial contributions provided by State-Owned Enterprises (SOEs) may also be considered to be provided by the GOC for purposes of this investigation. An 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.

[158] At the initiation of the subsidy investigation, the CBSA identified 170 potential subsidy programs in the following eight categories:

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

[159] 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 Web site at the following address: [www.cbsa-asfc.gc.ca/sima-lmsi](http://www.cbsa-asfc.gc.ca/sima-lmsi).

[160] A further review during the preliminary phase of the investigation resulted in the removal of one subsidy program. Program 131: Grant for Standardizing Industrial Systems in the Nonferrous Metals Industry was determined to be a duplicate of Program 121.

### **Preliminary Phase of the Subsidy Investigation**

[161] In conducting its investigation, the CBSA sent a subsidy RFI to the GOC, as well as to potential exporters of Copper Tube located in China that had been identified through CBSA import entry 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 Copper Tube; 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.

[162] The CBSA received a joint response from two exporters/producers and their associated trading company. No responses were received from suppliers of copper. The GOC did not provide a response.

[163] For the preliminary determination, the CBSA has estimated an amount of subsidy for exporters based on the information provided in their responses to the subsidy RFI and other information available to the CBSA.

Hong Kong Hailiang Metal Trading Limited, Shanghai Hailiang Copper Co., Ltd., and Zhejiang Hailiang Co., Ltd.

[164] The response to the CBSA's subsidy RFI was submitted jointly by Hong Kong Hailiang Metal Trading Limited (HK Hailiang), Shanghai Hailiang Copper Co., Ltd. (SH Hailiang) and Zhejiang Hailiang Co., Ltd. (ZJ Hailiang), collectively referred to as Hailiang.

[165] Although the response to the RFI was received by Hailiang, the amounts of subsidy are determined individually for SH Hailiang and ZJ Hailiang as each company received separate benefits from the GOC. HK Hailiang is not located in China, and therefore did not receive any benefits from the GOC.

*Subsidy Programs Benefitting SH Hailiang*

[166] SH Hailiang reported that it received benefits under five subsidy programs.

[167] In addition, the CBSA calculated an estimated amount of subsidy for "Program 167: Raw Materials Provided by the Government at Less than Fair Market Value which was deemed to have also conferred benefits to SH Hailiang".

[168] In total, SH Hailiang benefited from the following six potentially actionable subsidy programs:

- Program 45: Grant - Cleaning-production Qualified Enterprise Reward (Subsidy of Audit Fees for Key Enterprises Cleaning Production)
- Program 79: Advanced Science/Technology Enterprise Grant (Advanced Units for Safety Production in Fengxian District)
- Program 80: Award for Excellent Enterprise (First Prize within Top 100 Enterprises in Situan Town for Year 2012)
- Program 147: Reduced Tax Rate for Productive FIEs Scheduled to Operate for a Period Not Less Than 10 Years
- Program 163: Exemption of Tariff and Import VAT for the Imported Technologies and Equipment
- Program 167: Raw Materials Provided by the Government at Less than Fair Market Value

[169] Given that Hailiang provided a substantially complete response to the subsidy RFI, the estimated amount of subsidy for SH Hailiang was based on the information provided in their response to the subsidy RFI and other information available to the CBSA. The amount of subsidy for SH Hailiang is estimated at 2.9% of the export price. Provisional countervailing duties of 2.9% of the export price will be applied to imports of subject goods from SH Hailiang during the provisional period.

#### *Subsidy Programs Benefitting Zhejiang Hailiang*

[170] ZJ Hailiang reported that it received benefits under 26 subsidy programs.

[171] In addition, the CBSA calculated an estimated amount of subsidy for “Program 167: Raw Materials Provided by the Government at Less than Fair Market Value” which was deemed to have also conferred benefits to ZJ Hailiang.

[172] Based on its analysis the CBSA estimated an amount of subsidy for one additional program, “Program 172: Preferential Loans from State-Owned Banks”. The CBSA compared the interest rate on the loans received with the benchmark interest rates and determined that ZJ Hailiang had received preferential interest rates from the state-owned banks.

[173] In total ZJ Hailiang benefited from the following 28 potentially actionable subsidy programs:

- Program 40-1: Emission Reduction and Energy-Saving Award (Special Funds for Reduction of Pollutant Emission)
- Program 40-2: Emission Reduction and Energy-Saving Award (Advanced Units within Top 30 Electricity Consumption Enterprises in the Competition of Energy-Saving contest)
- Program 51: Grant - Resources Conservation and Environment Protection Grant (Funds for Pollution Sources Monitoring Facilities in 2011)
- Program 118: Subsidy for Certification of Clean and Green Production in Zhejiang (Funds for Cleaning Production Demonstration Enterprises)
- Program 120-1: Policy to Promote Industrial Restructuring and Upgrading, and Enhance the Level of Economic Development in Dianko Township (Funds for Fulfill Incentive Policies on Industry for the Year 2011)
- Program 120-2: Policy to Promote Industrial Restructuring and Upgrading, and Enhance the Level of Economic Development in Dianko Township (Incentives of Circular Economy in 2011)
- Program 121: Funds for Standardizing Industrial Systems in the Nonferrous Metals Industry
- Program 122: Award for Science and Technology in Shaoxing City
- Program 125: Funds for Science and Technology Award
- Program 127: Funds for Science and Technology Award of Zhuji City
- Program 128: Funds for Patent Award
- Program 129: Funds for Key Innovation Team
- Program 132: Subsidies to Full-time Environmental Monitoring Officer

- Program 141-1: Special Funds for Use in the Open Economy (Award for Open Economy)
- Program 141-2: Special Funds for Use in the Open Economy (Reduction/Exemption of Water Conservancy Fund)
- Program 142-1: Grant to Promote Economic Innovation and Enhance Development (Award for Refinancing by Rationed Shares)
- Program 142-2: Grant to Promote Economic Innovation and Enhance Development (Incentives of Industrial Economic Policies in 2011)
- Program 142-3: Grant to Promote Economic Innovation and Enhance Development (Funds for Award of Innovation Carrier)
- Program 142-4: Grant to Promote Economic Innovation and Enhance Development (Funds for Award of Talent for the Year 2012)
- Program 143: Funds for Scientific and Technology Project for the Year 2011 in Zhuji City
- Program 144-1: Grant for Scientific and Technological Projects Which Passed Appraisal and Certification in Zhuji City (Funds for City-Grade Project in 2012)
- Program 144-2: Grant for Scientific and Technological Projects Which Passed Appraisal and Certification in Zhuji City (Funds for Award of Scientific & Technological Achievements through Identification/Review and Project of National Torch, Spark, Key New Product Program)
- Program 150: Preferential Tax Policies for the Research and Development of FIEs (Tax offsets for Research and Development )
- Program 155: Corporate Income Tax Reduction for New High-Technology Enterprises
- Program 163: Exemption of Tariff and Import VAT for the Imported Technologies and Equipment
- Program 167: Raw Materials Provided by the Government at Less than Fair Market Value
- Program 171: Tax offsets for the investment in the acquisition of special facilities for environmental protection, energy and water conservation and work safety etc.
- Program 172: Preferential Loans From State-Owned Banks

[174] Given that Hailiang provided a substantially complete response to the subsidy RFI, the estimated amount of subsidy for ZJ Hailiang was based on the information provided in the response to the subsidy RFI and other information available to the CBSA. The amount of subsidy for ZJ Hailiang is estimated at 2.6% of the export price. Provisional countervailing duties of 2.6% of the export price will be applied to imports of subject goods from ZJ Hailiang during the provisional period.

#### **All Other Exporters – Amount of Subsidy**

[175] With nine additional subsidy programs either reported by the cooperating exporters or identified by the CBSA, there are a total of 178 subsidy programs.



[176] A summary of the preliminary results of the subsidy investigation is presented in a table at the end of this section. An outline of the findings for the named subsidy programs can be found in **Appendix 4**.

[177] For exporters that did not provide a response to the CBSA's subsidy RFI, the following methodology was used in order to estimate an amount of subsidy:

- (1) the highest amount of subsidy (RMB/MT) estimated for each of the 32 actionable subsidy programs for the exporters located in China; plus
- (2) the simple average of the amounts of subsidy for the 32 programs in (1), applied to each of the remaining 146 potentially actionable subsidy programs for which information is not available or has not been provided at the final determination.

[178] Using the above methodology, the estimated amount of subsidy for all other exporters is 14.5%, expressed as a percentage of the export price. The amount of subsidy calculated for all other exporters, estimated to be 14.5% of the export price, is applicable to imports of subject goods during the provisional period from all other exporters.

[179] As a result of the above methodology, 100% of the subject goods imported from China are subsidized. The estimated overall amount of subsidy is equal to 3.2% of the export price.

#### **Summary of Preliminary Results of Subsidy Investigation**

[180] 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.

[181] 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.

[182] 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>29</sup> As China is included in the listing, the CBSA extends developing country status to China for purposes of this investigation.

[183] The estimated amounts of subsidy and the volumes of the subsidized goods indicate that the amount of subsidy is not insignificant and that the volumes of the subsidized imports are not negligible.

[184] A summary of the preliminary results of the subsidy investigation respecting all subject goods released into Canada during the subsidy POI follows.

**Summary of Preliminary Results of Subsidy Investigation  
Period of Investigation - January 1, 2012 to April 30, 2013**

Country	Estimated Subsidized Goods as Percentage of Country Imports	Estimated Amount of Subsidy*	Estimated Volume of Country Imports as Percentage of Total Imports	Estimated Volume of Subsidized Goods as Percentage of Total Imports
China	100%	3.2%	20.8%	20.8%

\*expressed as a percentage of the export price

**DECISIONS**

[185] Based on the information available to the President, on August 20, 2013, the President made preliminary determinations respecting the alleged injurious dumping of Copper Tube from Brazil, Greece, China, the Republic of Korea and Mexico and the alleged injurious subsidizing of Copper Tube from China, pursuant to subsection 38(1) of SIMA.

**PROVISIONAL DUTY**

[186] Pursuant to subsection 8(1) of SIMA, provisional duty payable by the importer in Canada will be applied to dumped and subsidized Copper Tube that are released during the 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, in accordance with subsection 41(1), or the day on which the Tribunal makes an order or finding. The President considers that the imposition of provisional duty is needed to prevent the injury which, as per the Tribunal’s preliminary determination, was caused by the dumping and subsidizing of subject Copper Tube.

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<sup>29</sup> The Organization for Economic Co-operation and Development, DAC List of ODA Recipients from 2011 to 2013, the document is available at: [www.oecd.org/dac/stats/DAC%20List%20used%20for%202012%20and%202013%20flows.pdf](http://www.oecd.org/dac/stats/DAC%20List%20used%20for%202012%20and%202013%20flows.pdf)

[187] Provisional duty is based on the estimated margin of dumping and where applicable, the estimated amount of subsidy, expressed as a percentage of the export price of the goods. **Appendix 3** contains the estimated margins of dumping, estimated amounts of subsidy and the rates of provisional duty payable on subject goods released from the CBSA on and after August 20, 2013.

[188] Importers are required to pay provisional duty 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**

[189] The CBSA will continue its investigations of the dumping and subsidizing and the President will make final decisions by November 18, 2013.

[190] 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 duty paid or security posted, will be returned to importers.

#### **The Canadian International Trade Tribunal**

[191] The Tribunal has begun its inquiry into the question of injury to the Canadian industry. The Tribunal is expected to issue its finding by December 18, 2013.

[192] 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 duty collected or security posted will be returned.

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

[194] 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 duty collected or security posted will be returned.

[195] 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 Copper Tube.

[196] For purposes of the preliminary determination of dumping or subsidizing, the CBSA has responsibility for determining whether the actual and potential volume of dumped or subsidized goods is negligible. After a preliminary determination 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**

[197] 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.

[198] 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**

[199] 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.

[200] 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.

[201] 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/publications/dm-md/d14/d14-1-9-eng.html](http://www.cbsa-asfc.gc.ca/publications/dm-md/d14/d14-1-9-eng.html)

[202] 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 Web site noted below for information on undertakings offered in these investigations. A notice will be posted on the CBSA Web site when an undertaking proposal is received. Interested parties have nine days from the date the undertaking offer is received to make representations.

### **PUBLICATION**

[203] 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**

[204] 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:** Nalong Manivong 613-960-6096  
Ron McTiernan 613-954-7271

**Fax:** 613-948-4844

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

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



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

Attachments

## **APPENDIX 1 – REPRESENTATIONS FROM THE GOVERNMENT OF CHINA**

### **Frivolous Complaint**

The GOC submitted that the complaint on the alleged subsidization of Copper Tube submitted by GLC was a frivolous complaint, unsubstantiated by evidence.

### **CBSA Response**

Based on its analysis of the complaint, the CBSA determined that the complaint was properly documented. Based on an analysis of the information provided in the complaint, other available information and the CBSA's import documentation, the President was of the opinion that there was evidence that Copper Tube originating in or exported from China has been dumped and subsidized, and there was a reasonable indication that such dumping and subsidizing have caused and are threatening to cause injury to the Canadian industry. As a result, the President initiated dumping and subsidy investigations on May 22, 2013.

### **Lack of Evidence at Initiation**

The GOC submitted that the World Trade Organization (WTO) panel decision on China's investigation on Grain Oriented Flat-Rolled Electrical Steel from the United States (WT/DS414/R dated June 15, 2012 - Public)<sup>30</sup> has set the standard of review required of investigating authorities in reviewing the evidence in the complaint to determine whether an investigation should be initiated in accordance with the provisions of the *Agreement on Subsidies and Countervailing Measures* (ASCM). The GOC argued that the CBSA's practices of determining what constitutes a subsidy, specificity and the "countervailability" of subsidies, did not comply with its WTO obligations. Further, the GOC claimed that the CBSA did not comply with the standard of review of evidence required in a complaint to justify the initiation of a subsidy investigation, as set out in WTO jurisprudence.

The GOC also submitted that the complainant did not establish the existence of the alleged subsidies and did not provide sufficient evidence to justify the initiation of a subsidy investigation in conformity with Article 11.2 of the ASCM or under subsection 31(1) of SIMA. The GOC further argued that Article 11.2 of the ASCM requires that "an application shall include sufficient evidence of the existence of a subsidy", which includes sufficient evidence of the existence of a financial contribution, a benefit and specificity.

### **CBSA Response**

The CBSA met the threshold for initiating a subsidy investigation, as required by subsection 31(1) of SIMA. The subsidy investigation was initiated following receipt of a properly documented complaint. This complaint contained the elements required by the definition of the term "properly documented complaint" in subsection 2(1) and the provisions of subsection 31(1) of SIMA. The information presented by the complainant, together with

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<sup>30</sup> WT/DS414/R dated June 15, 2012. WTO panel decision on China's investigation on Grain Oriented Flat-Rolled Electrical Steel from the United States.

supplementary data available to the CBSA and CBSA import documentation, substantiated the complainant's allegations that Copper Tube from China has been dumped and subsidized.

The CBSA determined that the complainant provided the information about Chinese subsidies that was reasonably available to them. The CBSA also undertook its own research and determined that there was evidence that Copper Tube from China has been subsidized. Therefore, the CBSA initiated a subsidy investigation with respect to these goods.

### **Injury**

The GOC submitted that the complainant had failed to provide sufficient evidence of injury to justify the initiation of a countervailing investigation pursuant to Article 11.2 of the ASCM and subsection 31(1) of SIMA. As well, the GOC contended that the complainant failed to identify that portion of the material injury to the domestic industry that was directly attributable to the alleged subsidization and failed to establish the existence of any injury or threat of injury whatsoever resulting from the alleged dumping and subsidizing of Copper Tube. The GOC also made several specific representations concerning the allegations made by the complainant with regards to the alleged injury caused by the subsidizing of Copper Tube from China.

### **CBSA Response**

The President was of the opinion that the information provided in the complaint disclosed a reasonable indication that the alleged dumping and subsidizing of Copper Tube from China have caused injury and are threatening to cause injury to the Canadian industry producing the like goods. Further, the Tribunal conducted a preliminary injury inquiry and determined, on July 22, 2013, that the evidence discloses a reasonable indication that the alleged dumping and subsidizing of the goods have caused or are threatening to cause injury to the Canadian industry.

## **APPENDIX 2 – REPRESENTATIONS FROM THE GOVERNMENT OF MEXICO**

### **Methodology for Estimating Normal Values at Initiation**

The GOM submitted that the CBSA should not have accepted the complainant's normal values calculated with the constructed value methodology. The GOM noted that Article 2.2 of the WTO *Anti-dumping Agreement* (ADA) establishes that the first option to be considered to calculate the normal value is the use of a comparable price, in the ordinary course of trade, for the like product when destined for consumption in the exporting country. The GOM stated that the CBSA accepted the constructed value methodology without any valid and legal justification of why such methodology was permissible.

The GOM further indicated that Article 5.3 of the ADA and section 31 of SIMA contain a positive obligation requiring the CBSA to examine the accuracy and adequacy of the evidence provided in the complaint to determine whether there is sufficient evidence to justify the initiation of an investigation. Based on the *Statement of Reasons* (SOR), the GOM indicated that it did not appear that the CBSA analysed the accuracy and adequacy of the information regarding normal value, therefore, it could not be appropriately determined that there was sufficient evidence regarding the existence of dumping to initiate the investigation.

### **CBSA Response**

The CBSA is of the opinion that the complaint contained the elements required by the definition of the term "properly documented complaint" in subsection 2(1) and the provisions of subsection 31(1) of SIMA. Evidence respecting the selling prices of Copper Tube in Mexico was not available to the complainant, so a constructed value methodology was employed. The CBSA is of the opinion that the explanation provided by the complainant was sufficient and the normal value methodology in the complaint was appropriate.

With respect to the specific concerns raised respecting the accuracy and adequacy of the information provided in the complaint, the CBSA reviewed the information provided in the complaint and considered the complainant's estimate of normal values to be reasonable. The CBSA also undertook its own research, reviewed the accuracy and adequacy of this evidence and determined that there was evidence that Copper Tube from Mexico has been dumped.

Based on information provided in the complaint, other available information and the CBSA's internal import documentation, the CBSA was of the opinion that there was sufficient evidence that Copper Tube originating in or exported from Mexico has been dumped and as such a dumping investigation was initiated on May 22, 2013, pursuant to subsection 31(1) of SIMA.

### **Estimation of Export Price and Comparison with Normal Value**

The GOM indicated that it was not possible to assess whether the export prices estimated by the CBSA were properly calculated due to the lack of information in the SOR for the initiation of the investigations. The SOR indicates that export prices were based on actual import data from commercial and customs documentation for a representative sample of subject imports from January 1, 2012 to February 28, 2013. However, no information was provided on the selection



and composition of the sample. As well, the SOR does not explain the terms of sale of the products from the sample and whether adjustments were necessary to compare them properly with the normal value at the same trade level. Accordingly, it was not possible to assess the extent to which the obligations established in the Article 2.4 of the *Anti-dumping Agreement* were fulfilled by the CBSA. In addition, the GOM argued that the CBSA did not explain how it verified that the sampled goods were similar to the goods for which normal values were constructed.

### **CBSA Response**

The CBSA estimated export prices based on actual import data from commercial and customs documentation. A sample of subject imports from January 1, 2012 to February 28, 2013, was used for this purpose, due to the large volume of Copper Tube products imported into Canada.

The CBSA used a sampling approach to review import documentation, from each of the subject countries, during the period from January 1, 2012 to February 28, 2013, identifying and matching subject import models with benchmark models provided by the complainant. Entries were selected in a manner in order to obtain a representative sample for the entire period.

The following table summarizes the size of the sample used for the purpose of reviewing invoices and identifying matching benchmark models as a proportion of total imports of subject goods.

<b>Origin</b>	<b>Percentage of Total Country Imports Sampled by Value</b>	<b>Percentage of Benchmark Products Identified Within Sample by Value</b>
<b>Mexico</b>	64.0%	78.2%

Normal values were estimated for all benchmark products identified by the complainant. The CBSA compared the estimated normal values with the estimated export prices for the subject imports from Mexico in the sample that could be matched with the benchmark products in order to estimate the margin of dumping for Mexico.

### **Margin of Dumping**

The GOM pointed out that the complainant suggested two different dumping margins for each country depending on the methodology used to calculate it. The difference in these methodologies is that, in one, the cost of the copper was presumably disregarded and it focused on the remaining elements in order to determine the margin of dumping expressed in percentage terms. However, according to the Article 2.2 of the ADA the cost of the copper (or the cost of any other input) must be included in the cost of production calculation to properly calculate a constructed normal value. For that reason, the GOM is of the opinion that the CBSA should not accept such methodology in the calculation of the Mexican dumping margin at any time.

## **CBSA Response**

The normal values estimated at the initiation of the investigation included the cost of copper in the cost of production.

### **Negligible Volume of Imports from Mexico**

The GOM stated that imports from Mexico should not have been included in the investigation because the CBSA did not have sufficient, accurate and adequate information to warrant its inclusion. The GOM pointed to the fact that the data on imports of Copper Tube included non-subject goods which raises concerns about the accuracy and reliability of the calculations of import volume. The GOM noted that even with the imperfect import data, the import volume of subject goods from Mexico is negligible and declining. As well, the GOM noted that the CBSA did not explain why it considered imports from January 1, 2012 to February 28, 2013, when the POI is May 1, 2012 to April 30, 2013.

## **CBSA Response**

Pursuant to subsection 2(1) of SIMA, the 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. For the period January 1, 2012 to February 28, 2013, the CBSA found that the total volume of goods released into Canada from Mexico exceeded this threshold for the purposes of the initiation of the investigation and the preliminary determination of dumping.

The period January 1, 2012 to February 28, 2013, was examined as this was the most recent period in the complaint for which the complainant provided information. The CBSA received a properly documented complaint on April 2, 2013. The dumping POI of May 1, 2012 to April 30, 2013, was selected by the CBSA as this period represents the most recent 12-month period that coincides with the date of initiation of the investigations on May 22, 2013.

### **Injury**

The GOM made several representations concerning injury to the Canadian domestic industry producing Copper Tube. The GOM noted that the CBSA did not explain why it concluded that subject goods and domestic goods are “like goods”. The GOM contended that the SOR for the initiation of the investigations and the complaint do not support the contention that all copper tubing products are like products and the GOM argues that there are different classes of goods. The GOM is also of the view that the complainant did not submit any objective information to support the existence of threat of injury caused by imports from Mexico.

## **CBSA Response**

The information provided in the complaint disclosed a reasonable indication that the alleged dumping of Copper Tube from Mexico has caused injury and is threatening to cause injury to the Canadian industry producing the like goods. Further, the Tribunal has conducted a preliminary injury inquiry and determined, on July 22, 2013, that the evidence discloses a reasonable

indication that the alleged dumping and subsidizing of the goods have caused or are threatening to cause injury to the Canadian industry. The GOM made representations to the Tribunal in the course of its preliminary injury inquiry as per the Tribunal's Statement of Reasons for that decision.

### **Adequacy of Non-confidential Version of Complaint**

In its submission, the GOM objected to the confidential classification of some information in the complaint as confidential.

### **CBSA Response**

The CBSA has reviewed the non-confidential version of the complaint and remains satisfied that it has complied with the requirements in section 85 of SIMA.

**APPENDIX 3 – SUMMARY OF ESTIMATED MARGINS OF DUMPING, ESTIMATED AMOUNTS OF SUBSIDY AND PROVISIONAL DUTIES PAYABLE**

The following table lists the estimated margins of dumping, the estimated amounts of subsidy and the provisional duty by exporter as a result of the decisions mentioned above. Imports of subject goods released from the CBSA, on or after August 20, 2013, will be subject to provisional duties at the rates specified below.

<b>Exporter</b>	<b>Estimated Margin of Dumping*</b>	<b>Estimated Amount of Subsidy*</b>	<b>Total Provisional Duty Payable*</b>
<b>Brazil</b>			
Paranapanema S.A.	12.1%	N/A	12.1%
All Other Exporters	N/A	N/A	109.8%
<b>Greece</b>			
Halcor S.A.	12.7%	N/A	12.7%
All Other Exporters	N/A	N/A	109.8%
<b>China</b>			
Shanghai Hailiang Copper Co., Ltd	12.0%	2.9%	14.9%
Zhejiang Hailiang Co., Ltd.	4.6%	2.6%	7.2%
All Other Exporters	109.8%	14.5%	124.3%
<b>Republic of Korea</b>			
Nungwon Metal	6.0%	N/A	6.0%
All Other Exporters	109.8%	N/A	109.8%
<b>Mexico</b>			
Nacional De Cobre, S.A. DE C.V	17.6%	N/A	17.6%
All Other Exporters	109.8%	N/A	109.8%

\*expressed as a percentage of the export price

## **APPENDIX 4 – 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, which significantly impeded the CBSA's ability to conduct a proper analysis of the programs for the preliminary determination. However, in recognition of the amount of cooperation and the volume of information provided by the responding exporters, the CBSA has estimated the amounts of subsidy where possible, based on the information provided in the 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.

## **II Preferential Loans and Loan Guarantees**

### **Program 172: Preferential Loans From State-Owned Banks**

This program relates to the provision of preferential loans from state-owned banks. When exporters or producers of subject goods receive preferential loans at preferential interest rates from SOEs and those SOEs are considered to be possessing, exercising, or vested with governmental authority, a subsidy may be found to exist.

For the purposes of this investigation, there are three key concepts to consider when determining whether this program is applicable:

- whether the exporters or producers of subject goods to Canada received preferential loans from SOEs;
- whether the SOEs that supplied these preferential loans are considered to be possessing, exercising, or vested with governmental authority; and
- the market interest rates of loans provided by SOEs.

In terms of the first concept, the CBSA requested information from the exporters regarding information on their loans, banking information, interest rates, and maturity dates. Based on the information in their submissions, the responding exporters have received loans from state-owned banks, specifically, the Export-Import Bank of China (EXIM Bank).

In terms of the second concept, the following analysis considers whether EXIM Bank could be regarded as “government” for the purpose of subsection 2(1) of SIMA. SOEs 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.

According to its Web site, “the Export-Import Bank of China is a state bank solely owned by the Chinese government and under the direct leadership of the State Council”. Furthermore, the mission of EXIM Bank “is to facilitate the export and import of Chinese mechanical and electronic products, complete sets of equipment and new-and high-tech products, assist Chinese companies with comparative advantages in their offshore project contracting and outbound investment, and promote international economic cooperation and trade.”<sup>31</sup> The above evidence clearly indicates that the EXIM Bank is considered to constitute “government” for the purpose of subsection 2(1) of SIMA.

The third concept relating to this program is the determination of the market interest rates of the loans provided by SOEs for the purposes of evaluating whether the interest rates on the loans from SOEs is considered to be preferential rates.

Having determined that there is a financial contribution, as defined in paragraph 2(1.6)(c) of SIMA,<sup>32</sup> the CBSA estimated whether the financial contribution conferred a benefit to producers/exporters. This estimate involved the comparison of the interest rates at which the loans were provided by the government with the market interest rates of the loans in China. The CBSA determined the loan benchmark interest rate issued by the People’s Bank of China for RMB denominated loans is an appropriate benchmark interest rate for this purpose.

The CBSA estimated the amount of benefit received by the exporter by comparing the interest rates on the loans received from the EXIM bank with the benchmark interest rates issued by the People’s Bank of China.

### **III Grants and Grant-equivalents**

On the basis of the available information, the following programs under grants and grant-equivalents constitute 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. These grants confer a direct benefit to the recipient in the form of a grant and the benefit is equal to the amount of the grant provided.

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<sup>31</sup> The Export-Import Bank of China. Website available at: <http://english.eximbank.gov.cn/profile/intro.shtml>.

<sup>32</sup> The government provides goods or services, other than general infrastructure, or purchases goods.

**Program 40-1: Emission Reduction and Energy-Saving Award (Special Funds for Reduction of Pollutant Emission)**

During the POI, one of the cooperative exporters received a grant for reduction of pollutant emission. This program was established in the document titled ‘Policies and Opinions of Zhuji Municipal Committee of the CPC and Zhuji Municipal Government on Accelerating the Construction of “6+2” Modern Industrial System in 2011(ZHU SHI WEI [2011] No. 3)’. This program was administered jointly by the Zhuji Municipal Committee of the CPC and Zhuji Municipal Government.

**Program 40-2: Emission Reduction and Energy-Saving Award (Advanced Units within Top 30 Electricity Consumption Enterprises in the Competition of Energy-Saving contest)**

During the POI, one of the cooperative exporters received a grant for energy-savings. This program was established in the document titled ‘Policies and Opinions of Zhuji Municipal Committee of the Chinese Party of China (CPC) and Zhuji Municipal Government on Accelerating the Construction of “6+2” Modern Industrial System in 2011(ZHU SHI WEI [2011] No. 3)’. This program was administered jointly by the Zhuji Municipal Committee of the CPC and Zhuji Municipal Government.

**Program 45: Grant - Cleaning-production Qualified Enterprise Reward (Subsidy of Audit Fees for Key Enterprises Cleaning Production)**

During the POI, one of the cooperative exporters received a grant for cleaning production audit fees. This program was established in a document titled ‘Implementation Scheme of Cleaner Production Auditing Subsidy Funds of Major Enterprises in Shanghai (trial).’ This program was administered jointly by the District or County Environmental Protection Bureau and Municipal Environmental Protection Bureau.

**Program 51: Grant - Resources Conservation and Environment Protection Grant (Funds for Pollution Sources Monitoring Facilities in 2011)**

During the POI, one of the cooperative exporters received a grant for pollution monitoring. This program was established in the document titled ‘Policies and Opinions of Zhuji Municipal Committee of the CPC and Zhuji Municipal Government on Accelerating the Construction of “6+2” Modern Industrial System in 2011(ZHU SHI WEI [2011] No. 3)’. This program was administered jointly by the Zhuji Municipal Committee of the CPC and Zhuji Municipal Government.

**Program 79: Advanced Science/Technology Enterprise Grant (Advanced Units for Safety Production in Fengxian District)**

During the POI, one of the cooperative exporters received a grant for safety production. This program was administered by the Shanghai Municipality Fengxian District Situan Town Government.

**Program 80: Award for Excellent Enterprise (First Prize within Top 100 Enterprises in Situan Town for Year 2012)**

During the POI, one of the cooperative exporters received a reward for contributions to the local economy. This program was established in a document titled ‘Decision on Commending 2012 “Top 100 Enterprises” of Situan Town (FENG SI WEI [2013] No. 9)’. This program was administered jointly by the Shanghai Municipality Fengxian District Situan Town Committee of the CPC and Shanghai Municipality Fengxian District Situan Town Government.

**Program 118: Subsidy for Certification of Clean and Green Production in Zhejiang (Funds for Cleaning Production Demonstration Enterprises)**

During the POI, one of the cooperative exporters received a grant for being recognized as a cleaning production demonstration enterprise. This program was established in the document titled ‘Policies and Opinions of Zhuji Municipal Committee of the CPC and Zhuji Municipal Government on Accelerating the Construction of “6+2” Modern Industrial System in 2011(ZHU SHI WEI [2011] No. 3)’. This program was administered jointly by the Zhuji Municipal Committee of the CPC and Zhuji Municipal Government.

**Program 120-1: Policy to Promote Industrial Restructuring and Upgrading, and Enhance the Level of Economic Development in Dianko Township (Funds for Fulfill Incentive Policies on Industry for the Year 2011)**

During the POI, one of the cooperative exporters received a grant for scientific and technological innovation, brand building, energy conservation and environmental protection. This program was established in the document titled ‘Policies and Opinions on Accelerating the Construction of Modern Industry System and Promoting the Development of Strategic Emerging Industries (DIAN ZHENG [2011] No. 2)’. This program was administered by the Diankou Town People’s Government.

**Program 120-2: Policy to Promote Industrial Restructuring and Upgrading, and Enhance the Level of Economic Development in Dianko Township (Incentives of Circular Economy in 2011)**

During the POI, one of the cooperative exporters received a grant under this program. This program was established in the document titled ‘Policies and Opinions of Zhuji Municipal Committee of the CPC and Zhuji Municipal Government on Accelerating the Construction of “6+2” Modern Industrial System in 2011(ZHU SHI WEI [2011] No. 3)’. This program was administered jointly by the Zhuji Municipal Committee of the CPC and Zhuji Municipal Government.



**Program 121: Funds for Standardizing Industrial Systems in the Nonferrous Metals Industry**

During the POI, one of the cooperative exporters received a grant under this program. This program was established in the document titled ‘Notice on Allocating 2012 Subsidy Funds for Formulating and Revising the National and Professional Standards (YOU SE BIAO WEI [2012] No. 32)’. This program was administered by the National Technical Committee of Standardization for Nonferrous.

**Program 122: Award for Science and Technology in Shaoxing City**

During the POI, one of the cooperative exporters received a grant under this program. This program was established in the document titled ‘Circular of Shaoxing Municipal Government on 2011 Shaoxing Science and Technology Prizes (SHAO ZHENG FA [2011] No. 80)’. This program was administered by the Shaoxing Municipal Government.

**Program 125: Funds for Science and Technology Award**

During the POI, one of the cooperative exporters received a grant under this program. This program was established in the document titled ‘Notice of Shaoxing Municipal Science and Technology Bureau on Transmitting the List of 2011 Zhejiang Province Science and Technology Prize Winning Projects and Scientific and Technological Achievement Transformation Prize Winning Projects (or Personnel) (the part of Shaoxing City) (SHAO SHI KE [2012] No. 32)’. This program was administered by the Shaoxing Municipal Science and Technology Bureau.

**Program 127: Funds for Science and Technology Award of Zhuji City**

During the POI, one of the cooperative exporters received a grant under this program. This program was established in the document titled ‘Notice of Allocating the 2011 Zhuji Science and Technology Award Prizes (ZHU KE [2012] No. 21)’. This program was administered jointly by the Zhuji Municipal Science and Technology Bureau and Zhuji Municipal Finance Bureau.

**Program 128: Funds for Patent Award**

During the POI, one of the cooperative exporters received a grant under this program. This program was established in the document titled ‘Notice of Allocating the 2011 Patent Incentive Funds (ZHU KE [2012] No. 12)’. This program was administered jointly by the Zhuji Municipal Science and Technology Bureau and Zhuji Municipal Finance Bureau.

**Program 129: Funds for Key Innovation Team**

During the POI, one of the cooperative exporters received a grant under this program. This program was established in the document titled ‘Notice of General Office of Zhejiang Provincial Committee of the CPC and General Office of People’s Government of Zhejiang Province on Releasing the First Group of “Major Innovation Teams of Zhejiang Province” (ZHE WEI BAN [2009] No. 126)’. This program was administered jointly by the General Office of Zhejiang

Provincial Committee of the CPC and General Office of People's Government of Zhejiang Province.

**Program 132: Subsidies to Full-time Environmental Monitoring Officer**

During the POI, one of the cooperative exporters received a grant under this program. This program was established in the document titled 'Evaluation Measures for Enterprise Full-time Environmental Inspectors (ZHU HUAN [2012] No. 26)'. This program was administered by General Office of Zhuji Municipal Environment Protection Bureau.

**Program 141-1: Special Funds for Use in the Open Economy (Award for Open Economy)**

During the POI, one of the cooperative exporters received a grant under this program. This program was established in the document titled 'Policies and Opinions of Zhuji Municipal Committee of the CPC and Zhuji Municipal Government on Accelerating the Construction of "6+2" Modern Industrial System in 2011(ZHU SHI WEI [2011] No. 3)'. This program was administered jointly by the Zhuji Municipal Committee of the CPC and Zhuji Municipal Government.

**Program 141-2: Special Funds for Use in the Open Economy (Reduction/Exemption of Water Conservancy Fund)**

During the POI, one of the cooperative exporters received a grant under this program. This program was established in the document titled 'Notice of Department of Finance of Zhejiang Province and Local Taxation Administration of Zhejiang Province on Further Enhancing the Preference of Local Construction Fund for Water Works for Foreign Trade Export (ZHE DI SHUI FA [2012] No. 40)'. This program was administered jointly by the Department of Finance of Zhejiang Province and Local Taxation Administration of Zhejiang Province.

**Program 142-1: Grant to Promote Economic Innovation and Enhance Development (Award for Refinancing by Rationed Shares)**

During the POI, one of the cooperative exporters received a grant under this program. This program was established in the document titled 'Policies and Opinions of Zhuji Municipal Government Regarding Promoting the Innovative Development of Finance Sector (ZHU ZHENG FA [2011] No. 1)'. This program was administered by the Zhuji Municipal Government.

**Program 142-2: Grant to Promote Economic Innovation and Enhance Development (Incentives of Industrial Economic Policies in 2011)**

During the POI, one of the cooperative exporters received a grant under this program. This program was established in the document titled 'Policies and Opinions of Zhuji Municipal Committee of the CPC and Zhuji Municipal Government on Accelerating the Construction of "6+2" Modern Industrial System in 2011(ZHU SHI WEI [2011] No. 3)'. This program was administered jointly by the Zhuji Municipal Committee of the CPC and Zhuji Municipal Government.

**Program 142-3: Grant to Promote Economic Innovation and Enhance Development (Funds for Award of Innovation Carrier)**

During the POI, one of the cooperative exporters received a grant under this program. This program was established in the document titled ‘Notice of Allocating the 2011 Scientific and Technological Innovation Carrier Award Funds (ZHU KE [2012] No. 20)’. This program was administered jointly by the Zhuji Municipal Science and Technology Bureau and Zhuji Municipal Finance Bureau.

**Program 142-4: Grant to Promote Economic Innovation and Enhance Development (Funds for Award of Talent for the Year 2012)**

During the POI, one of the cooperative exporters received a grant under this program. This program was established in the document titled ‘Policies and Opinions of Zhuji Municipal Committee of the CPC and Zhuji Municipal Government on Further Improving the Talent and Intelligence Introduction and Talent Cultivation (SHI WEI (2007) No. 50)’. This program was administered jointly by the Zhuji Municipal Committee of the CPC and the Zhuji Municipal Government.

**Program 143: Funds for Scientific and Technology Project for the Year 2011 in Zhuji City**

During the POI, one of the cooperative exporters received a grant under this program. This program was established in the document titled ‘Notice of Allocating the Subsidy Funds for 2011 Special Hi-tech Industrial Projects and Special Scientific and Technological Cooperation Projects of Zhuji Science and Technology Plan (ZHU KE [2011] No. 48)’. This program was administered jointly by the Zhuji Municipal Science and Technology Bureau and Zhuji Municipal Finance Bureau.

**Program 144-1: Grant for Scientific and Technological Projects Which Passed Appraisal and Certification in Zhuji City (Funds for City-Grade Project in 2012)**

During the POI, one of the cooperative exporters received a grant under this program. This program was established in the document titled ‘Notice of Issuing the 2012 Industrial Scientific and Technology Projects and Scientific and Technological Cooperation and Achievement Transformation Projects of Zhuji Science and Technology Plan (ZHU KE [2012] No. 38)’. This program was administered jointly by Zhuji Municipal Science and Technology Bureau and Zhuji Municipal Finance Bureau.

**Program 144-2: Grant for Scientific and Technological Projects Which Passed Appraisal and Certification in Zhuji City (Funds for Award of Scientific & Technological Achievements through Identification/Review and Project of National Torch, Spark, Key New Product Program)**

During the POI, one of the cooperative exporters received a grant under this program. This program was established in the document titled ‘Notice of Allocating the 2011 Award Funds for Scientific and Technological Achievements Passing Appraisal (Evaluation) and Established Projects of National Torch Plan, National Spark Program and National Major New Product Plan (ZHU KE [2012] No. 19)’. This program was administered jointly by Zhuji Municipal Science and Technology Bureau and Zhuji Municipal Finance Bureau.

#### **IV Preferential Income Tax Programs**

On the basis of available information, the following programs under Preferential Income Tax Programs 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 reduced and/or exempted, and confer a benefit to the recipient equal to the amount of the reduction/exemption.

**Program 147: Reduced Tax Rate for Productive FIEs Scheduled to Operate for a Period Not Less Than 10 Years**

During the POI, one of the cooperative exporters received income tax benefits. This program was established in the *Income Tax Law of the People’s Republic of China for Enterprises with Foreign Investment and Foreign Enterprise*, which was promulgated on April 9, 1991, and came into effect on July 1, 1991. This program was established in order to encourage foreign investment. The granting authority responsible for this program is the State Administration of Taxation and is administered by local tax authorities.

**Program 150: Preferential Tax Policies for the Research and Development of FIEs (Tax offsets for Research and Development)**

During the POI, one of the cooperative exporters received benefit under this program. This program was established in Article 30(1) of The Enterprise Income Tax Law and Article 95 of the Release of Regulations on the Implementation of Enterprise Income Tax Law of the People’s Republic of China by the State Council (Decree 512 of the State Council, 2007).

**Program 155: Corporate Income Tax Reduction for New High-Technology Enterprises**

During the POI, one of the cooperative exporters received benefit under this program. This program was established in Article 28.2 of the Enterprise Income Tax Law and Article 93 of Regulations on the Implementation of Enterprise Income Tax Law of the People’s Republic of China by the State Council (Decree 512 of the State Council, 2007).

**Program 171: Tax Offsets for the Investment in the Acquisition of Special Facilities for Environmental Protection, energy and water conservation and work safety.**

During the POI, one of the cooperative exporters received benefits under this program. This program was established in in 2008 by the Enterprise Income Tax Law and Article 100 of Regulations on the Implementation of Enterprise Income Tax Law of the People’s Republic of China by the State Council (Decree 512 of the State Council, 2007).

**V Relief from Duties and Taxes on Inputs, Materials and Machinery**

On the basis of available information, the following program constitutes 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 reduced and/or exempted, and confers a benefit to the recipient equal to the amount of the reduction/exemption.

**Program 163: Exemption of Tariff and Import VAT for the Imported Technologies and Equipment**

During the POI, two of the cooperative exporters were exempted from paying tariffs and import VAT on purchases of selected imported equipment. This program was established pursuant to the regulations of the *Circular of the State Council on Adjusting Tax Policies on Imported Equipment* (GUOFA [1997] No. 37).

**VII Goods/Services provided by the Government at Less Than Fair Market Value**

**Program 167: Raw Materials Provided by the Government at Less than Fair Market Value**

This program relates to the acquisition cost of major raw materials from SOEs that are subsequently used in the production of finished subject goods. When exporters or producers of subject goods acquire raw material inputs (in this case copper cathode) at less than fair market value directly or indirectly from SOEs and those SOEs are considered to be possessing, exercising, or vested with governmental authority, a subsidy may be found to exist.

For the purposes of this investigation, there are three key concepts to consider when determining whether this program is applicable:

- whether the exporters or producers of subject goods to Canada acquired raw material inputs from SOEs;
- whether the SOEs that supplied these raw materials are considered to be possessing, exercising, or vested with governmental authority; and
- the fair market value of the goods provided by SOEs.

The CBSA requested information from the exporters regarding their purchases of input material (copper cathode), the names of the suppliers/producers, and the ownership status of these parties, where known. Based on the information in their submissions, the responding exporters have

purchased copper cathode from Chinese trading companies some of which were identified as SOEs. However, the responding exporters were unable to determine the identity of the copper producers or whether or not these copper producers were SOEs.

Since the exporters were unable to establish if the copper cathode that they purchased in China were produced by SOEs and since the Chinese copper sector is dominated by SOEs and since neither the copper producers or the GOC provided the CBSA with any information to determine if these copper inputs were produced by SOEs, the CBSA will treat all domestic purchases of copper by the responding exporters as being purchased from SOEs.

The following analysis considers whether SOEs in the copper sector could be regarded as “government” for the purpose of subsection 2(1) of SIMA. SOEs 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.

All exporters were instructed to forward a supplemental questionnaire to their suppliers of copper cathode; however, none of the suppliers/producers that were identified by the exporters as SOEs provided responses. The GOC was also requested to identify the suppliers/producers of copper cathode it partially or wholly-owned and to describe the percentage of their ownership; however, the GOC did not respond to the subsidy RFI.

Various industrial and economic policies and five-year plans are factors found to have influence in the Chinese non-ferrous industry. The major objectives of these policies and plans are summarized below.

As provided in Article 36 of the *Law of State-Owned Assets of the Enterprises*, state-invested enterprises<sup>33</sup> (SIEs) must comply with all national industrial policies.<sup>34</sup> On the basis of this information, SIEs are effectively performing a public policy function through their pursuit of state plans and industrial and economic policies, thus supporting the indication that SIEs and SOEs are in fact performing governmental functions.

A further analysis of the *Law of State-Owned Assets of the Enterprises* reveals that the GOC is the only entity that may determine who is eligible to be a director or supervisor within SIEs in China, regardless of the extent of the GOC’s ownership of the SIE. The GOC sets the criteria against which management of an SIE is evaluated, measures the performance of management against the criteria, and determines the standards of remuneration for management. SIEs must also submit to audits conducted directly by the GOC.

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<sup>33</sup> State-invested Enterprise: An entity in which the GOC has an ownership stake, regardless of the size of that stake, but does not wholly-own the enterprise. These definitions are based upon those set out on Article 5, *Law of State-Owned Assets of the Enterprises*. CBSA Final Determinations *Statement of Reasons for Certain Stainless Steel Sinks*, page 31, May 9, 2012

<sup>34</sup> CBSA Final Determinations *Statement of Reasons for Certain Stainless Steel Sinks*, page 31, May 9, 2012

According to the Decree of the State Council of the People's Republic of China No. 378 - Interim Regulations on Supervision and Management of State-owned Assets of Enterprises,<sup>35</sup> Article 12 establishes that the State-owned Assets Supervision and Administration Commission of the State (SASAC) is directly subordinate to the State Council, the highest executive organ of the GOC. Article 13 establishes the main responsibilities of SASAC, including the power of appointing, terminating, and evaluating top executives of supervised enterprises, the ability to draft laws, rules and regulations for the management of state-owned assets, and the capability to dispatch supervisory panels to the supervised enterprises on behalf of the state council.<sup>36</sup>

The CBSA views the ability to appoint and remove top executives of supervised enterprises as evidence that the GOC exercises meaningful control over the conduct of such entities. Furthermore, the power vested in SASAC to “take charge of daily management of the supervisory panels”, and to “draft laws, administrative regulations” also indicate a significant level of control over SOEs. When the main functions and responsibilities of SASAC are examined more closely, evidence of the extent of the control of the GOC, via SASAC, becomes apparent.

In light of the fact that the GOC did not provide information with respect to the ownership status of suppliers/producers and no information was received from SOEs with respect to the subsidy RFI, the CBSA performed an analysis based on the information available on the record which revealed that various industrial and economic policies and five year plans are factors found to have influence in the Chinese non-ferrous industry. The exercise of meaningful control by the GOC, examined in conjunction with the performance of government functions, is sufficient to indicate that these SOEs possess, exercise or are vested with governmental authority. As such, the CBSA will consider SOEs in the copper sector to be included under the definition of “government” in subsection 2(1) of SIMA.

This program also involves the determination of the fair market value of the material inputs provided by SOEs for the purposes of evaluating whether the purchase price from SOEs is below fair market value.

Having determined that there is a financial contribution, as defined in paragraph 2(1.6)(c) of SIMA,<sup>37</sup> the CBSA estimated whether the financial contribution conferred a benefit to producers/exporters. 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. The CBSA has determined that the Chinese copper sector is dominated by SOEs. There is evidence that prices of copper cathode in China can be substantially lower compared to the global benchmarks. Accordingly, the CBSA has deemed that the domestic selling prices for copper cathode in China are not appropriate for the purpose of determining the fair market value of these goods.

In addition, the contract pricing of copper on the Shanghai Futures Exchange (SHFE) is not reflective of world prices. As such the CBSA obtained average monthly prices of copper importations from SH Hailiang and ZJ Hailiang in order to establish benchmark prices of copper cathode.

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<sup>35</sup> CBSA Final Determinations *Statement of Reasons for Certain Stainless Steel Sinks*, page 32, May 9, 2012.

<sup>36</sup> Ibid.

<sup>37</sup> The government provides goods or services, other than general infrastructure, or purchases goods.

The CBSA then calculated the difference between the average monthly acquisition prices of the exporters' purchases in the domestic market with the average monthly prices of the exporter's copper importations at world prices. Since the benefit the exporters received was deemed to have benefitted the entire operations of the companies, the amount of subsidy was estimated by distributing the benefit received by the exporters over the total quantity of goods to which the benefit was attributable.

## **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 investigations.

### **I Special Economic Zones (SEZ) and Other Designated Areas Incentives**

- Program 1: Preferential Tax Policies for Enterprises with Foreign Investment (FIEs) Established in Special Economic Zones (SEZs) (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
- 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 in Guangdong
- Program 9: Income Tax Refunds where Profits are Re-invested in SEZs and other Designated Areas
- Program 10: Preferential Tax Program for FIEs Recognized as HNTEs (High and New Technology Enterprises)
- Program 11: Preferential Tax Policies for FIEs which are Technology Intensive and Knowledge Intensive
- Program 12: Services or Goods provided by Government or public bodies at the preferential prices to enterprises located in SEZs and other designated areas
- Program 13: VAT Exemptions for the Central Region
- Program 14: Tax over-refunds or over-exemptions for the water, electricity and gas consumed in the Export Processing Zone



- Program 15: Custom Duty Exemption and VAT Exemption for machinery, equipment, construction materials imported into the Export Processing Zone for the construction of production facilities (such as factory and warehouse) in the zone
- Program 16: Custom Duty Exemption and VAT Exemption for machinery, equipment, moulds/dies and the corresponding repairing parts imported into the Export Processing Zone and used for the production by Enterprises in the zone
- Program 17: Custom Duty over-refund or over-exemption and VAT over-refund or over-exemption for raw materials, parts, packaging materials and consumable materials imported into the Export Processing Zone and used for the production of exported goods in the zone
- Program 18: Export Duty Refund or Exemption for the exported goods produced in the Export Processing Zone and exported from the zone
- Program 19: VAT Refunds or Exemptions for the domestically purchased machinery, equipment and construction materials used for the production of exported goods and the construction of production facilities in the Export Processing Zone

## **II Preferential Loans and Loan Guarantees**

- Program 20: Loans and Interest Subsidies Provided Under the Northeast Revitalization Program
- Program 21: Export Seller's Credit for High- and New-Technology Products by China EMIX Bank
- Program 22: Preferential Loan for the National/Provincial Key Science & Technology Industrialization Projects, High Technology Industrialization Projects, Science & Technology Achievements Commercialization Projects, Modern Equipment Manufacturing Industry and key Information Technology Industrialization Projects by Liaoning Governments

## **III Grants and Grant-equivalents**

- Program 23: Innovation Fund for Medium and Small Business
- Program 24: Special fund for developing trade through science and technology of Guangdong Province
- Program 25: Special Funds for Foreign Economic and Technical Cooperation
- Program 26: Innovative Experimental Enterprise Grant
- Program 27: Superstar Enterprise Grant
- Program 28: Awards to Enterprises Whose Products Qualify for "Well-Known Trademarks of China" or "Famous Brands of China"
- Program 29: Export Brand Development Fund
- Program 30: Provincial Scientific Development Plan Fund
- Program 31: Technical Renovation Loan Interest Discount Fund
- Program 32: National Innovation Fund for Technology Based Firms
- Program 33: Guangdong - Hong Kong Technology Cooperation Funding Scheme
- Program 34: Grants for Encouraging the Establishment of Headquarters and Regional Headquarters with Foreign Investment

- Program 35: Innovative Small and Medium-Sized Enterprise Grants
- Program 36: Product Quality Grant
- Program 37: 2009 Energy-Saving Fund
- Program 38: Grants for Export Activities
- Program 39: Grants for International Certification
- Program 41: Grant for Market Promotion and Trade Development (Shandong)
- Program 42: Grant - Assistance for Exhibition Booth Fees (Shandong)
- Program 43: Grant - Patent Application Assistance
- Program 44: Grant - State Service Industry Development Fund
- Program 46: Grant - Provisional Industry Promotion Special Fund
- Program 47: Grant – Financial Subsidies from Wei Hai City Gao Cun Town Government
- 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 - Special Supporting Fund for Commercialization of Technological Innovation and Research Findings
- Program 52: Grant - Wendeng Government (Shandong)
- Program 53: Enterprise Technology Centres
- Program 54: Allowance to Pay Loan Interest
- Program 55: Supporting Fund for Non-Refundable Export Tax Loss
- Program 56: International Market Fund for Export Companies
- Program 57: International Market Fund for Small and Medium-sized Export Companies
- Program 58: Business Development Overseas Support Fund
- Program 59: Refund from Government for Participating in Trade Fair
- Program 60: Grant - Special Fund for Fostering Stable Growth of Foreign Trade
- Program 61: Reimbursement of Anti-dumping and/or Countervailing Legal Expenses by the Local Governments
- Program 62: Financial Special Fund for Supporting High and New Technology Industry Development Project
- Program 63: Subsidy for Promoting Energy-Saving Buildings
- Program 64: Subsidy for the Technology Development
- Program 65: Awards for the Contributions to Local Economy and Industry Development
- Program 66: Beijing Industrial Development Fund
- Program 67: Grants, Loans, and Other Incentives for Development of Famous Brands, China Top World Brands or other well-known Brands
- Program 68: Shunde Famous Brands
- Program 69: Guangdong Supporting Fund
- Program 70: Zhabei District “Save Energy Reduce Emission Team” Award
- Program 71: “Five Points, One Line” Program of Liaoning Province
- Program 72: State Special Fund for Promoting Key Industries and Innovation Technologies
- Program 73: Fund for SME (small and medium size enterprises) Bank-Enterprise Cooperation Projects by Guangdong Governments
- Program 74: Special Fund for Significant Science and Technology by Guangdong Governments
- Program 75: Fund for Economic, Scientific and Technology Development by the Government of Foshan City
- Program 76: Provincial Fund for Fiscal and Technological Innovation by Guangdong Governments

- Program 77: Provincial Loan Discount Special Fund for SMEs by Guangdong Governments
- Program 78: “Large and Excellent” Enterprises Grant
- Program 81: Foshan City Government Technology Renovation and Technology Innovation Special Fund Grants
- Program 82: Nanhai District Grants to State and Provincial Enterprise Technology Centers and Engineering Technology R&D Centers
- Program 83: Supporting Fund for the Projects Used to Resolve the Important Technological Issues for Enterprises’ Production and R&D by Liaoning Governments
- Program 84: Technology Innovation Fund for Science & Technology Type SMEs by Liaoning Governments
- Program 85: Supporting Fund for the Application Technology Research in the Overseas R&D Institution/Branch by Liaoning Governments
- Program 86: Special Supporting Fund and Special Loan Assistance by Chinese Ministry of Science & Technology for revitalizing the Northeast old industrial base
- Program 87: Special Supporting Fund for Key Projects of “500 Strong Enterprises in Contemporary Industries” by Guangdong Governments
- Program 88: Fund for Supporting Strategic Emerging Industries by Guangdong Governments
- Program 89: Medium Size and Small Size Enterprises Development Special Fund
- Program 90: Medium Size and Small Size Trading Enterprises Development Special Fund
- Program 91: Special Fund for Export Credit Insurance by Guangdong Governments
- Program 92: Supporting Fund for Converting the Industry Technology Achievements/Findings by Beijing Governments
- Program 93: Special Development Fund for Beijing Cultural Innovation Industry
- Program 94: Supporting Fund for Becoming Publicly Listed Company
- Program 95: Supporting Fund for the “Working Capital” Loan Interest
- Program 96: Award for Maintaining the Growth by Beijing Governments
- Program 97: Award by Beijing Technology Trading Encouraging Centre
- Program 98: Award by Shanghai Songjiang Economic Committee
- Program 99: Supporting Fund for the Development from Guangzhou Local Governments
- Program 100: Interest Assistance for Technology Renovation Projects by Liaoning Governments
- Program 101: Interest Assistance for the Application of Information Technology by Liaoning Governments
- Program 102: Loan Guarantee Fund for Science & Technology Enterprises by Liaoning Governments
- Program 103: Fund for Optimizing Import and Export Structure of Mechanical Electronics and High and New Technology Products
- Program 104: Special Fund for Pollution Control of Three Rivers, Three Lakes, and the Songhua River
- Program 105: Repaying Foreign Currency Loan by Refunded VAT
- Program 106: Government Export Subsidy and Product Innovation Subsidy in Shandong Province
- Program 107: Export Assistance Grant
- Program 108: Research & Development (R&D) Assistance Grant
- Program 109: Foreign Trade Promotion Award
- Program 110: Financial Assistance for an Overseas Market Survey

- Program 111: Supporting fund provided to Service Outsourcing Enterprises for the Establishment of their Brands and the Acquisition of their International Qualification Accreditations.
- Program 112: Liaoning High-tech Products & Equipment Exports Interest Assistance
- Program 113: Grant for Developing International Markets for SMEs in Zhejiang
- Program 114: Grant for Developing International Markets and Capital Clearing Fund for SMEs in Zhejiang
- Program 115: Export Credit for Insurance Premium in Zhejiang
- Program 116: Property Tax Reduction of Urban Land Use for Companies Who Provide Employment to People with Disabilities in Zhejiang
- Program 117: Support for the Development of Welfare Enterprises and Promoting the Employment of Persons with Disabilities in Zhuji City.
- Program 119: Subsidy for Construction Projects in the Developmental and Experimental Zone in Zhuji City
- Program 123: Policy to Accelerate the Development of Modern Logistics Industry in Zhuji City
- Program 124: Grant for Industrial Transformation and Upgrading of Major Science and Technology Projects in Zhuji City
- Program 126: Award to Science and Technology Enterprises in Zhuji City
- Program 130: Special Fund for Fair Trade in Import and Export Zhejiang
- Program 133: Grant for Research and Development Centers in the Provincial-level High-Tech Enterprises in Zhejiang
- Program 134: Special Financial Fund for Industrial Transformation and Upgrading in Zhejiang (Brand Awards)
- Program 135: Award for Outstanding Industrial Products and New Technologies in Zhejiang
- Program 136: Grant for the Implementation of Quality and Technical Inspection in Zhejiang
- Program 137: Award for Advanced Companies and Individuals in the Recognition of Key Projects and Investment in Tonglin City
- Program 138: Grant to Promote and Accelerate the Economic Development in the Copper Industry in Tonglin City
- Program 139: Financial Incentives to Promote Economic Development in Tonglin City
- Program 140: One-Time Financial Support to Hailiang Copper Co., Ltd.
- Program 145: Support for the Development of Welfare Enterprises to Promote the Employment of Persons with Disabilities in Zhuji City

#### **IV Preferential Income Tax Programs**

- Program 146: Preferential Tax Policies for Advanced Technology Enterprises with Foreign Investment
- Program 148: Tax Preference Available to Companies that Operate at a Small Profit.
- Program 149: Preferential Tax Policies for Foreign Invested Export Enterprises
- Program 151: 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 152: Preferential Tax Policies for Domestic Enterprises Purchasing Domestically Produced Equipment for Technology Upgrading Purpose
- Program 153: Income Tax Refund for Re-investment of FIE Profits by Foreign Investors

- Program 154: VAT and Income Tax Exemption/Reduction for Enterprises Adopting Debt-to-Equity Swaps
- Program 156: Income Tax Credits on Purchases of Domestically Produced Equipment
- Program 157: Preferential Tax Programs for Encouraged Industries or Projects
- Program 158: Exemption from City Maintenance and Construction Taxes and Education Fee Surcharges for FIEs
- Program 159: Tax Offset for R&D Expenses in Guangdong Province
- Program 160: Accelerated Depreciation on Fixed Assets
- Program 161: Preferential Tax Treatment for the Technology Development Expenses by Liaoning Governments
- Program 162: Accelerated Depreciation on Intangible Assets for Industrial Enterprises in Northeast Region

## **V Relief from Duties and Taxes on Inputs, Materials and Machinery**

- Program 164: Relief from Duties and Taxes on Imported Material and Other Manufacturing Inputs

## **VI Reduction in Land Use Fees**

- Program 165: Reduction, Exemption or Refund of Land Use Fees, Land Rental Rates and Land Purchase/Transfer Prices
- Program 166: Deed Tax Exemptions for Land Transferred through Merger or Restructuring

## **VII Goods/Services provided by the Government at Less Than Fair Market Value**

- Program 168: Utilities Provided by the Government at Less than Fair Market Value

## **VIII Equity Programs**

- Program 169: Debt to Equity Swaps
- Program 170: Exemptions for SOEs from Distributing Dividends to the State