



OTTAWA, December 19, 2014

STATEMENT OF REASONS

**Concerning the initiation of investigations into the dumping and subsidizing of
CERTAIN PHOTOVOLTAIC MODULES AND LAMINATES
ORIGINATING IN OR EXPORTED FROM THE PEOPLE'S REPUBLIC OF CHINA**

DECISION

Pursuant to subsection 31(1) of the *Special Import Measures Act*, the President of the Canada Border Services Agency initiated investigations on December 5, 2014, respecting the alleged injurious dumping and subsidizing of certain photovoltaic modules and laminates 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.

TABLE OF CONTENTS

SUMMARY	3
INTERESTED PARTIES	4
COMPLAINANTS	4
EXPORTERS	5
IMPORTERS	5
GOVERNMENT OF CHINA	5
PRODUCT INFORMATION	5
DEFINITION	5
ADDITIONAL PRODUCT INFORMATION	6
PRODUCTION PROCESS	6
CLASSIFICATION OF IMPORTS	7
LIKE GOODS	8
THE CANADIAN INDUSTRY	8
STANDING	8
CANADIAN MARKET	9
EVIDENCE OF DUMPING	10
NORMAL VALUE	11
EXPORT PRICE	12
ESTIMATED MARGINS OF DUMPING	13
MARGIN OF DUMPING AND VOLUME OF DUMPED GOODS	13
SECTION 20 INQUIRY	14
EVIDENCE OF SUBSIDIZING	15
PROGRAMS BEING INVESTIGATED	16
PROGRAMS THAT MAY NOT BE INVESTIGATED	18
CONCLUSION	18
ESTIMATED AMOUNT OF SUBSIDY	18
AMOUNT OF SUBSIDY AND VOLUME OF SUBSIDIZED GOODS	19
EVIDENCE OF INJURY	20
INCREASED VOLUME OF DUMPED AND SUBSIDIZED IMPORTS	20
LOSS OF MARKET SHARE	20
LOSS OF SALES	21
PRICE EROSION & PRICE UNDERCUTTING	22
REDUCED PRODUCTION & UNDERUTILIZED CAPACITY	22
REDUCTION IN EMPLOYMENT	22
DECLINING REVENUES, MARGINS AND PROFITS	23
NUMEROUS RECENT INSOLVENCIES AND CLOSURES OF CANADIAN MANUFACTURERS	23
THREAT OF INJURY	23
CAUSAL LINK – DUMPING/SUBSIDIZING AND INJURY	25
CONCLUSION	26
SCOPE OF THE INVESTIGATION	26
FUTURE ACTION	26
RETROACTIVE DUTY ON MASSIVE IMPORTATIONS	27
UNDERTAKINGS	28
PUBLICATION	28
INFORMATION	28
APPENDIX 1 - DESCRIPTION OF IDENTIFIED PROGRAMS AND INCENTIVES	30

SUMMARY

[1] On October 1, 2014, the Canada Border Services Agency (CBSA) received a written complaint from Eclipsall Energy Corporation (Eclipsall) of Toronto, Ontario, Heliene Inc. (Heliene) of Sault Ste. Marie, Ontario, Silfab Ontario Inc. (Silfab) of Mississauga, Ontario, and Solgate Inc. (Solgate) of Woodbridge, Ontario (hereafter ‘the complainants’), alleging that imports of certain photovoltaic modules and laminates originating in or exported from the People’s Republic of China (China) are being dumped and subsidized. The complainants allege that the dumping and subsidizing have caused injury and are threatening to cause injury to the Canadian industry producing these goods.

[2] The complainants provided evidence to support the allegations that certain photovoltaic modules and laminates from China have been dumped and 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 like goods.

[3] On October 22, 2014, pursuant to paragraph 32(1)(a) of the *Special Import Measures Act* (SIMA), the CBSA informed the complainants that the complaint was properly documented. The CBSA also notified the government of China (GOC) that a properly documented complaint had been received and provided the 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* (ASCM).

[4] On November 20, 2014, consultations pursuant to Article 13.1 of the ASCM were held between the Government of Canada and the GOC. On the same day, the Government of Canada received written representations from the GOC with respect to its views on the accuracy and adequacy of the evidence presented in the non-confidential version of the subsidy complaint. The CBSA considered these written representations in its analysis of whether there was sufficient evidence of subsidization to warrant the initiation of a subsidy investigation.

[5] SIMA provides that, under normal circumstances, the investigations shall be initiated within 30 days of the date of the properly documented complaint. However, on November 20, 2014, the President of the CBSA (President) extended this period to 45 days, pursuant to subsection 31(6) of SIMA in order to provide sufficient time to determine whether there is compliance with the conditions referred to in subsection 31(2) of SIMA.

[6] On December 5, 2014, pursuant to subsection 31(1) of SIMA, the President initiated investigations respecting the dumping and subsidizing of certain photovoltaic modules and laminates from China.

[7] Note: the term “solar” may be used throughout this document and, for the purposes of this *Statement of Reasons*, is considered to be interchangeable with the term “photovoltaic”.

INTERESTED PARTIES

Complainants

[8] The complainants account for a major proportion of the domestic production of photovoltaic modules and laminates in Canada, as defined in subsection 2(1) of SIMA. The complainants' goods are produced at manufacturing facilities at various locations in Canada.

[9] The names and addresses of the complainants are as follows:

Eclipsall Energy Corporation
5900 Finch Avenue East
Toronto, Ontario
M1B 5X7

Heliene Inc.
520 Allens Side Road
Sault Ste. Marie, Ontario
P6A 6K4

Silfab Ontario Inc.
240 Courtney Park Drive East
Mississauga, Ontario
L5T 2Y3

Solgate Inc.
172 Trowers, Unit 29
Woodbridge, Ontario
L4L 8A7

[10] Eclipsall operates in a 165,000 sq. ft. manufacturing facility located in Toronto, Ontario, and was established in 2009. Heliene operates a 30,000 sq. ft. facility based in Sault Ste. Marie, Ontario, and has been manufacturing photovoltaic modules since 2010. Silfab is headquartered in a 100,000 sq. ft. facility in Mississauga, Ontario, and started production in 2011. Solgate is located in Woodbridge, Ontario, where the company operates in a 28,000 sq. ft. facility, and has been producing photovoltaic modules since 2005.

[11] The other manufacturers of photovoltaic modules and laminates in Canada are:

Canadian Solar Inc.
545 Speedvale Avenue West
Guelph, Ontario,
N1K 1E6

Enerdynamic Hybrid Technologies
1110 Hansler Road,
Welland, Ontario,
L3C 7M5

Celestica Inc.
844 Don Mills Road,
Toronto, Ontario,
M3C 1V7

Exporters

[12] The CBSA has identified 252 potential exporters of the subject goods from CBSA import documentation and from information submitted in the complaint.

Importers

[13] The CBSA has identified 256 potential importers of the subject goods from CBSA import documentation and from information submitted in the complaint.

Government of China

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

PRODUCT INFORMATION

Definition

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

Photovoltaic modules and laminates consisting of crystalline silicon photovoltaic cells, including laminates shipped or packaged with other components of photovoltaic modules, and thin-film photovoltaic products produced from amorphous silicon (a-Si), cadmium telluride (CdTe), or copper indium gallium selenide (CIGS), originating in or exported from the People’s Republic of China, excluding:

modules, laminates or thin-film products with a power output not exceeding 100W; and also excluding modules, laminates or thin-film products incorporated into electrical goods where the function of the electrical goods is other than power generation and these electrical goods consume the electricity generated by the photovoltaic product.

Additional Product Information

[16] The final assembled product sold to end consumers is referred to as a solar module. A laminate refers to the consolidation of various raw materials, including strung-together solar cells, a cover glass and an encapsulant (such as EVA, or ethylene vinyl acetate) which are encapsulated (i.e. consolidated) into a more solid and durable product and most often made into a solar module by affixing to it additional solar module components such as a frame and/or a junction box. The subject goods include both modules and laminates, whether or not the laminate is attached to an electrical junction box or a protective frame or other components, or whether or not the laminate is packaged with any such products or components.

[17] For further clarity, a laminate included in a package of goods or shipped alongside other products serving to create a module (e.g. aluminum extrusions for the frame, and/or an electrical junction box, and/or batteries for electrical storage) falls within the definition of subject goods.

[18] The production of subject goods is measured in watts (W) or megawatts (MW). One megawatt is equivalent to one million watts. Canadian production is also measured in W or MW. Watts are synonymous with peak-watts, which are defined as the direct current (DC) watts output under specified laboratory settings.

[19] As noted above, the definition of subject goods excludes both “modules, laminates or thin-film products with a power output not exceeding 100W” and “modules, laminates or thin-film products where the function of the electrical goods is other than power generation, and where these electrical goods consume the electricity generated by the photovoltaic product”. These exclusions serve to exclude small portable modules as well as consumer products and small appliances which use solar modules. For example, items ranging from solar garden lights to calculators, to parking meters, as well as portable modules used as camping equipment, would be excluded from the product definition by virtue of power output, or by virtue of the fact that these goods consume the electricity generated by the product.

Production Process

[20] Photovoltaic modules are produced from ultra-refined polysilicon or other conducting materials which capture sunlight. The term “photovoltaic module” may refer to mono-crystalline, multicrystalline (often referred to as poly-crystalline) or thin-film photovoltaic modules that can be used to generate electricity from the sun. The difference between these three forms of modules lies in the purity of the crystallized silicon (c-Si) used, with superior alignment of the silicon molecules generating higher conversion of solar energy into electricity.

[21] A typical mono-crystalline or multi-crystalline module includes a rectangular matrix of either 60 or 72 solar cells (generally arranged in strings of 12 cells, although a module could have more or fewer cell strings depending on the intended power output of the module). Cells are produced from sliced polysilicon wafers. The lamination serves to assist in the transmission of solar energy to the cells and protects the cells from damage. Various types of conductive metallic pastes or inks are applied to either side of the cell surface to produce conductive fingers, grid lines, bus bars, and surface coating. The frame provides a protective cover for the cells and strengthens the overall module. An electrical junction box is generally attached. Finally, electric

inverters may be joined to the module in order to convert direct current electricity into alternating current.

[22] Mono-crystalline cells are made by slicing silicon wafers into cells. Wafer production begins with pure polysilicon chunks. These chunks are characterized by ultra-high silicon purity levels and are refined to an extremely high degree. The wafer, which is essentially a single continuous silicon crystal, is cut in such a manner to increase efficiency, often in an octagonal-like shape. By cutting a single wafer, the cells have a single crystal lattice, and thus a uniform look and colour. Mono-crystalline modules are generally more expensive as they generally yield the highest power output compared to other photovoltaic modules.

[23] Multi-crystalline cells are very similar to mono-crystalline cells, except that rather than resulting from a single wafer, the silicon is melted and formed in a mold, which can then be cut into square wafers after the silicon has cooled and crystallized. Because the crystallization process is imperfect, multi-crystalline cells have variable crystal lattice patterns, meaning there are resulting imperfections and various tones and variations of colour within the same module. Photovoltaic module technologies have increased the efficiency of multi-crystalline modules and these now approach the efficiency of their “pure-looking” mono-crystalline counterpart.

[24] Thin-film photovoltaic modules are built by applying a microscopic (thin-film) layer of semiconductor photovoltaic material, generally silicon, cadmium telluride, or copper indium gallium selenide, on glass or a sheet of metal. The thin-film production process, therefore, bypasses the use of silicon crystals, and for this reason is often known as “amorphous”. By using less photovoltaic product, thin-film modules have a lower cost of production and can be made into more flexible shapes, though their efficiency is generally lower than crystalline-based modules, as they use significantly less photovoltaic material. Like crystalline modules, thin-film modules are laminated, and framed using aluminum extrusions.

[25] Photovoltaic modules are packed and shipped after quality control and testing is performed at the production facility.

Classification of Imports

[26] The allegedly dumped and subsidized goods are normally classified under the following Harmonized System (HS) classification code:

8541.40.00.22	Photosensitive semiconductor devices, including photovoltaic cells whether or not assembled in modules or made up into panels; light emitting diodes; solar cells assembled into modules or made into panels
---------------	--

[27] 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

[28] 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.

[29] Photovoltaic modules and laminates produced by the domestic industry in Canada compete directly with, have the same end uses as, and can be substituted for, the subject goods. Therefore, the CBSA has concluded that photovoltaic modules and laminates produced by the Canadian industry constitute like goods to the subject goods.

[30] After considering questions of use, physical characteristics and all other relevant factors, the CBSA is of the opinion that the subject goods constitute only one class of goods.

THE CANADIAN INDUSTRY

[31] The complainants account for a major proportion of known domestic production of like goods in Canada, as defined in subsection 2(1) of SIMA.

Standing

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

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

[33] The CBSA has requested information from all known producers of like goods in Canada. In addition to the information provided by the complainants and supporting producer, the CBSA has received responses from Celestica Inc. and Canadian Solar Inc. Celestica Inc. has not expressed a position regarding the complaint and did not provide information regarding the company’s production of like goods. Canadian Solar Inc. has expressed a neutral position and provided information regarding the company’s production in Canada as well as information regarding affiliated companies.

[34] The CBSA has considered the information provided by Canadian Solar Inc., as well as information obtained by the CBSA, and determined, pursuant to subsection 2(1) of SIMA, that Canadian Solar Inc. does not form part of the domestic industry as defined in subsection 2(1) of SIMA.

[35] The CBSA also contacted Flextronics. The company did not provide a response and information available to the CBSA indicates that the company ceased production of the like goods in 2014.

[36] The complaint included a letter of support from Enerdynamic Hybrid Technologies, a domestic producer of like goods.¹

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

CANADIAN MARKET

[38] Photovoltaic modules are sold primarily to installers, solar system integrators, property developers and other value-added resellers, who incorporate photovoltaic modules into on-grid integrated solar systems with batteries, inverters, mounting structures and/or wiring systems.

[39] According to the complainants, photovoltaic modules are sold as a commodity-type product, and are sold primarily on the basis of price. Further, according to the complainants, both Canadian and Chinese suppliers produce solar modules that meet the specifications of Canadian consumers, and domestic and imported solar modules can be used interchangeably in the same power-generation systems.

[40] The complainants also note that information about prevailing prices is publicly available through industry publications such as the Bloomberg *New Energy Finance Solar Spot Survey*, which surveys suppliers and customers as to the current prevailing price. The publication of price data in widely respected industry publications ensure that price changes are quickly communicated throughout the market.

[41] The complainants, using information provided by the Canadian Solar Industries Association (CANSIA), estimated the total volume of imports of subject goods originating from all countries from 2012 through the first half of 2014.²

[42] The CBSA conducted its own analysis of imports of goods based on actual import data from CBSA documentation.

[43] A review of CBSA import data demonstrated similar trends and volumes with respect to imports of subject goods compared to information provided in the complaint.

¹ Dumping Exhibit 2 (NC) – Solar Modules and Laminates Complaint – Public Attachment 8.

² Dumping Exhibit 2 (NC) – Solar Modules and Laminates Complaint – Public Attachment 11.

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

CBSA Estimates of Import Share
(as % of MW)

Country	2012	2013	Jan. to Sept. 2014	Oct. 2013 to Sept. 2014
China	55.5%	72%	84.6%	85.1%
All Other Countries	44.5%	28%	15.4%	14.9%
Total Imports	100.0%	100.0%	100.0%	100.0%

EVIDENCE OF DUMPING

[45] The complainants allege that subject goods from China have been injuriously dumped into Canada. Dumping occurs when the normal value of the goods exceeds the export price to importers in Canada.

[46] Normal values are generally based on the domestic selling price of like goods in the country of export where competitive market conditions exist or on the cost of production of the goods plus a reasonable amount for administrative, selling and all other costs, plus a reasonable amount for profits.

[47] The complainants provided information to support the allegation that the solar sector, which includes photovoltaic modules and laminates, in China may not be operating under competitive market conditions and as such, normal values should be determined under section 20 of SIMA.

[48] If there is sufficient reason to believe that conditions described in section 20 of SIMA exist in the sector under investigation, normal values will be determined, where such information is available, on the basis of the domestic selling price or cost of production of the goods plus a reasonable amount for administrative, selling and all other costs, plus a reasonable amount for profits of the like goods sold by producers in any country designated by the President and adjusted for price comparability; or on the basis of the selling price in Canada of like goods imported from any country designated by the President and adjusted for price comparability.

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

[50] The CBSA's analysis of the alleged dumping is based on a comparison of the complainants' estimated normal values, with adjustments, with estimated export prices based on

the actual declared value for duty during the period examined, that is, between October 1, 2013 and September 30, 2014.

[51] Estimates of normal value and export price by both the complainants and the CBSA are discussed below.

Normal Value

[52] The complainants indicated that they do not have access to the domestic selling prices of photovoltaic modules and laminates in China. As such, they were unable to estimate normal values using the methodology of section 15 of SIMA.

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

[54] The complainants have provided estimated normal values for three product types: multi-crystalline, mono-crystalline and thin-film photovoltaic modules. The complainants note that photovoltaic modules are generally sold on a per watt basis. As such, they have provided normal values for the three product types on a per watt basis. The estimated normal values are based on information found in monthly *Bloomberg New Energy Finance*³ reports for the period of January 2014 to July 2014.

[55] The *Bloomberg New Energy Finance* reports contain a cost build up, including an amount for profit, for multi-crystalline photovoltaic modules. The reports are issued monthly and contain information specific to the photovoltaic industry in China. The estimated normal values provided by the complainants are based on the average of the monthly cost build up information for the period of January 2014 to July 2014.

[56] The complainants have also provided estimated normal values for mono-crystalline and thin-film photovoltaic modules. Similar Bloomberg cost information is not available for these products. The complainants estimated a mono-crystalline normal value by adjusting multi-crystalline cost information to account for differences in direct material and processing costs.

[57] According to the complainants, thin-film photovoltaic modules are primarily produced by one Chinese manufacturer. Information with respect to the cost of production of thin-film photovoltaic modules is not publicly available. As such, for the purposes of estimating normal values, the complainants have provided a spot price report issued by *PV Energy Trend* which includes the average sale price for thin-film photovoltaic modules in September 2014.⁴

³ Dumping Exhibit 1 (PRO) – Solar Modules and Laminates Complaint – Attachments 12, 89, 113, 117, 118, 119, 120, 125.

⁴ Dumping Exhibit 2 (NC) – Solar Modules and Laminates Complaint – Public Attachment 121.

[58] The complainants provided information supporting the initiation of a section 20 inquiry respecting the allegedly dumped goods from China and are of the opinion that domestic selling prices in China are substantially influenced by government policies and should not be used in the calculation of normal values since the prices are not reflective of competitive market conditions. As a result, the complainants have also estimated normal values for China under the methodology of section 20 using surrogate country information. The complainants submit that the average international cost, as provided in the Bloomberg publication, is an appropriate surrogate methodology to be used for the calculation of normal values.

[59] The surrogate methodology is similar to that described above, with the exception that the cost build up information is based on the amalgamated cost data of producers from various countries, excluding Chinese producers. These estimates are based on the same *Bloomberg New Energy Finance* reports for the same time period (January 2014 to July 2014).

[60] The CBSA found the normal value estimates provided by the complainants under the methodologies of paragraph 19(b) and section 20 of SIMA, to be reasonable and representative. The amount for profit added to the cost of goods estimate was also found to be reasonable.

[61] As discussed above, normal values determined pursuant to paragraph 20(1)(c) or 20(1)(d) of SIMA will be determined on the basis of the domestic selling price or cost of production of the goods plus a reasonable amount for administrative, selling and all other costs, plus a reasonable amount for profits of the like goods sold by producers in any country designated by the President and adjusted for price comparability; or on the basis of the selling price in Canada of like goods imported from any country designated by the President and adjusted for price comparability. However, at this time no such information is available to the CBSA.

[62] As such, although the CBSA is of the view that the use of amalgamated cost data of producers from various countries is not consistent with paragraph 20(1)(c) or 20(1)(d) of SIMA, the CBSA considers the complainants' proposed methodology to be reasonable based on the information currently available.

[63] The CBSA, therefore, estimated normal values using a cost-based methodology based on surrogate country information as set out in section 20 of SIMA. The CBSA used the average international cost as the basis for estimating normal values.

[64] The CBSA estimated normal values based on information provided in *Bloomberg New Energy Finance* reports for the period of December 2013 to July 2014. The CBSA used the monthly cost build-up information, including the amount for profit, for purposes of the estimated normal value of the subject goods for each respective month.

Export Price

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

[66] The complainants estimated export prices using commercial intelligence for China. Adjustments were made for ocean freight, importer margin, inland freight and Chinese value added tax (VAT).

[67] In estimating the export price, the CBSA relied on actual import data from commercial and customs documentation. Due to the large volume of photovoltaic modules and laminates imported into Canada, customs information pertaining to a sample of imports in the period October 1, 2013 to September 30, 2014, was examined. Actual import data was retrieved and refined through a review of CBSA customs entries and consequently, the information used by the CBSA for its estimate is more comprehensive than what was available to the complainants.

Estimated Margins of Dumping

[68] The CBSA estimated the margin of dumping by comparing the estimated normal values with the estimated export prices of the corresponding export models where matches for products could be made. A weighted average margin of dumping was then calculated based on those models. Combined, these provided a reasonable estimate of the weighted average margin of dumping of all subject goods from China.

[69] Based on this analysis, the subject goods from China were dumped by an estimated margin of dumping of 49.4%, expressed as a percentage of the total export price.

MARGIN OF DUMPING AND VOLUME OF DUMPED GOODS

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

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

[72] On the basis of the estimated margin of dumping and the estimated volume of dumped imports for the period of October 1, 2013 to September 30, 2014, summarized in the following table, the estimated margin of dumping and the estimated volume of dumped goods are greater than the thresholds outlined above.

Estimated Margin of Dumping and Volume of Dumped Goods

(October 1, 2013 to September 30, 2014)

Country	Estimated Share of Total Imports by Volume	Estimated Dumped Goods as % of Total Imports by Volume	Estimated Margin of Dumping as % Export Price
China	85.1%	85.1%	49.4%

SECTION 20 INQUIRY

[73] Section 20 is a provision of SIMA that may be applied to determine the normal value of goods in a dumping investigation where certain conditions prevail in the domestic market of the exporting country. In the case of a prescribed country under paragraph 20(1)(a) of SIMA, it is applied where, in the opinion of the President, the government of that country substantially determines domestic prices and there is sufficient reason to believe that the domestic prices are not substantially the same as they would be in a competitive market.⁵

[74] The complainants alleged that the conditions described in section 20 prevail in the solar sector, which includes photovoltaic modules and laminates, in China. That is, the complainants allege that this industry sector in China does not operate under competitive market conditions and consequently, prices established in the Chinese domestic market for photovoltaic modules and laminates are not reliable for determining normal values.

[75] The complainants provided a variety of evidence supporting its claim that the GOC substantially determines domestic prices of photovoltaic modules and laminates, such as evidence of government influence on the organization and structure of the solar sector, as well evidence of government influence on the price of inputs and the purchase of solar products. The complainants also cited specific GOC policies such as the 12th Five Year Plan for the Solar Photovoltaic Industry, the Renewable Energy Law, and the 12th Five Year Plan on Solar Power Development.⁶

[76] The information currently available to the CBSA indicates that there are numerous GOC industrial policies that have been implemented which influence the solar sector, which includes photovoltaic modules and laminates, in China. In previous section 20 inquiries, the GOC's industrial plans have been found to strongly influence the decisions of enterprises in China.

[77] With respect to the solar sector, which includes photovoltaic modules and laminates, the CBSA has information which demonstrates that the prices of photovoltaic modules and laminates may be significantly affected by the GOC's policies and as a result, prices of photovoltaic modules and laminates in China may not be substantially the same as they would be if they were determined in a competitive market.

[78] Consequently, on December 5, 2014, the CBSA included in its investigation, a section 20 inquiry based on the information available in order to determine whether the conditions set forth in paragraph 20(1)(a) of SIMA prevail in the solar sector, which includes photovoltaic modules and laminates, in China. A section 20 inquiry refers to the process whereby the CBSA collects information from various sources so that the President may, on the basis of this information, form an opinion regarding the presence of the conditions described under section 20 of SIMA, in the sector which includes the goods under investigation.

⁵ China is a prescribed country under section 17.1 of the *Special Import Measures Regulations*.

⁶ Dumping Exhibit 2 (NC) – Solar Modules and Laminates Complaint – Pages 28-45.

[79] As part of this section 20 inquiry, the CBSA sent section 20 questionnaires to all potential producers and exporters of photovoltaic modules and laminates in China, as well as to the GOC requesting detailed information related to the solar sector, which includes photovoltaic modules and laminates, in China.

[80] To enable the determination of normal values, should paragraph 20(1)(a) be applicable, the CBSA requested domestic pricing and costing information from producers in Chinese Taipei, Japan, the Republic of Korea and Malaysia, concerning photovoltaic modules and laminates.

[81] In the event that the President forms the opinion that domestic prices of photovoltaic modules and laminates in China are substantially determined by the GOC and there is sufficient reason to believe that the domestic prices are not substantially the same as they would be if they were determined in a competitive market, the normal values of the goods under investigation will be determined, pursuant to paragraph 20(1)(c), where such information is available, on the basis of the domestic selling price or the aggregate of the cost of production of the goods, a reasonable amount for administrative, selling and other costs, and a reasonable amount for profits of the like goods sold by producers in any country designated by the President and adjusted for price comparability; or, pursuant to paragraph 20(1)(d), on the basis of the selling price in Canada of like goods imported from any country designated by the President and adjusted for price comparability.

EVIDENCE OF SUBSIDIZING

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

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

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

[84] A state-owned enterprise (SOE) may be considered to constitute “government” for the purposes of subsection 2(1.6) of SIMA if it possesses, exercises, or is vested with, governmental authority. Without limiting the generality of the foregoing, the CBSA may consider the following factors as indicative of whether the SOE meets this standard: 1) the SOE is granted or vested with authority by statute; 2) the SOE is performing a government function; 3) the SOE is meaningfully controlled by the government; or 4) some combination thereof.

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

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

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

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

[88] The complainants allege that the goods have been subsidized and maintain that exporters of the goods in China receive subsidies from various levels of the GOC, which may include the governments of the respective province or municipalities in which the exporters are located.

Programs Being Investigated

[89] The complainants referred primarily to the CBSA’s *Statement of Reasons* for various investigations, with emphasis on *Certain Aluminum Extrusions*, *Certain Piling Pipe*, *Certain Oil Country Tubular Goods*, *Certain Steel Grating*, *Certain Unitized Wall Modules*, *Certain Stainless Steel Sinks* and *Certain Laminate Flooring*, in identifying the existence of countervailable subsidies in China.⁷ The complainants also referenced a number of recent U.S. Department of Commerce decisions and specifically the countervailing duty order, final affirmative countervailing duty determination and final affirmative critical circumstances determination on crystalline silicon photovoltaic cells, whether or not assembled into modules from China as part of its subsidy allegations.⁸

⁷ Dumping Exhibit 2 (NC) – Solar Modules and Laminates Complaint – Public Attachments 18, 19, 21, 41, 45, 47, 63 and 79.

⁸ Dumping Exhibit 2 (NC) – Solar Modules and Laminates Complaint – Public Attachments 43, 44, 50 and 70.

[90] The complainants relied also upon industry reports⁹, government documents¹⁰, WTO Trade Policy Review¹¹, and general news articles and publications.¹²

[91] In reviewing the information provided by the complainants and obtained by the CBSA through its own research, the CBSA has developed the following categories of programs and incentives that may be provided to manufacturers of the subject goods in China:

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

[92] A full listing of all programs to be investigated by the CBSA is found in **Appendix 1**. As explained in more detail therein, there is sufficient reason to believe that these programs may constitute actionable subsidies provided by the GOC and that the exporters and producers of the subject goods benefit from these programs.

[93] In the case of programs where an enterprise's eligibility or degree of benefit is contingent upon export performance or the use of goods that are produced or originate in the country of export, such programs may constitute prohibited subsidies under SIMA.

[94] For those programs where incentives are provided to enterprises operating in Special Economic Zones or Other Designated Areas inside the territory of a granting authority, the CBSA considers that these may constitute actionable subsidies for the reason that eligibility is limited to enterprises operating in such regions or is limited to certain enterprises operating within those regions.

[95] As well, the CBSA is satisfied that there is sufficient evidence indicating that the exporters of subject goods may receive subsidies in the form of grants, preferential loans, relief from duties or taxes, and provision of goods and services, which provide a benefit and that are not generally granted to all companies in the territory of the granting authority.

[96] The CBSA will investigate whether exporters of subject goods received benefits under these programs and whether such programs constitute actionable subsidies.

⁹ Dumping Exhibit 2 (NC) – Solar Modules and Laminates Complaint – Public Attachments 24 and 46.

¹⁰ Dumping Exhibit 2 (NC) – Solar Modules and Laminates Complaint – Public Attachments 30 - 38, 48, 61, 62, 65 - 69.

¹¹ Dumping Exhibit 2 (NC) – Solar Modules and Laminates Complaint – Public Attachments 26, 29, 49, 51, 64, 72 and 73.

¹² Dumping Exhibit 2 (NC) – Solar Modules and Laminates Complaint – Public Attachments 46, 52 - 60, 71, 74 - 78 and 80.

Programs That May Not Be Investigated

[97] The subsidy programs identified by the complainants include certain programs listed multiple times. In addition, certain programs identified by the complainants had expired and certain programs were specific to certain geographic locations. For those programs specific to certain geographic locations, the CBSA relied on its address list, as well as CBSA internal references to identify those programs which may be available to manufacturers and exporters of subject goods. For the reasons discussed above, certain programs identified by the complainants were or may be removed from consideration by the CBSA subject to confirmation in the course of the investigation.

[98] If more information becomes available during the investigation process, and this information indicates that these programs or others not listed may have provided benefits to exporters or producers of subject goods during the period under review, the CBSA will request complete information from the GOC and the exporters of subject goods to pursue the investigation of these programs.

Conclusion

[99] Sufficient evidence is available to support the allegation that the subsidy programs outlined in **Appendix 1** are available to exporters and producers of the subject goods in China. In investigating these programs, the CBSA has requested information from the GOC, exporters and producers to determine whether exporters of subject goods received benefits under these programs and whether these programs are actionable subsidies and, therefore, countervailable under SIMA.

Estimated Amount of Subsidy

[100] The complainants stated that they were unable to determine the actual amounts of subsidy received by the Chinese exporters under each program. However, the complainants estimated the amounts of subsidy by calculating the difference between the estimated costs of production for subject goods in China and their corresponding export prices.

[101] For purposes of this initiation, the CBSA estimated the amount of subsidy conferred to exporters of the subject goods in China by calculating the difference between their cost of production, as estimated by the CBSA, and the selling prices reported in customs entry documents of subject goods sold to importers in Canada. Since the cited programs are believed to significantly lower the cost of production of the subject goods, this calculation is a reasonable estimate of the amount of subsidy.

[102] The CBSA's analysis of the information indicates that subject goods imported into Canada during the period of October 1, 2012 to September 30, 2014, were subsidized and that the estimated amount of subsidy is 15.3% of the export price of the subject goods.

AMOUNT OF SUBSIDY AND VOLUME OF SUBSIDIZED GOODS

[103] Under section 35 of SIMA, if, at any time before making a preliminary determination, the President is satisfied that there is insufficient evidence of subsidizing to justify proceeding, 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 the goods of that country. Under subsection 2(1) of SIMA, an amount of subsidy of less than 1% of the export price of the goods is defined as insignificant and a volume of subsidized 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 subsidized goods, the same threshold for the volume of dumped goods.

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

[105] 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* for guidance.¹³ As China is included in the listing, the CBSA extends developing country status to China for purposes of this investigation.

[106] The CBSA used actual import data for all countries for the period of October 1, 2012 to September 30, 2014. On the basis of this information, the volume of subsidized goods as a percentage of the volume of total imports is estimated as follows:

Estimated Amount of Subsidy and Volume of Subsidized Goods

(October 1, 2012 to September 30, 2014)

Country	Percentage of Total Imports	Estimated Subsidized Goods as % of Total Imports	Estimated Amount of Subsidy as % of Export Price
China	66.97%	66.97%	15.3%

¹³ 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/aidstatistics/48858205.pdf.

[107] The volume of subsidized goods, estimated to be 66.97% of total imports from all countries, is greater than the threshold of 4% and is, therefore, not considered negligible. The amount of subsidy, estimated to be 15.3% of the export price, is greater than the threshold of 2% and is, therefore, not considered insignificant.

EVIDENCE OF INJURY

[108] The complainants alleged that the subject goods have been dumped and subsidized and that such dumping and subsidizing have caused material injury to the photovoltaic modules and laminates industry in Canada.

[109] SIMA refers to material injury caused to the domestic producers of like goods in Canada. The CBSA has accepted that the photovoltaic modules and laminates produced by the complainants are like goods to those imported from China.

[110] In support of its allegations, the complainants have provided evidence of an increase in the volume of imports of the dumped and subsidized goods, loss of market share, loss of sales, price erosion and price undercutting, reduced production and underutilized capacity, reduction in employment and declining revenues, margins and profits as well as numerous recent insolvencies and closures of Canadian manufacturers.

Increased Volume of Dumped and Subsidized Imports

[111] The import volumes as estimated by the CBSA are detailed in the “Canadian Market” section of this *Statement of Reasons*. This information shows a continuing trend of rising imports from China, which increased from 72% of total imports in 2013, to 85.1% in the 12-month period ending September 2014. Overall, imports of subject goods from China have been increasing at a faster pace than imports from all other countries.

Loss of Market Share

[112] The complainants allege they have lost significant sales in the Canadian market over the past 14 months. The complainants have provided a table which contains their sales of photovoltaic modules in Canada from 2011 through the first half of 2014. The complainants attribute the increase in sales from 2011 to 2013, to the recent development of the Canadian photovoltaic module industry, and the domestic content requirements of the Government of Ontario’s Feed-in Tariff (FIT) program.

[113] The complainants note that deliveries of solar modules, made under the previous domestic content requirements of the FIT program, will be exhausted in the second half of 2014. The complainants submit that at that time they expect imports of subject goods to return to, or exceed 2010 and 2011 levels, during which time Canadian sales volumes were much lower.

[114] The CBSA's analysis of import trends show that imports of subject goods increased by 8.2% from 2013 to the 12-month period ending September 2014. According to the information before the CBSA, during this period of increasing imports, the market share of like goods produced in Canada has also increased. However, the CBSA also notes that the complainants' market share has remained stagnant from 2013 to the 12-month period ended September 30, 2014.

[115] The CBSA has not been provided with specific production information from Celestica Inc. or Flextronics. As previously mentioned, the CBSA has relied on information from CANSIA reports which include production estimates for producers of photovoltaic modules in Canada. However, CANSIA reports do not include production information for 2014. In the absence of this information, the CBSA has used 2013 data as a projection for 2014 production.

[116] The CBSA notes certain limitations in assessing the complainants' claim of loss of market share caused by the use of 2013 production information. These limitations include the inability to determine any changes in market share, experienced in 2014, by Celestica Inc. or Flextronics. Further, as these producers account for a significant portion of total production in Canada, the use of this data may significantly impact the calculation of domestic market share and may mask any loss of market share experienced in 2014. This is of specific concern as information before the CSBA indicates that Flextronics ceased production of the like goods in 2014.

[117] Without reliable and accurate production information for the most recent period from these two large producers, the CBSA cannot properly assess the claim of loss of market share.

Loss of Sales

[118] The complainants have provided several internal reports and emails that illustrate lost sales on a customer-specific basis. These are examples of lost sales due to lower pricing from exporters of the allegedly dumped and subsidized imports from China. The complaint contains documentation that supports the link between the complainants' lost sales to the allegedly dumped and subsidized subject goods.¹⁴

[119] Furthermore, the complainants state that they have lost the business of several major accounts. The complainants indicate these lost accounts are directly linked to low-priced imports of subject goods.¹⁵

[120] Based on the CBSA's analysis of the information contained in the complaint, the CBSA finds the claim of loss of sales to be well supported and sufficiently linked to the allegedly dumped and subsidized goods.

¹⁴ Dumping Exhibit 2 (NC) – Solar Modules and Laminates Complaint – Pages 119 - 124.

¹⁵ Dumping Exhibit 2 (NC) – Solar Modules and Laminates Complaint – Pages 119 - 124.

Price Erosion & Price Undercutting

[121] The complainants state that the allegedly dumped and subsidized goods have captured sales and market share by undercutting the prices of Canadian producers and, as a result, eroded the complainants' prices. The complaint contains evidence of price undercutting by subject goods. It also contains documented instances where prices were suppressed or where the complainants were forced to lower prices or lose sales in response to allegedly dumped and subsidized imports.¹⁶

[122] Based on the CBSA's analysis of the information contained in the complaint, the CBSA finds that the claim of price erosion and price undercutting to be well supported and sufficiently linked to the allegedly dumped and subsidized goods.

Reduced Production & Underutilized Capacity

[123] The complainants state that they have operated and continue to operate with very high excess capacity. The complainants argue that excess capacity contributes to poor financial performance by increasing the cost of production per MW. The complainants have provided evidence of this excess capacity in a consolidated production statement.¹⁷

[124] Based on the information provided, the CBSA finds the claim of excess production capacity to be reasonable and well supported.

[125] However, the CBSA finds that the claim of reduced capacity utilization may not be well supported, or consistent with the information provided at this time, and that these injury factors may not be sufficiently linked to the dumped and subsidized goods.

Reduction in Employment

[126] The complainants state that the decline in sales in the Canadian market attributable to the allegedly dumped and subsidized subject goods has caused a decline in the level of direct and indirect employment. The complaint shows the number of direct and indirect employees from 2011 through the first half of 2014. Further, the complainants note that Canadian producer Flextronics closed operations in June 2014, eliminating 400 jobs.¹⁸

[127] The CBSA recognizes that certain complainants have reduced the number of employees from the first half of 2013 through the first half of 2014. Further, the CBSA finds that the closure the Canadian producer Flextronics represents a significant net loss of employment to the domestic industry. The CBSA also finds that the reductions in employment can be reasonably linked to the presence of the dumped and subsidized goods.

¹⁶ Dumping Exhibit 2 (NC) – Solar Modules and Laminates Complaint – Pages 124 - 128.

¹⁷ Dumping Exhibit 2 (NC) – Solar Modules and Laminates Complaint – Page 129.

¹⁸ Dumping Exhibit 2 (NC) – Solar Modules and Laminates Complaint – Pages 129 - 131.

Declining Revenues, Margins and Profits

[128] The complainants allege that the injurious impact of the dumped and subsidized goods is demonstrated in the companies' financial results. To support this allegation the complainants have provided consolidated income statements for 2011 through the first half of 2014.¹⁹

[129] The CBSA's analysis of the financial statements provided by the complainants reveals shrinking gross and net margins. The CBSA finds that the complainants declining financial performance is likely due to lost sales, price erosion and price undercutting resulting from imports of the allegedly dumped and subsidized goods.

Numerous Recent Insolvencies and Closures of Canadian Manufacturers

[130] The complainants have provided information regarding numerous recent insolvencies and closures of Canadian photovoltaic module manufacturers. Specifically, the complainants note that between January 1, 2014 and June 30, 2014, two Canadian producers, Centennial Global Technology Inc. and Flextronics, ceased operations. Further, the complainants list six additional Canadian producers who have declared bankruptcy or ceased operations since 2012. The complainants allege this is due, in significant part, to the presence of dumped and subsidized goods.²⁰

[131] The CBSA recognizes that since 2012, eight Canadian producers of photovoltaic modules have ceased operations or declared bankruptcy. The CBSA also notes the recent closure of Flextronics and Centennial Global Technology Inc. However, as the CBSA has not received information from these companies, based on the information currently available, the CBSA cannot properly assess the claim that these recent insolvencies and closures are linked to the dumped and subsidized goods.

THREAT OF INJURY

[132] The complainants allege that the dumped and subsidized goods threaten to cause further material injury to the domestic producers of photovoltaic modules and laminates. The complainants argue that the trends described in the previous section are not only likely to continue, but to increase to the point that imports of subject goods from China dominate the Canadian market. The complainants allege that this will result in the closure of the remaining Canadian producers.

[133] The complainants provided the following information to support the allegation that imports from China threaten to cause further injury to the Canadian industry:

¹⁹ Dumping Exhibit 2 (NC) – Solar Modules and Laminates Complaint – Attachment 84.

²⁰ Dumping Exhibit 2 (NC) – Solar Modules and Laminates Complaint – Page 131.

Nature of the Subsidies

[134] As discussed in the subsidy section of this document, the complainants have provided details of subsidy programs allegedly available to Chinese producers of photovoltaic modules and laminates. The complainants allege that these subsidies constitute significant support for the Chinese industry. Further, the complainants submit that these subsidies have had, and continue to have, a significant impact on the trade of Chinese solar modules.

[135] The CBSA has found that sufficient evidence exists of subsidy programs in China that benefit the producers of subject goods and, consequently, that sufficient grounds are present to warrant the commencement of a subsidy investigation. Further, the CBSA recognizes that the subsidization of producers of subject goods could significantly impact the trade of subject goods.

Significant Increase in the Rate of Subject Goods Imports

[136] The complainants allege that the rapid increase in the volume of dumped and subsidized subject goods, at prices that undercut domestically produced like goods, pose a threat of further injury to the Canadian industry. This allegation is supported by import statistics provided by the complainants. The complainants submit that the evidence provided with respect to the significant volume of lost sales and lost customers supports this allegation.²¹

[137] The CBSA's analysis of import data supports the allegation of an increase in the importation of the alleged dumped and subsidized goods. From 2013 to September 30, 2014, the volume of imported goods from China increased by 8.2%. Based on the CBSA's analysis of import data, the CBSA finds the complainants' allegation of threat of injury posed by an increase in the rate of subject goods imports to be reasonable and well supported.

Production Capacity in China

[138] Based on industry publications, the complainants estimate the production capacity of Chinese photovoltaic module and laminate producers at 49,500 MW. Further, the complainants estimate the excess production capacity of Chinese photovoltaic modules and laminates producers at 16,300 MW. Compared to the annual capacity of Canadian photovoltaic modules and laminates producers of 941 MW, the result demonstrates that a small portion of Chinese production could overwhelm the Canadian market. The complaint includes details of the production capacity of individual Chinese producers as well as comparisons to Canadian market demand.²²

[139] The CBSA acknowledges that producers of photovoltaic modules and laminates in China have excess capacities and should they seek export markets, such as Canada, to increase their capacity utilization, this would lead to further injury to the Canadian industry.

²¹ Dumping Exhibit 2 (NC) – Solar Modules and Laminates Complaint – Page 137.

²² Dumping Exhibit 2 (NC) – Solar Modules and Laminates Complaint – Pages 138 - 142.

Market Conditions in China

[140] The complainants state that producers of photovoltaic modules and laminates in China rely significantly on export sales. This allegation is supported by sources which include reports filed by leading Chinese producers with the United States Securities and Exchange Commission.²³

[141] The complainants allege that overcapacity in the photovoltaic market has led to lower prices in China and internationally. The complainants submit that Chinese producers' reliance on export markets, combined with excess capacity and declining international prices, may lead Chinese producers to target export markets with higher prices, such as Canada.²⁴

[142] The CBSA's analysis of the information contained in the complaint revealed market conditions which the CBSA recognizes may lead Chinese producers to target certain export markets, including Canada. The CBSA finds the complainants' allegations of the threat of injury posed by market conditions in China to be reasonable and well supported.

Foreign Trade Remedy Actions

[143] The complainants provided evidence that photovoltaic module exports from China are subject to trade restrictions in the two largest developed markets, the United States of America and the European Union. The complainants submit that these market restrictions will encourage Chinese producers to focus on other export markets, such as Canada.²⁵

[144] The CBSA acknowledges the presence of trade remedy actions in the United States and European Union, which may impact the export of photovoltaic modules and laminates from China. Further, the CBSA recognizes that these restrictions may have a significant impact on the Canadian market. The CBSA finds the complainants' allegations of the threat of injury posed by foreign trade remedy actions to be reasonable and well supported.

CAUSAL LINK – DUMPING/SUBSIDIZING AND INJURY

[145] The CBSA finds that the complainants have provided sufficient evidence that there is a reasonable indication that they have suffered injury due to the alleged dumping and subsidizing of subject goods imported into Canada. There is a reasonable indication that the injury the complainants have suffered in terms of loss of sales, price erosion and price undercutting, reduction in employment and declining revenues, margins and profits is related to the price advantage the alleged dumping and subsidizing has produced between the imported subject goods and the Canadian produced goods.

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

²³ Dumping Exhibit 2 (NC) – Solar Modules and Laminates Complaint – Pages 142 - 143.

²⁴ Dumping Exhibit 2 (NC) – Solar Modules and Laminates Complaint – Pages 142 - 143.

²⁵ Dumping Exhibit 2 (NC) – Solar Modules and Laminates Complaint – Pages 143 - 147.

CONCLUSION

[147] Based on information provided in the complaint, other available information, and the CBSA's import documentation, the President is of the opinion that there is evidence that certain photovoltaic modules and laminates originating in or exported from China have been dumped and subsidized, and there is a reasonable indication that such dumping and subsidizing has caused and is threatening to cause injury to the Canadian industry. As a result, based on the CBSA's examination of the evidence and its own analysis, dumping and subsidy investigations were initiated on December 5, 2014.

SCOPE OF THE INVESTIGATION

[148] The CBSA is conducting investigations to determine whether the subject goods have been dumped and/or subsidized.

[149] The CBSA has requested information from all potential exporters and importers to determine whether or not subject goods imported into Canada during the POI of October 1, 2013 to September 30, 2014, were dumped. The information requested will be used to determine the normal values, export prices and margins of dumping, if any.

[150] The CBSA requested information from producers and exporters of photovoltaic modules and laminates in China, as well as the GOC, to determine whether the conditions of section 20 exist in the sector under investigation. The CBSA has also requested costing and sales information from producers of photovoltaic modules and laminates in Chinese Taipei, Japan, the Republic of Korea and Malaysia. Where sufficiently available, this information may be used to determine normal values of the goods in the event that the President of the CBSA forms an opinion that the evidence in this investigation demonstrates that section 20 conditions apply in the solar sector, which includes photovoltaic modules and laminates, in China.

[151] The CBSA has also requested information from the GOC and all potential Chinese exporters to determine whether or not subject goods imported into Canada during the POI of October 1, 2012 to September 30, 2014, were subsidized. The information requested will be used to determine the amounts of subsidy.

[152] All parties have been clearly advised of the CBSA's information requirements and the time frames for providing their responses, by the due date provided in the Requests for Information.

FUTURE ACTION

[153] The Canadian International Trade Tribunal (Tribunal) will conduct a preliminary inquiry to determine whether the evidence discloses a reasonable indication that the alleged dumping and subsidizing of the goods has caused or is threatening to cause injury to the Canadian industry. The Tribunal must make its decision on or before the 60th day after the date of the initiation of the investigations, by February 3, 2015. If the Tribunal concludes that the evidence does not disclose a reasonable indication of injury to the Canadian industry, the investigations will be terminated.

[154] If the Tribunal finds that the evidence discloses a reasonable indication of injury to the Canadian industry and the CBSA determines in the preliminary phase of the investigations that the goods have been dumped and/or subsidized, the CBSA will make a preliminary determination(s) of dumping and/or subsidizing within 90 days after the date of the initiation of the investigations, by March 5, 2015. Where circumstances warrant, this period may be extended to 135 days from the date of the initiation of the investigations.

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

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

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

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

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

RETROACTIVE DUTY ON MASSIVE IMPORTATIONS

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

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

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

UNDERTAKINGS

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

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

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

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

PUBLICATION

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

INFORMATION

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

[169] To be given consideration in this phase of these investigations, all information should be received by the CBSA by January 12, 2015.

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

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

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

[173] 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
Trade and Anti-dumping Programs Directorate
Canada Border Services Agency
100 Metcalfe Street, 11th floor
Ottawa, Ontario K1A 0L8
Canada

Telephone: Walid Ben Tamarzizt 613-954-7183
Shawn Ryan 613-954-7341

Fax: 613-948-4844

E-mail: simaregistry@cbsa-asfc.gc.ca

Web site: www.cbsa-asfc.gc.ca/sima-lmsi



Brent McRoberts
Director General
Trade and Anti-dumping Programs Directorate

Attachment

APPENDIX 1 - DESCRIPTION OF IDENTIFIED PROGRAMS AND INCENTIVES

Evidence provided by the complainant suggests that the Government of China (GOC) may have provided support to manufacturers of subject goods in the following manner. For purposes of this investigation, GOC refers to all levels of government, i.e. federal, central, provincial/state, regional, municipal, city, township, village, local, legislative, administrative or judicial. Benefits provided by state-owned enterprises, which possess, exercise or have been vested with governmental authority may also be considered to be provided by the GOC for purposes of this investigation.

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

- Program 1: Award for Baotou Rare Earth High and New Technology Industrial Development Zone for Excellent Construction Projects
- Program 2: Fuyang and Hangzhou City Government Grants for Enterprises Operating Technology and Research and Development Centers
- Program 3: Science and Technology Fund - Tianjin Binhai New Area and the Tianjin Economic and Technological Development Area
- Program 4: Corporate Income Tax Exemption and/or Reduction in SEZs and other Designated Areas
- Program 5: Exemption/Reduction of Special Land Tax and Land Use Fees in SEZs and Other Designated Areas
- Program 6: Income Tax Refund where Profits Re-invested in SEZs and other Designated Areas
- Program 7: Preferential Tax Policies for Enterprises with Foreign Investment (FIEs) Established in Special Economic Zones (excluding Shanghai Pudong Area)
- Program 8: Preferential Tax Policies for FIEs Established in the Coastal Economic Open Areas and in the Economic and Technological Development Zones
- Program 9: Tariff and Value-added Tax (VAT) Exemptions on Imported Materials and Equipment in SEZs and other Designated Areas
- Program 10: Tax concessions for Central and Western regions
- Program 11: Local Income Tax Exemption and/or Reduction in SEZs and other Designated Areas
- Program 12: Preferential Costs of Services and/or Goods Provided by Government or State-owned Enterprises (SOEs) in SEZs and Other Designated Areas
- Program 13: VAT Exemptions for the Central Region

II. Preferential Loans and Loan Guarantees

- Program 14: Loan from Local Finance Bureau
- Program 15: Loans and Interest Subsidies provided under the Northeast Revitalization Program
- Program 16: Policy Lending to Particular Industries
- Program 17: Preferential Loans Characterized as a Lease Transaction
- Program 18: Preferential Loans for SOEs
- Program 19: Debt Forgiveness
- Program 20: Preferential Loans for FIEs
- Program 21: Credit Guarantee: Liaoning (Yingkou) Coastal Industrial Bases

III. Grants and Grant Equivalents

- Program 22: Export Seller's Credit for High- and New-Technology Products by China EMIX Bank
- Program 23: Changzhou Qishuyan District Environmental Protection Fund (Jiangsu)
- Program 24: Changzhou Technology Plan (Jiangsu)
- Program 25: Enterprise Innovation Award of Qishuyan District (Jiangsu)
- Program 26: Enterprise Technology Centers (e.g. Tianjin City and Jinnan District)
- Program 27: Environment Protection Award (Jiangsu)
- Program 28: Grant - Jiangsu Province Finance Supporting Fund
- Program 29: "Large and Excellent" Enterprises Grant
- Program 30: "Two New" Product Special Funds of Guangdong Province
- Program 31: Advanced Science/Technology Enterprise Grant
- Program 32: Allowance to Pay Loan Interest (Zhongshan City, Guangdong)
- Program 33: Assistance for Optimizing the Structure of Import/Export of High-Tech Products
- Program 34: Assistance for Technology Innovation - R&D Project
- Program 35: Award for Good Performance in Paying Taxes
- Program 36: Awards for the Contributions to Local Economy and Industry Development
- Program 37: Awards to Enterprises Whose Products Qualify for "Well-Known Trademarks of China" or "Famous Brands of China"
- Program 38: Business Bureau 2012 Market Monitoring System of Subsidies
- Program 39: Business Development Overseas Support Fund (Foshan)
- Program 40: Circular on Issuance of Management Methods for Foreign Trade Development Support Fund (Support Fund)
- Program 41: Emission Reduction and Energy-saving Award
- Program 42: Energy Saving Grant 2008
- Program 43: Energy-saving Technology Renovation Fund
- Program 44: Export Assistance Grant
- Program 45: Export Brand Development Fund
- Program 46: Export Credit Subsidy Programs: Export Buyer's Credits
- Program 47: Export Grant 2006, 2007, 2008
- Program 48: Financial Subsidy
- Program 49: Five Points, One Line Strategy in Liaoning Province
- Program 50: Foreign Trade Grant 2008
- Program 51: Fund for SME Bank-Enterprise Cooperation Projects
- Program 52: Funds for Outward Expansion of Industries in Guangdong Province
- Program 53: Funds of Guangdong Province to Support the Adoption of E-Commerce by Foreign Trade Enterprises
- Program 54: Foreign Trade Development Fund Program - Grants
- Program 55: Government Export Subsidy and Product Innovation Subsidy
- Program 56: Government of Shijiazhuang City Export Award
- Program 57: Grant - Financial Subsidies from Wei Hai City Gao Cun Town Government
- Program 58: Grant - Large Taxpayer Award
- Program 59: Grant - Patent Application Assistance
- Program 60: Grant - Policy on Value-added Tax for Recyclable Resources
- Program 61: Grant - Provincial Foreign Economy and Trade Development Special Fund
- Program 62: Grant - Provisional Industry Promotion Special Fund

- Program 63: Grant - Resources Conservation and Environment Protection Grant
- Program 64: Grant - Special Fund for Fostering Stable Growth of Foreign Trade in 2009
- Program 65: Grant - State Service Industry Development Fund
- Program 66: Grant - Water Pollution Control Special Fund for Taihu Lake
- Program 67: Grant for key enterprises in equipment manufacturing industry of Zhongshan
- Program 68: Grants for Encouraging the Establishment of Headquarters and Regional Headquarters with Foreign Investment
- Program 69: Grants for International Certification
- Program 70: Grants to Privately-Owned Export Enterprises
- Program 71: Grants Under Regulations for Export Product Research and Development Fund Management
- Program 72: Grants under the Science and Technology programme of Hebei Province
- Program 73: Grants under the Science and technology programme of Jiangsu Province
- Program 74: Guangdong - Hong Kong Technology Cooperation Funding Scheme
- Program 75: Guangdong Supporting Fund
- Program 76: Guaranteed Growth Fund
- Program 77: Hangzhou City Government Grants Under the Hangzhou Excellent New Products/Technology Award
- Program 78: Implementing Measures on the Supporting Fund for Foreign Trade & Economic Development of Jiangxi Province (Implementing Measures)
- Program 79: Important Structural Adjustment Program of Jiangsu Province
- Program 80: Initial Public Offering (IPO) Grants from the Hangzhou Prefecture and the City of Fuyang
- Program 81: Innovative Experimental Enterprise Grant
- Program 82: Innovative Small and Medium-Sized Enterprise Grants
- Program 83: Interim Measures of Fund Management of Allowance for Zhongshan Enterprises to Attend Domestic and Overseas Fair (Zhongshan)
- Program 84: International Market Fund for Small- and Medium-sized Export Companies) [Matching Funds for International Market Development for SMEs]
- Program 85: Jiangxi Provincial Bulk Cement Special Fund: Transformation of Bulk Cement Facilities and Equipment
- Program 86: Jiangxi Provincial Environmental Protection Special Fund
- Program 87: Jiangxi Provincial Wall Material Renovation Special Fund: Special Subsidies for New Wall Materials
- Program 88: Liaoning High-Tech Products & Equipment Export Interest Assistance
- Program 89: Local and Provincial Government Reimbursement Grants on Export Credit Insurance Fees
- Program 90: Miscellaneous Grants
- Program 91: Modern Service Grant
- Program 92: Municipal Government - Exhibition Grant
- Program 93: Municipal Government - Export Grant
- Program 94: Municipal Government - Insurance Fee Grant
- Program 95: National Environmental Protection and Resources Saving Program: Grants for the Optimization of Energy Systems
- Program 96: National Innovation Fund for Technology Based Firms
- Program 97: Outstanding Growth Private Enterprise and Small- and Medium-sized Enterprises Development in Jiangyin Fund

- Program 98: Patent award in Guangdong province
- Program 99: Pension Fund Grants
- Program 100: Product Quality Grant
- Program 101: Provincial Fund for Fiscal and Technological Innovation
- Program 102: Provincial Government - Equipment Grant
- Program 103: Provincial Loan Discount Special Fund for SMEs
- Program 104: Provincial Scientific Development Plan Fund
- Program 105: Refund from Government for Participating in Trade Fair (Foshan)
- Program 106: Reimbursement of Anti-dumping and/or Countervailing Legal Expenses by the Local Governments
- Program 107: Reimbursement of Foreign Affairs Services Expenses (Foshan)
- Program 108: Repaying Foreign Currency Loan by Returned VAT
- Program 109: Research & Development (R&D) Assistance Grant
- Program 110: Science and Technology Award
- Program 111: Small- and Medium-sized Enterprise Support Funds
- Program 112: Special Fund for Significant Science and Technology in Guangdong Province
- Program 113: Special Support Fund for Non-State-Owned Enterprises
- Program 114: Special Supporting Fund for Commercialization of Technological Innovation and Research Findings
- Program 115: State Special Fund for Promoting Key Industries and Innovation Technologies
- Program 116: Subsidy for Promoting Energy-saving Buildings
- Program 117: Subsidy for the Technology Development
- Program 118: Superstar Enterprise Grant
- Program 119: Support Funds for Construction of Project Infrastructure Provided by Administration Commission of LETDZ
- Program 120: Supporting Fund for Non-refundable Export Tax Loss on Mechanical & Electrical Product and High-tech Product (Jiangmen City)
- Program 121: Taxpayer Grant
- Program 122: Technical Renovation Loan Interest Discount Fund
- Program 123: Technology Project Assistance
- Program 124: Technology to Improve Trade R&D Fund
- Program 125: The State key technology project fund
- Program 126: Venture Investment Fund of Hi-Tech Industry
- Program 127: Water Conservancy Fund Deduction
- Program 128: Water Fund Refund/Exemption 2008
- Program 129: Water Saving Enterprise
- Program 130: Award for Excellent Enterprise
- Program 131: Export Award
- Program 132: Financial Assistance for an Overseas Market Survey
- Program 133: Foreign Trade Promotion Award
- Program 134: Fund for Supporting Strategic Emerging Industries by Guangdong Governments
- Program 135: Medium Size and Small Size Enterprises Development Special Fund
- Program 136: Medium Size and Small Size Trading Enterprises Development Special Fund
- Program 137: Reduction in Land Use Fees, Land Rental Rates, and Land Purchase Prices
- Program 138: Special Supporting Fund for Key Projects of “500 Strong Enterprises in Contemporary Industries” by Guangdong Governments
- Program 139: Stamp Tax Exemption on Share Transfers under Non-tradable Share Reform

Program 140: Supporting Fund for Becoming Publicly Listed Company
 Program 141: Supporting Fund for the “Working Capital” Loan Interest
 Program 142: Supporting Fund for the Development from Guangzhou Local Governments
 Program 143: Foreign Trade Development Fund Program - VAT Refunds
 Program 144: Golden Sun Demonstration Program
 Program 145: Special Energy Fund
 Program 146: Fund for Economic, Scientific and Technology Development
 Program 147: Grants for “International Top 500 Enterprises”
 Program 148: Foreign Trade Development Fund of Old Industrial Bases of Northeast China
 Program 149: New Product Award
 Program 150: Capital Increase Award

IV. Preferential Tax Programs

Program 151: Corporate Income Tax Reduction for New High-Technology Enterprises
 Program 152: Deed Tax Exemptions For Land Transferred through Merger or Restructuring
 Program 153: Income tax concessions for the enterprises engaged in the comprehensive resource utilisation (‘special raw materials’)
 Program 154: Income Tax Exemption for Investors in Designated Geographical Regions within Liaoning
 Program 155: Income Tax Refund for Re-investment of FIE Profits by Foreign Investors
 Program 156: Local income tax exemption and reduction programmes for the productive FIEs
 Program 157: Municipal Government - Preferential Tax Program
 Program 158: PGOG Tax Offset for R&D
 Program 159: Preferential income tax policies for particular regions
 Program 160: Preferential Tax Policies for Domestic Enterprises Purchasing Domestically Produced Equipment for Technology Upgrading Purpose
 Program 161: 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 162: Preferential Tax Policies for FIEs which are Technology Intensive and Knowledge Intensive
 Program 163: Preferential Tax Policies for Foreign Invested Export Enterprises
 Program 164: Preferential Tax Policies for the Research and Development of FIEs
 Program 165: Preferential Tax Policies in the Western Regions
 Program 166: Preferential Tax Programs for Encouraged Industries or Projects
 Program 167: Accelerated Depreciation on Fixed Assets
 Program 168: City maintenance and Construction Taxes and education surcharges for Foreign Invested Enterprises
 Program 169: Various local tax discounts (Shandong Province, Chongqing City, Guangxi Region Zhuang, Tax privileges to develop central and western regions)
 Program 170: VAT and Income Tax Exemption/Reduction for Enterprises Adopting Debt-to-Equity Swaps
 Program 171: Tax policies for the deduction of research and development expenses
 Program 172: Tax Preference Available to Companies that Operate at a Small Profit
 Program 173: Two free, three half tax exemptions for the productive FIEs
 Program 174: VAT exemption for products sold by FIEs

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

- Program 175: Exemption of Tariff and Import VAT for the Imported Technologies and Equipment
- Program 176: Relief from Duties and Taxes on Imported Material and Other Manufacturing Inputs
- Program 177: VAT rebates on domestically produced equipment
- Program 178: VAT refunds to FIEs purchasing domestically produced equipment
- Program 179: VAT deduction on fixed assets in the Central region
- Program 180: Income tax credit for the purchase of domestically manufactured production equipment
- Program 181: Import tariff and VAT exemptions for FIEs and certain domestic enterprises using imported equipment in encouraged industries

VI. Goods/Services provided by the Government at Less Than Fair Market Value

- Program 182: Acquisition of Government Assets at Less than Fair Market Value
- Program 183: Export Restrictions on raw materials (e.g. Coke)
- Program 184: Input Materials Provided by Government at Less than Fair Market Value
- Program 185: Utilities Provided by Government at Less than Fair Market Value

VII. Equity Programs

- Program 186: Debt-to-Equity Swaps
- Program 187: Dividend exemption between qualified resident enterprises
- Program 188: Equity Infusions
- Program 189: Unpaid Dividends

Determinations of Subsidy and Specificity

Available information indicates that the programs identified under, *SEZ and Other Designated Areas Incentives; Preferential Loans and Loan Guarantees; Preferential Tax Programs; and Relief from Duties and Taxes on Inputs, Materials and Machinery*, may constitute a financial contribution pursuant to paragraph 2(1.6)(b) of SIMA, in that amounts that would otherwise be owing and due to the government are reduced or exempted, and would confer a benefit to the recipient equal to the amount of the reduction/exemption.

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

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

Benefits provided to certain types of enterprises or limited to enterprises located in certain areas under program categories, *SEZ and Other Designated Areas Incentives; Preferential Loans and Loan Guarantees; Preferential Tax Programs; and Relief from Duties and Taxes on Inputs, Materials and Machinery*, may be considered specific pursuant to paragraph 2(7.2)(a) of SIMA.

As well, *Grants and Grant Equivalents, Equity Programs and Goods/Services Provided by the Government at Less than Fair Market Value* may be considered specific pursuant to subsection 2(7.3) of SIMA in that the manner in which discretion is exercised by the granting authority indicates that the subsidy may not be generally available.