



OTTAWA, December 8, 2009

4214-26 / AD 1385

4218-27 / CV 125

STATEMENT OF REASONS

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

**CERTAIN OIL COUNTRY TUBULAR GOODS
ORIGINATING IN OR EXPORTED FROM
THE PEOPLE'S REPUBLIC OF CHINA**

DECISION

Pursuant to subsection 38(1) of the *Special Import Measures Act*, the President of the Canada Border Services Agency made preliminary determinations of dumping and subsidizing on November 23, 2009, respecting the alleged injurious dumping and subsidizing of oil country tubular goods, made of carbon or alloy steel, welded or seamless, heat-treated or not heat-treated, regardless of end finish, having an outside diameter from 2 3/8 inches to 13 3/8 inches (60.3 mm to 339.7 mm), meeting or supplied to meet American Petroleum Institute (API) specification 5CT or equivalent standard, in all grades, excluding drill pipe and excluding seamless casing up to 11 3/4 inches (298.5 mm) in outside diameter, originating in or exported from the People's Republic of China.

Cet énoncé des motifs est également disponible en français. Veuillez vous reporter à la section "Renseignements".

This Statement of Reasons is also available in French. Please refer to the "Information" section.

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SUMMARY OF EVENTS

[1] On July 14, 2009, the Canada Border Services Agency (CBSA) received a written complaint from Tenaris Canada of Calgary, Alberta, Evraz Inc. NA Canada of Regina, Saskatchewan and Lakeside Steel Corporation of Welland, Ontario (the “Complainants”), alleging that imports of certain oil country tubular goods (“OCTG”) originating in or exported from the People’s Republic of China (“China”) are being dumped and subsidized, and causing injury to the Canadian industry.

[2] On July 24, 2009, pursuant to subsection 32(1) 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 portion of the complaint.¹

[3] The Complainants provided evidence to support the allegations that OCTG from China have been dumped and subsidized. The evidence also disclosed a reasonable indication that the dumping and subsidizing have caused injury and are threatening to cause injury to the Canadian industry producing these goods.

[4] On August 14, 2009, consultations were held with the GOC in Beijing pursuant to Article 13.1 of the *Agreement on Subsidies and Countervailing Measures*. During these consultations, China made representations with respect to its views on the evidence presented in the non-confidential version of the subsidy portion of the complaint.

[5] On August 24, 2009, pursuant to subsection 31(1) of SIMA, the President of the CBSA (President) initiated investigations respecting the dumping and subsidizing of OCTG from China.

[6] Upon receiving notice of the initiation of the investigations, the Canadian International Trade Tribunal (Tribunal) started a preliminary injury inquiry into whether the evidence discloses a reasonable indication that the alleged dumping and subsidizing of OCTG from China have caused injury or retardation or are threatening to cause injury to the Canadian industry producing the goods. On October 23, 2009, the Tribunal made a preliminary determination that there is evidence that discloses a reasonable indication that the dumping and subsidizing of OCTG have caused injury.

[7] On November 23, 2009, as a result of the CBSA’s preliminary investigations and pursuant to subsection 38(1) of SIMA, the President made preliminary determinations of dumping and subsidizing with respect to certain OCTG originating in or exported from China.

PERIOD OF INVESTIGATION

[8] The period of investigation with respect to dumping (Dumping POI), covered all subject goods released into Canada from July 1, 2008 to June 30, 2009.

¹ Excluding sections dealing with normal value, export price, margin of dumping and surrogate country information.

[9] The period of investigation with respect to subsidizing (Subsidy POI), covered all subject goods released into Canada from January 1, 2008 to June 30, 2009.

INTERESTED PARTIES

Complainants

[10] The Complainants are major producers of OCTG in Canada, accounting for almost all production of like goods in the domestic industry. The Complainants' goods are produced at manufacturing facilities in Sault Ste. Marie and Welland, Ontario, Regina, Saskatchewan and also in Red Deer, Calgary and Camrose, Alberta.

The names and addresses of the Complainants are:

Tenaris Canada
Tenaris Global Services Inc.
TenarisAlgomaTubes
TenarisPrudential
530 8 Ave SW, Suite 400
Calgary, Alberta T2P 3S8

Evrax Inc. NA Canada
P.O. Box 1670
100 Armour Road
Regina, Saskatchewan S4P 3C7

Lakeside Steel Corporation
160 Dain Avenue, P.O. Box 1010
Welland, Ontario L3B 5Y6

Exporters

[11] At the initiation of the investigations, the CBSA identified 106 potential exporters of the subject goods. The CBSA sent a Dumping Request for Information (RFI) to all exporters and a Subsidy RFI to each identified potential exporter of the goods in China.

[12] As part of the dumping investigation, the CBSA initiated a section 20 inquiry and sent section 20 RFIs to each of the identified potential exporters and producers of the goods located in China.

[13] Responses to the CBSA's RFIs were received by the due date of September 30, 2009, from eight producers/exporters of the subject goods. All of these exporters have been requested to provide additional information to supplement or clarify their responses.

[14] The eight cooperating exporters accounted for approximately 31% of the imports of subject goods to Canada over the Dumping POI (July 1, 2008 to June 30, 2009). These parties also provided responses to the subsidy and section 20 RFIs.

[15] In addition, two exporters and one vendor/exporter, submitted late RFI responses.

[16] In conjunction with information submitted by exporters during the first phase of the investigations and the CBSA's review of CBSA import documentation, the CBSA identified several additional parties as potential exporters of subject goods. Those parties were subsequently contacted and requested to respond to the CBSA's RFIs.

Importers

[17] At the initiation of the investigations, the CBSA identified 51 potential importers of subject goods based on a review of CBSA import documentation.

[18] The CBSA sent an RFI to all potential importers of the goods. Nine importers provided a response to the CBSA's importer RFI, with varying degrees of completeness.

[19] In conjunction with information submitted by parties during the first phase of the investigations, the CBSA has identified one additional party as a potential importer of subject goods. That party was contacted and requested to clarify the goods it imported during the POI to assist in assessing whether the goods are in fact subject to the investigations.

Government of China

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

[21] At the initiation of the investigations, the CBSA sent a Subsidy RFI and a section 20 RFI to the GOC. The GOC provided a submission in response to both RFIs.

[22] The GOC provided its response to the subsidy RFI on time; however, upon reviewing the response, the CBSA has considered it incomplete.

[23] The GOC provided limited information in respect of only the "nine responding companies" (i.e. the eight that responded on time and one late filed response). Other examples of information requested but not provided by the GOC include: the ownership status of the exporters and their suppliers; documents on relevant government laws and regulations; and information on the 16 new programs reported by the cooperative exporters. As a result, the GOC was notified of the incomplete status of its response on October 16, 2009.²

[24] The GOC's response to the section 20 RFI was substantially complete. However, the GOC indicated that it did not have detailed official statistics of Chinese OCTG producers and

² Subsidy Exhibit S140 (PRO).

only provided information with respect to the exporters/producers that are cooperating in the CBSA investigations.

Surrogate Countries

[25] As part of the CBSA's section 20 inquiry, an RFI was also sent to 36 producers in seven countries, who are not subject to the present dumping investigation. These other producers are located in Spain, Germany, Brazil, Russia, India, Ukraine and the United States. Only one such RFI response was received by the CBSA. Wheatland Tube Company, a US producer of OCTG provided an incomplete RFI response on October 1, 2009.³

PRODUCT DEFINITION

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

Oil country tubular goods, made of carbon or alloy steel, welded or seamless, heat-treated or not heat-treated, regardless of end finish, having an outside diameter from 2 3/8 inches to 13 3/8 inches (60.3 mm to 339.7 mm), meeting or supplied to meet American Petroleum Institute (API) specification 5CT or equivalent standard, in all grades, excluding drill pipe and excluding seamless casing up to 11 3/4 inches (298.5 mm) in outside diameter, originating in or exported from the People's Republic of China.

Additional Product Information

[27] Oil country tubular goods (OCTG) are carbon or alloy steel pipes used for the exploration and exploitation of oil and natural gas. The product definition includes certain casing, tubing, tubular products for use in the production of OCTG ("green tubes"), coupling stock, and non-prime and secondary pipes ("limited service products"). The product definition does not include seamless casing originating in or exported from the People's Republic of China in sizes with an outside diameter not exceeding 11 3/4 inches (298.5 mm) since these products are already subject to a finding by the Canadian International Trade Tribunal (Tribunal) in NQ-2007-001. The product definition also does not include unattached couplings and stainless steel products.

[28] Casing is used to prevent the walls of an oil or gas well from collapsing, both during drilling and after the well has been completed. Tubing is used within the casing to convey oil and gas to the surface.

[29] Both OCTG casing and tubing must be able to withstand outside pressure and internal yield pressures within an oil or gas well. They must also have sufficient joint strength to hold their own weight and must be equipped with threads sufficiently tight to contain the well pressure where lengths are joined. Threading may be performed by the manufacturer or a third party threading operation.

[30] OCTG tubing and casing include both heat-treated and not heat-treated grades. Heat-treated grades are more sophisticated grades of pipes and are used in deeper wells and more

³ Dumping Exhibit 93 (PRO).

severe environments such as low temperature services, sour service, heavy oil recovery, etc. These grades are made beginning with the use of a specific chemistry in the steel (either in billet for the seamless process or the steel coil in the Electric Resistance Welded process) and are transformed in the heat-treatment process to attain certain combinations of mechanical properties and/or resistance to corrosion and environmental cracking.

[31] For example, heat-treatment is used to confer maximum strength (N80, P110, Q125), high-strength with low ductility (normally proprietary enhancements of API grades), or high-strength combined with resistance to corrosion and environmental cracking (L80, CR13, C90, C95, C110, T95 and proprietary enhancements).

[32] The most common grades of low-strength casing/tubing include J/K55 and H40.

[33] Typical casing and tubing end finishes include: plain end, beveled, external upset ends, non-upset ends, threaded, or threaded and coupled. As previously stated, unattached couplings are not subject to these investigations.

[34] OCTG subject to these investigations meet or are supplied to meet American Petroleum Institute (API) specification 5CT, in all grades including and not limited to, H40, J55, K55, M65, N80, L80, L80 HC, L80 Chrome 13, L80 LT, L80 SS, C90, C95, C110, P110, P110 HC, P110 LT, T95, T95 HC, and Q125, or proprietary grades manufactured as substitutes for these specifications.

[35] Subject goods also include green tubes and coupling stock. A tube for which the API 5CT specification requires additional processing such as heat-treatment and/or testing is referred to in the industry as a “green tube”. A green tube for a higher strength grade can have a chemistry that meets a lower grade like H40 or J55 that does not require heat-treatment, and could just be tested and threaded to meet the lower grade. Coupling stock is a seamless thick-wall tube intended for use in the manufacture of coupling blanks.

Production Process

[36] OCTG casing and tubing are made on the same production equipment according to the production process (i.e. seamless OCTG is made on different equipment from welded OCTG).

[37] Seamless tubing and casing is produced by first forming a central cavity in a solid steel billet (shell) that has the chemistry required to meet the grade of the final product. The shell is then rolled on a retained mandrel and reduced in a stretch reduction mill to produce the finished size before cooling on a walking beam cooling bed.

[38] The Electric Resistance Welded (ERW) process begins with a steel sheet (coil) that has been slit from coils of flat steel sheet into the desired width that will determine the outside diameter. The slit sheet is then bent and welded to form a tube. The wall thickness is defined by the coil thickness and the outside diameter is defined by the coil width.

[39] The production machinery used to make pipe in the ERW process are an uncoiler, end-welder, accumulator, breakdown stands, forming cage, fin stands, weld station and internal diameter/outside diameter trim equipment, seam annealers, pull-out stand quench section, mill sonic testing, sizing section, turkshead stand and flying cutoff machine.

[40] Certain specifications require normalization (heat-treatment) to be transformed into the appropriate grade. The heat-treatment transforms the microstructure of the pipe to meet the higher API specifications.

[41] All tubes are then straightened, inspected and threaded on both ends. Inspection includes nondestructive examination (NDE) by electro-magnetic inspection (EMI) and, in some cases, ultrasonic (UT) inspection processes for longitudinal and transverse defects. A special inspection by magnetic particle inspection (MPI) is done at the end areas. Samples from each production heat will be cut and tested for hardness, tensile, impact, microstructure and corrosion properties. Wall thickness verification and drift tests will be conducted. A hydro test will assure appropriate yield strength and wall thickness.

[42] From this point, there are certain minor differences in finishing. Generally, a coupling and coupling protector is applied to one end of the casing or tubing and thread protectors are applied to the other end, making the OCTG ready for shipment. In cases where the client wishes to employ its own choice of premium connection, producers will supply a plain-end product. This product is shipped to the customer's preferred third party threader who will then thread the premium connection. Tubing requires that the pipe ends be upset and normalized before threading, to ensure a stronger connection with the coupling.⁴

Classification of Imports

[43] The subject goods are usually classified under the following 26 Harmonized System (HS) classification codes:

7304.29.00.31	7304.29.00.79	7306.29.10.31	7306.29.90.21
7304.29.00.39	7304.39.10.00	7306.29.10.39	7306.29.90.29
7304.29.00.51	7304.59.10.00	7306.29.10.41	7306.29.90.31
7304.29.00.59	7306.29.10.11	7306.29.10.49	7306.29.90.39
7304.29.00.61	7306.29.10.19	7306.29.90.11	7306.29.90.41
7304.29.00.69	7306.29.10.21	7306.29.90.19	7306.29.90.49
7304.29.00.71	7306.29.10.29		

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

⁴ Dumping Exhibit 2 (NC) - Complaint Narrative, page 8.

CANADIAN INDUSTRY

[45] The Complainants account for the vast majority of the total domestic production of OCTG, representing an estimated 99% share of the total Canadian production. Consequently, the CBSA considers them to constitute the domestic industry for the purpose of this investigation.

Tenaris Canada

[46] Tenaris Canada comprises TenarisAlgomaTubes (TAT), a producer of seamless OCTG, TenarisPrudential, a producer of ERW OCTG, and Tenaris Global Services (Canada) Inc., the commercial agent for Tenaris in Canada.⁵

[47] TAT's history in Canada began in 1999, when Tenaris leased an idle mill that was owned by Algoma Steel Inc. After renovation work was completed, the new company under 'TAT' began production in September 2000. In 2004, TAT purchased the land and manufacturing facilities it had been leasing up until that time. TAT is the lone producer of seamless OCTG in Canada.

[48] TenarisPrudential, located in Calgary, Alberta, is a leading manufacturer of ERW OCTG. TenarisPrudential is wholly owned by Maverick Tube Limited Partnership, which, in turn, is owned by Maverick Tube Corporation. Maverick Tube Corporation was acquired by the Tenaris Group (Tenaris S.A.) in 2006.⁶

Evraz Inc. NA Canada

[49] Evraz Inc. NA Canada operates ERW OCTG manufacturing facilities in Regina, Saskatchewan and Calgary and Red Deer, Alberta. The company is owned by the 'Evraz Group' a public company registered in Luxembourg which owns steel making assets around the world, including Canadian National Steel Corporation (CNSC) that operates an ERW OCTG manufacturing facility in Camrose, Alberta. CNSC is represented as a complainant through Evraz Inc. NA Canada's participation in the complaint filed with the CBSA.⁷

[50] Evraz Inc. NA Canada officially acquired the IPSCO Tubulars business from Swedish steel manufacturer SSAB on June 13, 2008.⁸

[51] The former IPSCO Canadian assets, including the Regina Steel mill as well as plate and pipe production capacities in Regina, Calgary and Red Deer, are now part of Evraz's North American operations.

⁵ Dumping Exhibit 2 (NC) - Complaint Narrative, cover letter page 3.

⁶ CITT Finding in Inquiry No. NQ-2008-001 on Carbon Steel Welded Pipe, August 28, 2008, paragraph 26.

⁷ Dumping Exhibit 10 (NC).

⁸ Press Release: "Evraz Completes Acquisition of Ipsco Canada," June 13, 2008.

<http://www.osm.com/Company/PressReleases/tabid/99/PressReleaseID/94/CategoryID/10/Default.aspx>

Lakeside Steel Corporation

[52] Lakeside Steel Corporation is a producer of ERW OCTG. Lakeside acquired the pipe and tubular production facilities from Stelco Inc. in 2005. Lakeside has production facilities in Welland, Ontario. ERW pipe can be manufactured in diameter sizes ranging from 0.5 in. to 8 in. inclusive.

[53] The original company's operations began in 1909 under the name of Page-Hersey Iron Tube & Lead Company. Over the years, the company expanded adding new mills and replacing old ones as technology evolved. In 1965, Stelco Inc., Canada's largest steel company purchased Page-Hersey. In 1985, Stelco Page-Hersey Works became Stelpipe Ltd. On November 1, 2005, Lakeside of Welland, Ontario, was formed when it purchased the assets of Stelpipe Ltd. Lakeside is a wholly owned subsidiary of Added Capital Corp.⁹

IMPORTS INTO CANADA

[54] During the preliminary phase of the investigations, the CBSA refined the estimated volume of imports based on information from its internal Customs Commercial System (CCS), CBSA import entry documentation and other information received from exporters, importers and other parties.

[55] The following table presents the CBSA's estimates of imports of subject OCTG for purposes of the preliminary determinations:

Imports of subject OCTG (July 1, 2008 – June 30, 2009)

Imports into Canada	% of Total Imports
China	64%
U.S.A.	17%
All Other Countries	19%
Total Imports	100%

INVESTIGATION PROCESS

[56] Regarding the dumping investigation, information was requested from known and possible exporters, vendors and importers, concerning shipments of OCTG released into Canada during the Dumping POI of July 1, 2008 to June 30, 2009. Information related to potential actionable subsidies was requested from known and possible exporters and the GOC concerning financial contributions made to exporters of Chinese origin OCTG imported into Canada during the Subsidy POI of January 1, 2008 to June 30, 2009.

[57] In addition, known and possible exporters and producers of the goods along with the GOC were requested to respond to the section 20 RFI for the purposes of the section 20 inquiry.

⁹ CITT Finding in Inquiry No. NQ-2008-001 on Carbon Steel Welded Pipe, August 28, 2008, paragraph 25.

[58] After reviewing the exporter's responses to the RFIs, supplemental RFIs were sent to each of the cooperating exporters to clarify information submitted by the respective companies. Supplemental RFI responses were received from a number of exporters.

[59] A supplemental RFI was also sent to the GOC in respect of the GOC's section 20 RFI response.¹⁰ A response to that supplemental RFI was received by the CBSA on October 26, 2009.¹¹

[60] Preliminary decisions are based on the information available to the President at the time of the preliminary determinations. During the final phase of the investigations of dumping and subsidizing, selected exporters in China will be verified onsite, the results of which will be incorporated into the CBSA's final decisions by February 22, 2010.

REPRESENTATIONS

1. Section 20 Inquiry

[61] On October 9, 2009, the CBSA received representations from counsel representing Tianjin Pipe (Group) Corporation (TPCO), The Freet Group of Companies and the GOC, in regards to the CBSA's approach in conducting its section 20 inquiry.¹²

[62] The representations specifically concerned the CBSA's obligations in seeking out information under section 20 of SIMA, notably under paragraphs 20(1)(c) and (d) of SIMA. Paragraph 20(1)(c) deals with the determination of normal values using information from producers in a surrogate country while paragraph 20(1)(d) deals with the determination of normal values using information on the re-sale in Canada of goods imported from a third country.

[63] Counsel expressed concern that the CBSA had not completely fulfilled the necessary steps to obtain sufficient information from surrogate producers as envisioned in paragraph 20(1)(c) of SIMA.¹³

[64] To this extent, counsel stated that since one of the Canadian Complainants, Tenaris Canada, has facilities in countries such as in Argentina, Mexico, Italy, Romania, Japan, the United States and Columbia, that Tenaris Canada should be required to make available any domestic sales and/or costing information related to those parties.¹⁴

[65] Counsel further stated that where sufficient information was not available under paragraph 20(1)(c), that sufficient information under 20(1)(d) could be made available by Tenaris Canada in respect of its re-sales of like goods imported from affiliates in other countries.¹⁵

¹⁰ Dumping Exhibit 156 (PRO).

¹¹ Dumping Exhibit 172 (PRO).

¹² Dumping Exhibit 142 (NC).

¹³ Dumping Exhibit 142 (NC), paragraph 8.

¹⁴ Dumping Exhibit 142(NC), paragraphs 14 and 15.

¹⁵ Dumping Exhibit 142 (NC), paragraph 20.

CBSA Response:

[66] Section 20 of SIMA gives the President the authority to designate “any country,” other than Canada and the country for which the conditions of section 20 exist in the opinion of the President, as a surrogate country. Neither section 20 nor SIMA in general provides further guidance on the process for selecting or the methodology for soliciting information towards making that designation.

[67] At the initiation of the investigations, in the context of the section 20 inquiry, the CBSA sent RFIs to 36 potential producers of like goods covering seven countries. Surrogate countries are selected based on the CBSA’s knowledge of the sector under investigation and analysis of the availability of comparable products in competitive markets with multiple producers.

[68] The CBSA contacted multiple surrogate countries for the purposes of the section 20 inquiry with the knowledge that, since participation is on a courtesy basis, response rates to the surrogate RFI are typically low.

[69] Paragraph 20(1)(c) of SIMA also requires that a country designated by the President (i.e. surrogate country) must have like goods which are sold “for use in that country.” This requirement applies whether using a domestic price methodology under subparagraph 20(1)(c)(i) or the cost methodology under subparagraph 20(1)(c)(ii).

[70] Consequently, where the CBSA had information that indicated a potential OCTG producer did not make sales “for use in that country” (i.e. goods are produced for export), that producer was not contacted.

[71] It is for these reasons that certain individual OCTG producers around the world were not contacted for the purposes of paragraph 20(1)(c).

[72] In regards to the CBSA’s efforts to obtain information which may be used under paragraph 20(1)(d), the CBSA did contact all 51 of the importing parties of potentially subject goods identified at the initiation of the investigation.

[73] These importing parties accounted for over 70% of all subject and like goods imported into Canada during the Dumping POI. No importer provided usable re-sale data of imported like goods. Therefore, despite the CBSA’s efforts, insufficient information has been submitted to the CBSA in respect of re-sale data of imported like goods for the purposes of paragraph 20(1)(d) of SIMA.

2. Status of GOC Response

[74] In a letter dated October 16, 2009, the CBSA notified the GOC that a review of the GOC’s response to the Subsidy RFI indicated that a major proportion of the information

requested had not been provided. As such, the CBSA informed the GOC that its response, as submitted on September 30, 2009, was found to be incomplete.¹⁶

[75] Following a conference call held between counsel for the GOC and CBSA officials on October 20, 2009, to discuss this matter, counsel for the GOC submitted a written statement on October 27, 2009, describing the GOC's objections to the CBSA's position respecting the status of its response to the Subsidy RFI.¹⁷

[76] In particular, the GOC maintained that by refusing to consider its subsidy submission without providing specifics respecting the alleged deficiencies, the CBSA had essentially denied the GOC the opportunity to provide an effective response.

[77] The GOC also objected to the CBSA's request for detailed information respecting government assistance to 58 potential exporters that counsel stated had been identified by the Complainant without further verification, asserting that such a requirement was "excessive, unduly burdensome and fundamentally abusive."¹⁸ The GOC argued that there existed a practical impossibility for it to provide information in respect of non-responding companies.

[78] Furthermore, the GOC disagreed with the CBSA's requests for certain data respecting the benefits received by the responding companies, arguing that these were duplicative requests for information that the GOC simply does not maintain.¹⁹

CBSA Response:

[79] Upon review of a substantially complete response to a Request for Information (RFI), the CBSA will generally send the respondent a Supplemental Request for Information (SRFI), wherein clarification and further information are sought on matters arising from the original response. The purpose of an SRFI is not to repeat the majority of the questions in an original RFI.

[80] In the CBSA's letter of October 16, 2009, notifying the GOC that its original response to the Subsidy RFI was not sufficiently complete to be used in this investigation, the CBSA did provide a summary of the shortcomings of the GOC's response to the Subsidy RFI. In particular, it was noted that the GOC had provided responses only in respect of nine responding Chinese companies, whereas the CBSA required information in relation to all 58 identified exporters.

[81] In addition, it was pointed out that the requested information on the ownership status of the exporters had not been provided, and that certain relevant government documents were not submitted. In instances where the responding companies were identified by the GOC as having received benefits, complete responses to all questions had not been provided. The CBSA also informed the GOC that several of the responding exporters had reported new programs which the GOC did not address in its response.

¹⁶ Subsidy Exhibit 140 (PRO).

¹⁷ Dumping Exhibit 197 (PRO), Subsidy Exhibit 186 (PRO).

¹⁸ Subsidy Exhibit 197 (NC), page 4.

¹⁹ Subsidy Exhibit 197 (NC), page 4.

[82] At the same time, the CBSA notified the GOC that in the event that the GOC were to submit a complete response to the Subsidy RFI in time to allow full analysis and verification of the information provided, the CBSA would endeavour to use such information for the purpose of the final phase of the investigation.

[83] With respect to the GOC's assertion that the requirement to provide responses in respect of 58 companies is unduly burdensome, the CBSA wishes to emphasize that the subsidy investigation is not limited to those companies that respond to the RFI. Rather, it concerns subsidies received by all OCTG companies in China, which according to the information available to the CBSA, had exported goods to Canada. These were the parties with respect to which the GOC was asked to provide information.

[84] When conducting its investigations, the CBSA endeavors to ensure that all information received is accurate, verified and corroborated. A subsidy investigation therefore entails requests for information from multiple sources and through multiple means that would serve to confirm and corroborate the data received. For this reason, the CBSA has requested of the GOC to provide information on benefits that the GOC has provided to all exporters of subject goods.

3. CBSA Refusal to Extend Deadlines

[85] On September 2, 2009, counsel for the GOC requested an extension to the deadline to respond to both the Subsidy RFI and section 20 RFI. Counsel cited the amount of information requested by the CBSA as onerous and interruptions to the Chinese work-week due to holiday celebrations, as an additional negative factor to submit responses to both RFIs within 37 days.²⁰

[86] Counsel's request was for an extension of three weeks, until October 20, 2009. Counsel reiterated this request on September 4, 2009 with reference to Article 12.1.1 of the WTO *Agreement on Subsidies and Countervailing Measures* (ASCM) which counsel stated directs the CBSA to grant extension requests, whenever practicable.²¹

[87] On September 18, 2009, counsel for exporter Jiangsu Chengde Steel Tube requested an extension to the CBSA's RFI response deadline to October 15, 2009.²² Similarly, on September 30, 2009, counsel for Chinese exporter Hengyang requested an extension to the CBSA's RFI response deadline, citing an apparent delay in the company receiving its couriered RFIs, the company's preoccupation with matters related to other trade cases, and the Chinese Autumn Festival and National Day Break respectively.²³ Counsel for Hengyang requested an extension until at least October 9, 2009.

²⁰ Subsidy Exhibit 048 (NC).

²¹ Subsidy Exhibit 051 (NC).

²² Subsidy Exhibit 064 (NC).

²³ Dumping Exhibit 107 (NC).

CBSA Response:

[88] On September 4, 2009, the CBSA denied counsel for the GOC's request for an extension²⁴ on the basis that:

- (i) the September 30, 2009 deadline is prior to the Chinese holidays.
- (ii) much of the information had already been requested of the GOC in the CBSA's seamless casing investigation, which also dealt with the OCTG industry.
- (iii) the majority of the subsidy programs under investigation are similar to those already investigated by the CBSA in respect of China and consequently the GOC would have much of the information and translation of the documents already on hand.
- (iv) an electronic copy of the RFI was hand delivered to the Chinese Embassy on the day of initiation, meaning the respondent had a full 37 days to respond.

[89] Similarly, on September 24 and October 5, 2009 respectively, the CBSA responded to and did not approve Jiangsu Chengde Steel Tube's nor Hengyang's request for an extension, citing the legislated timeframes the CBSA must operate within and the fact that the national holidays commenced after the September 30, 2009 deadline for RFI responses.²⁵

DUMPING INVESTIGATION

Section 20 Inquiry

[90] Section 20 of SIMA may be applied to determine the normal value of goods in a dumping investigation where certain conditions prevail in the domestic market of the exporting country. In the case of a prescribed country under paragraph 20(1)(a) of SIMA²⁶, it is applied where, in the opinion of the President, domestic prices are substantially determined by the government of that country and there is sufficient reason to believe that they are not substantially the same as they would be if they were determined in a competitive market. Where section 20 is applicable, the normal value of goods is not determined based on a strict comparison with domestic prices or costs in that country.

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

[92] The mere existence of substantial domestic price determination by the government would be insufficient to apply section 20 of SIMA. The CBSA is also required to examine the price effect resulting from substantial government determination of domestic prices and whether there is sufficient information on the record for the President to have reason to believe that the resulting domestic prices are not substantially the same as they would be in a competitive market.

²⁴ Subsidy Exhibit 049 (NC).

²⁵ Subsidy Exhibit 065 (NC) and Dumping Exhibit 120 (NC).

²⁶ China is a prescribed country under section 17.1 of the Special Import Measures Regulations

[93] The Complainants' requested that section 20 be applied in the determination of normal values due to the alleged existence of the conditions set forth in paragraph 20(1)(a) of SIMA. The Complainants provided information to support these allegations concerning the steel industry in China including the OCTG sector.

Preliminary Results of the Section 20 Inquiry

[94] At the initiation of the investigation, the CBSA had sufficient evidence, supplied by the Complainants and from its own research and past investigation findings, to support the initiation of a section 20 inquiry to examine the extent of Government of China (GOC) involvement in pricing in the OCTG industry sector. The information indicated that the prices of OCTG in China have been influenced by various GOC industrial policies regarding the Chinese steel industry including the OCTG sector. Consequently, the CBSA sent section 20 RFIs to the GOC and all known Chinese OCTG producers/exporters to obtain information on the matter. In response to the section 20 RFIs, the CBSA received substantially complete and timely responses from eight Chinese exporters and from the GOC.

[95] The CBSA also has obtained information from secondary sources such as market intelligence reports, public industry reports, newspaper and internet articles as well as other government documents.

[96] The CBSA continued to make efforts to obtain detailed information concerning the Chinese OCTG sector from the GOC. The CBSA is aware that the GOC has detailed information as each industrial producer in China is required to submit monthly production data along with other detailed data to the National Bureau of Statistics. In the CBSA's supplementary section 20 RFI, the GOC was requested to provide information concerning the top 20 state-owned enterprises (SOEs) of OCTG. The CBSA considered that the GOC should at minimum have this information on hand. In response the GOC responded that an accurate list of the top 20 state-owned OCTG producers was not available.

[97] The CBSA considers the China Iron and Steel Association (CISA) to be part of the GOC and in the supplementary section 20 RFI sent to the GOC, the CBSA requested CISA to identify the top 20 OCTG producers along with the ownership type of each enterprise (i.e., SOE, domestic invested private enterprise, foreign invested enterprise, joint venture). In response, CISA provided the names of the top 20 seamless steel pipe and tube producers. Despite the CBSA's efforts, complete information concerning the producers in the OCTG sector in China was not provided by the GOC.

OCTG Industry in China

[98] A section 20 inquiry assesses the domestic industry for subject goods as a whole. As such, the review of the OCTG sector is not limited to an examination of the information provided by the cooperative exporters. At the time the investigations were initiated, the CBSA identified 58 possible Chinese exporters of the subject goods. The Chinese OCTG sector is comprised of an estimated 200 producers/processors²⁷ and there are eight Chinese enterprises cooperating in

²⁷ Dumping Exhibit 2 (NC), Exhibit 2.

these investigations, most of which are privately owned limited liability companies. OCTG API certified production capacity in China is approximately 24 million metric tonnes (mmts)²⁸ and the cooperating exporters account for approximately 21% of this production capacity. As a result, given the limited coverage of the OCTG sector by the cooperating exporters, and without complete information concerning the Chinese OCTG sector from the GOC, the CBSA relied on the available information on the record obtained from its own research or other sources, in its analysis of the industry sector.

[99] The Chinese OCTG industry is estimated to be composed of several large State-Owned Enterprises (SOEs) along with many non-SOE producers and various downstream processors that further finish the goods through either heat-treatment or by threading and coupling the pipe ends.

GOC's Industrial Policies

[100] On July 8, 2005, the GOC promulgated *The Development Policies for the Iron and Steel Industry – Order of the National Development and Reform Commission (No. 35)*, (National Steel Policy)²⁹, which outlined the GOC's future plans for the Chinese domestic steel industry.

[101] Major objectives of the National Steel Policy are:

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

[102] On March 20, 2009, the GOC promulgated *the Blueprint for the Adjustment and Revitalization of the Steel Industry issued by the General Office of the State Council (2009 Steel Revitalization/Rescue Plan)*³⁰. This macro-economic policy is stated to be the GOC's response to the international financial crisis and is also the GOC's action plan for the steel industry for the period from 2009 to 2011. This plan includes the following major tasks:

- maintain the stability of the domestic market and improve the export environment;
- strictly control the total output of steel and accelerate the process of eliminating what is backward (obsolete);
- enhance enterprise reorganization and improve the industrial concentration level;
- spend more on technical transformation and promote technical progress;
- optimize the layout of the steel industry and overall arrangements of its development;
- adjust the steel product mix and improve the product quality;
- maintain stable imports of iron ore resources and rectify the market order;
- develop domestic and overseas resources and guarantee the safety of the industry.

²⁸ Dumping Exhibit 2(NC) Exhibit 21.

²⁹ Dumping Exhibit 99(NC) Exhibit B22(d).

³⁰ Dumping Exhibit 99 (NC) Exhibit B6(a)(i).

[103] The 2009 Steel Revitalization/Rescue Plan also applies to the OCTG sector. For example, through the plan, the GOC specifically directs one of the cooperating exporters, who is the largest OCTG producer and an SOE, to reorganize with another company. This is stated under: “III - Major Tasks of the 2009 Steel Revitalization/Rescue Plan, Item 3 - Enhance enterprise re-organization and improve the industrial concentration level.” The GOC states that this will “facilitate the regional reorganization between Tianjin Pipe and Tian Tie Group.”³¹

[104] In summary, the wide range and material nature of the GOC’s macro-economic measures which include directed mergers and acquisitions, plant relocations and the GOC’s control of steel production capacity have resulted in significant influences on pricing within the steel industry in China including the OCTG sector.

Domestic Chinese OCTG Prices

[105] Information available to the CBSA indicates that the GOC, through its macro-economic policies cited above, along with significant state ownership of the industry, directs the Chinese domestic steel industry, which includes the OCTG sector. The GOC's policies significantly influence Chinese domestic prices of OCTG.

[106] The July 2008 to June 2009 period of analysis was an extremely volatile period during which the international financial markets collapsed, which thereby severely impacted steel production and prices worldwide. In a comparison of monthly OCTG prices during this period, Chinese domestic OCTG prices from the cooperating exporters in China were compared with the United States (U.S.) OCTG prices using published figures from trade publication Pipe Logix. During this period, U.S. domestic selling prices for seamless OCTG tubing fell by 51% while the Chinese domestic selling prices for seamless OCTG tubing dropped only 21%. The significant volatility in the U.S. market prices reflects the reactions within competitive market conditions versus the sheltering of the domestic market in China by the GOC's policies. The CBSA considers this difference to be substantial.

[107] During the analysis period, OCTG prices in China were consistently and substantially below U.S. market prices. In a competitive market, these Chinese prices would closely approximate the selling prices in other markets. The attraction of a higher return on export markets would push domestic supply down to levels that would result in a domestic selling price which would provide domestic sellers a comparable return for the commodity grade product.

Relationship between the OCTG Sector and Other Steel Product Sectors in China

[108] In recent years, the President of the CBSA has issued section 20 opinions covering the following steel products:

- certain hot-rolled carbon steel plate and high strength low-alloy steel plate;
- certain flat hot-rolled carbon and alloy steel sheet and strip;
- certain seamless carbon or alloy steel oil and gas well casing;
- certain carbon steel welded pipe.

³¹ Dumping Exhibit 99(NC) Exhibit B6(a)(i).

[109] Consequently, domestic prices in the sectors that include these products are, in the opinion of the President, substantially influenced by the GOC and there is sufficient reason to believe that they are not substantially the same as they would be if they were determined in a competitive market.

[110] As a result of the opinion that the domestic selling prices of the above cited steel products are not the same as they would be if they were determined under competitive market conditions, these domestic selling prices are considered unreliable and are therefore not usable in determining normal values.

[111] Primary steel manufacturers in China, many of which are large SOEs, produce crude steel in addition to downstream steel products such as flat-rolled steel products and welded and seamless pipes. Some primary steel producers make OCTG as well.

[112] Hot-rolled steel sheet is the major raw material input for ERW OCTG and accounts for a substantial proportion of the total cost of ERW OCTG. Given the CBSA's aforementioned section 20 opinion on the industry sector producing hot-rolled steel sheet in China, resulting Chinese domestic ERW OCTG selling prices, are also not appropriate for the determination of normal values and export prices.

[113] A steel billet is the raw material input for seamless OCTG, billet and the raw material input costs account for a substantial proportion of the total cost of seamless OCTG. The GOC's National Steel Policy and the 2009 Steel Revitalization/Rescue Plan cover all steel products, and Chinese domestic selling prices for steel billets are thus influenced by the GOC's macro-economic measures.

Summary of the Preliminary Results of the Section 20 Inquiry

[114] The President considered the cumulative effect that the GOC's measures have exerted on the Chinese steel industry. The wide range and material nature of the GOC measures have resulted in significant influences on the steel industry in China including the OCTG sector.

[115] For the purposes of the preliminary determination of dumping, the President has formed the opinion that domestic prices in the Chinese OCTG sector are substantially determined by the GOC and there is sufficient reason to believe that the domestic prices are not substantially the same as they would be in a competitive market.

[116] During the final stage of the dumping investigation, the CBSA will continue the section 20 inquiry and further verify and analyze relevant information. The President will reaffirm or revise his opinion as to whether the conditions of section 20 exist in the OCTG sector as part of the final phase of the investigation.

Normal Value

[117] Normal values are generally based on the domestic selling prices of the goods in the country of export, or on the full cost of the goods including administrative, selling and all other costs plus a reasonable amount for profit.

[118] For purposes of the preliminary determination, normal values could not be estimated on the basis of domestic selling prices in China or on the full cost of goods plus profit, as the President formed the opinion that the conditions of section 20 exist in the OCTG sector.

[119] Where section 20 conditions exist, the CBSA may determine normal values using the selling price, or the total cost and profit, of like goods sold by producers in a surrogate country designated by the President pursuant to paragraph 20(1)(c) of SIMA. However, sufficient surrogate country data on the necessary domestic pricing and costing information relating to the goods under investigation was not provided to the CBSA.

[120] Where normal values cannot be determined under paragraph 20(1)(c), SIMA provides an alternative methodology to calculate normal values under paragraph 20(1)(d), using re-sales in Canada of goods imported from a third country. The CBSA determined that this provision could also not be used, as explained in the earlier 'Representations' section concerning the issue raised by counsel in regards to the section 20 inquiry. In short, the CBSA was simply unable to obtain sufficient re-sale information to utilize this provision for the purposes of estimating normal values for the preliminary determination.

[121] Accordingly, the CBSA has used an alternative method to estimate normal values for purposes of the preliminary determination.

[122] In estimating normal values for the preliminary determination, the CBSA referenced publically available monthly average prices sourced from the trade publication, Pipe Logix. These monthly OCTG unit prices in the U.S. during the Dumping POI, cover the four major categories of subject goods, namely, ERW and seamless tubing and ERW and seamless casing. Pipe Logix Inc. is a well respected OCTG authority and U.S. based publication and consulting firm.

[123] There are many similarities between the U.S. and Chinese petroleum markets and industries. The U.S. and Chinese are both major world consumers of OCTG and both have major oil production and refinery capacities. The U.S. consumed approximately 6 million metric tonnes (mmt) of OCTG in 2008 while Chinese demand for OCTG was 2.3 mmt. Based on these similarities, the CBSA therefore believes the U.S. is an appropriate selection of an OCTG market operating under competitive market conditions. Furthermore, the publicly available OCTG pricing for the U.S. market on a monthly basis allowed for the estimation of normal values on a product category basis.

[124] These monthly prices for each category of OCTG were matched with imports of subject goods during the POI to arrive at the margin of dumping for each exporter.³² A table summarizing the preliminary dumping results for all exporters may be found in **Appendix 1**.

Export Price

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

[126] For purposes of the preliminary determination, export prices were estimated using reported export pricing data provided by the exporters of the goods, for exporters which provided RFI responses by the September 30, 2009 deadline. For all other exporters, import pricing information available from the CBSA's internal information systems and, where applicable, importer RFI responses were used for the purposes of estimating export prices.

Summary of Preliminary Results of Dumping Investigation

[127] The CBSA estimated margins of dumping by comparing the estimated total normal values with the estimated total export prices. When the total export price is less than the total normal value, the difference is the margin of dumping.

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

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

[130] Based on the preceding, 100% of the subject OCTG from China was dumped by an estimated weighted average margin of dumping of 141%, expressed as a percentage of the export price.

[131] Under subsection 35(1) of SIMA, the President is required to terminate an investigation prior to the preliminary determination if he is satisfied that the margin of dumping of the goods of a country is insignificant or that the volume of dumped goods of a country is negligible. Pursuant to subsection 2(1) of SIMA, a margin of dumping of less than 2% is defined as

³² Coupling stock was matched with seamless casing since it was considered to be the closest match in absence of published coupling stock figures.

insignificant, whereas a volume of dumped goods from a country forming less than 3% of total imports is considered negligible.

[132] The estimated weighted average margins of dumping of subject OCTG from China is above 2% and is, therefore, not insignificant. As well, the volume of dumped goods from China is above 3%, and is, therefore, not negligible.

Preliminary Dumping Results by Exporter

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

THE FREET GROUP

[134] The following four companies are related parties that are identified in these investigations collectively as the Freet Group. Shengli Oil Field Freet Petroleum Equipment Company (Freet) is the parent company of this corporate entity.

Freet Petroleum Equipment Co., Ltd. of Shengli Oil Field the Thermal Recovery Equipment, Zibo Branch (Zibo)

[135] One of the responding companies under the 'Freet Group,' Zibo is a branch of its parent company, Freet, and is a manufacturer and seller of casing and tubing products. The company is located in Zibo City, Shandong, and has been manufacturing tubular products for 20 years. Like Freet Steel Pipe, the company purchases semi-finished pipes and converts them into API certified products on its casing and tubing threading production lines.

[136] The company's RFI response was received by the September 30, 2009 deadline.³³

[137] During the POI, Zibo exported seamless tubing to Canada and sold the same in its domestic market.

[138] Export selling price data, including applicable export price adjustments, provided by Zibo in its RFI submission was used as the basis for estimating the company's export price for purposes of the preliminary determination.

Margin of Dumping

[139] The total normal value was compared with the total export price for all subject OCTG imported into Canada during the Dumping POI. It was found that the goods exported by Zibo were dumped by an estimated margin of dumping of 84.43%, expressed as a percentage of the export price.

³³ Dumping Exhibit 104 (PRO).

Faray Petroleum Steel Pipe Co., Ltd. (Faray)

[140] Faray is another of the four responding companies under the 'Freet Group.' The company is a manufacturer and seller of ERW steel pipes, including casing, and non-subject line pipe. The company is located in Dongying, Shandong, and was founded in 2005. Faray produces its welded casing from hot-rolled steel sheet purchased from unrelated domestic suppliers.

[141] The company's RFI response was received by the September 30, 2009 deadline.³⁴

[142] Faray is a Sino-Japanese joint venture enterprise that describes itself as a privately held limited liability company. The company has five shareholders, one of which is its parent company, Freet.

[143] Faray exported ERW casing to Canada during the POI.

[144] Due to an error in their original submission, export selling price data available through the CBSA's internal data was used as the basis for estimating Faray's export prices for purposes of the preliminary determination. Revised information provided by Faray in regards to its exports to Canada will be used for the final phase of the investigation.

Margin of Dumping

[145] The total normal value was compared with the total export price for all subject OCTG imported into Canada during the Dumping POI. It was found that the goods exported by Faray were dumped by an estimated margin of dumping of 95.40%, expressed as a percentage of the export price.

Shengli Oil Field Freet Petroleum Equipment Co., Ltd. (Freet)

[146] The aforementioned parent company of the 'Freet Group,' Freet is a national and international distributor of OCTG and other oilfield machinery and equipment. The company sells products produced by its related companies and is located in Dongying in the province of Shandong.

[147] The company's RFI response was received by the September 30, 2009 deadline.³⁵

[148] The company has been in business for over 40 years and is a former subsidiary of SINOPEC, one of the largest integrated energy companies in China. Freet was privatized in 2005 when it became a privately held limited liability company.

[149] During the POI, Freet exported seamless tubing and welded casing to Canada and sold the same in the domestic market.

³⁴ Dumping Exhibit 102 (PRO).

³⁵ Dumping Exhibit 103 (PRO).

[150] Export selling price data, including applicable export price adjustments, provided by Freet in its RFI submission was used as the basis for estimating the company's export price for purposes of the preliminary determination.

Margin of Dumping

[151] The total normal value was compared with the total export price for all subject OCTG imported into Canada during the Dumping POI. It was found that the goods exported by Freet were dumped by an estimated margin of dumping of 99.59%, expressed as a percentage of the export price.

Shengli Oil Field Freet Petroleum Steel Pipe Co., Ltd. (Freet Steel Pipe)

[152] The last of the exporters forming part of the 'Freet Group' of companies, Freet Steel Pipe is a manufacturer and seller of casing and tubing products. The company purchases semi-finished pipes and converts them into API certified products on its casing and tubing production lines. The company is located in the same city as its parent company.

[153] The company's RFI response was received by the September 30, 2009 deadline.³⁶

[154] Freet Steel Pipe is a privately held limited liability company with four shareholders. One of the four shareholders is its parent company, Freet.

[155] During the POI, Freet Steel Pipe exported welded casing to Canada and sold seamless tubing and seamless and welded casing in its domestic market.

[156] Export selling price data, including applicable export price adjustments, provided by Freet Steel Pipe in its RFI submission was used as the basis for estimating the company's export price for purposes of the preliminary determination.

Margin of Dumping

[157] The total normal value was compared with the total export price for all subject OCTG imported into Canada during the Dumping POI. It was found that the goods exported by Freet Steel Pipe were dumped by an estimated margin of dumping of 52.78%, expressed as a percentage of the export price.

Huludao City Steel Pipe Industrial Co., Ltd.

[158] The company is located in Huludao, Liaoning province, and is an integrated steel pipe producer, including standard pipe, line pipe and OCTG. In terms of subject goods, the company produces only welded pipe.

[159] The company's RFI response was received by the September 30, 2009 deadline.³⁷

³⁶ Dumping Exhibit 105 (PRO).

³⁷ Dumping Exhibit 86 (PRO).

[160] During the Dumping POI, the company exported welded casing to Canada, but had no domestic sales of OCTG.

[161] Huludao City Steel Pipe is a domestic invested enterprise (DIE). The company has a related affiliate, Huludao Bohai Oil Steel Pipe Co. Ltd., which provides a tolling service for Huludao.

[162] Export selling price data, including applicable export price adjustments, provided by Huludao City Steel Pipe in its RFI submission was used as the basis for estimating the company's export price for purposes of the preliminary determination.

Margin of Dumping

[163] The total normal value was compared with the total export price for all subject OCTG imported into Canada during the Dumping POI. It was found that the goods exported by Huludao City Steel Pipe were dumped by an estimated weighted average margin of dumping of 82.04%, expressed as a percentage of the export price.

Jiangsu Changbao Steel Tube

[164] Jiangsu Changbao was identified as a privately held company that is a domestically invested enterprise (DIE).

[165] The company's RFI response was received by the September 30, 2009 deadline.³⁸

[166] The company purchases the major raw material (billet) from various suppliers and have production facilities to produce finished seamless tubing and casing.

[167] All goods exported to Canada during the POI consisted of seamless tubing while domestic sales consisted of seamless OCTG as well.

[168] Export selling price data, including applicable export price adjustments, provided by Jiangsu Changbao in its RFI submission was used as the basis for estimating the company's export price for purposes of the preliminary determination.

Margin of Dumping

[169] The total normal value was compared with the total export price for all subject OCTG imported into Canada during the Dumping POI. It was found that the goods exported by Jiangsu Changbao were dumped by an estimated margin of dumping of 71.28%, expressed as a percentage of the export price.

³⁸ Dumping Exhibit 82 (PRO).

Jiangsu Chengde Steel Tube

[170] Jiangsu Chengde was founded in 1998, although it has existed since 1988 under a different, albeit similar corporate name. Since 2002, the company has become a wholly owned private company invested by individual shareholders.

[171] The company's RFI response was received by the September 30, 2009 deadline.³⁹

[172] The company is both a manufacturer and exporter of seamless OCTG. Jiangsu Chengde purchases steel billets in its production of seamless OCTG.

[173] In August 2009, the company acquired the assets of another OCTG manufacturer, "Jiangdu Chengde Steel Tube Factory" which is now simply another plant under the Jiangsu Chengde name.

[174] Jiangsu exported seamless tubing to Canada during the POI and sold both seamless casing and tubing in the Chinese domestic market.

[175] Export selling price data, including applicable export price adjustments, provided by Jiangsu Chengde in its RFI submission was used as the basis for estimating the company's export price for purposes of the preliminary determination.

Margin of Dumping

[176] The total normal value was compared with the total export price for all subject OCTG imported into Canada during the Dumping POI. It was found that the goods exported by Jiangsu Chengde were dumped by an estimated margin of dumping of 83.13%, expressed as a percentage of the export price.

Shandong Molong Petroleum Machinery Co., Ltd.

[177] Shandong Molong (Molong) is an OCTG producer as well as a petroleum machinery manufacturer and service provider. The company's main products include: casing and tubing, line pipe, drill pipe, various tools and equipment for the petroleum industry, and technical services.

[178] The company's RFI response was received by the September 30, 2009 deadline.⁴⁰

[179] The company, which began operations in 1987, was restructured into a public company in 2001. Molong is a privately held limited liability company.

[180] Molong manufactures seamless tubing from billets it purchases from its subsidiary Weihai Baolong Special Petroleum Materials Co., Ltd. During the Dumping POI, Molong exported seamless tubing to Canada and sold mostly seamless tubing in its domestic market.

³⁹ Dumping Exhibit 108 (PRO).

⁴⁰ Dumping Exhibit 95 (PRO).

[181] Export selling price data, including applicable export price adjustments, provided by Shandong Molong in its RFI submission was used as the basis for estimating the company's export price for purposes of the preliminary determination.

Margin of Dumping

[182] The total normal value was compared with the total export price for all subject OCTG imported into Canada during the Dumping POI. It was found that the goods exported by Shandong Molong were dumped by an estimated margin of dumping of 110.69%, expressed as a percentage of the export price.

Tianjin Pipe (Group) Corporation (TPCO)

[183] TPCO is a state-owned enterprise (SOE) and seamless pipe producer, including casing, tubing and line pipe.

[184] The company's RFI response was received by the September 30, 2009 deadline.⁴¹

[185] During the Dumping POI, TPCO exported both seamless tubing and coupling stock to Canada. In the domestic market, TPCO sold the full range of seamless OCTG products.

[186] Export selling price data, including applicable export price adjustments, provided by TPCO in its RFI submission was used as the basis for estimating the company's export price for purposes of the preliminary determination.

Margin of Dumping

[187] The total normal value was compared with the total export price for all subject OCTG imported into Canada during the Dumping POI. It was found that the goods exported by TPCO were dumped by an estimated margin of dumping of 33.94%, expressed as a percentage of the export price.

Shengli Oilfield Shengji Petroleum Equipment Co., Ltd.

[188] Located in Shandong province, Shengli Oilfield Shengji Petroleum is a limited liability company and manufacturer of unfinished pipes.

[189] The company's RFI response was received by the September 30, 2009 deadline.⁴²

[190] Shengli Oilfield Shengji Petroleum exported seamless tubing and coupling stock to Canada during the Dumping POI and sold seamless tubing as well in the domestic market.

⁴¹ Dumping Exhibit 100 (PRO).

⁴² Dumping Exhibit 125 (PRO).

[191] Export selling price data, including applicable export price adjustments, provided by Shengli Oilfield Shengji Petroleum in its RFI submission was used as the basis for estimating the company's export price for purposes of the preliminary determination.

Margin of Dumping

[192] The total normal value was compared with the total export price for all subject OCTG imported into Canada during the Dumping POI. It was found that the goods exported by Shengli Oilfield Shengji Petroleum were dumped by an estimated margin of dumping of 92.39%, expressed as a percentage of the export price.

Tianjin Tiangang Special Petroleum Pipe Manufacture Co., Ltd. (Tiangang)

[193] Tiangang is a privately-owned limited liability company incorporated on December 17, 2001. The company produces a range of petroleum pipe products, including the subject goods for sale on both the domestic and export markets.

[194] The company's RFI response was received by the September 30, 2009 deadline.⁴³

[195] During the POI, the company exported ERW casing and seamless tubing to Canada and a full range of seamless OCTG products in the domestic market as well.

[196] Export selling price data, including applicable export price adjustments, provided by Tiangang in its RFI submission was used as the basis for estimating the company's export price for purposes of the preliminary determination.

Margin of Dumping

[197] The total normal value was compared with the total export price for all subject OCTG imported into Canada during the Dumping POI. It was found that the goods exported by Tiangang were dumped by an estimated margin of dumping of 107.51%, expressed as a percentage of the export price.

All Other Exporters - Margin of Dumping

[198] For all other exporters, including those exporters who provided late responses, import pricing information available from the CBSA's internal information systems was used for the purposes of estimating export price. Similarly, the normal value and related margin of dumping was estimated by advancing export prices by the highest amount by which the normal value exceeded the export price on an individual transaction (167%) for a cooperating exporter.

⁴³ Dumping Exhibit 112 (PRO).

SUMMARY OF RESULTS – DUMPING

Period of Investigation - July 1, 2008 to June 30, 2009

Country	Estimated Dumped Goods as Percentage of Country Imports	Estimated Weighted Average Margin of Dumping as Percentage of Total Imports	Country Imports as Percentage of Total Imports	Estimated Dumped Goods as Percentage of Total Imports
China	100%	141%	64%	64%

SUBSIDY INVESTIGATION

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

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

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

[201] Where subsidies exist they may be subject to countervailing measures if they are specific in nature. A subsidy is considered to be specific when it is limited, in law, to a particular enterprise within the jurisdiction of the authority that is granting the subsidy; 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. A “prohibited subsidy” includes a subsidy which is contingent, in whole or in part, on export performance or a subsidy or portion of a subsidy that is contingent, in whole or in part, on the use of goods that are produced or that originate in the country of export.

[202] Notwithstanding that a subsidy is not specific in law, a subsidy may also be considered specific having regard as to whether:

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

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

[204] Prior to the initiation of the investigation, the Complainant submitted documents alleging that the OCTG producers and exporters in China benefited from actionable subsidies provided by the Government of China (GOC).

[205] Financial contributions provided by State-Owned Enterprises (SOEs) operating under the direct or indirect control or influence of the GOC may also be considered to be provided by the GOC for purposes of this investigation.

[206] At initiation, the CBSA identified 46 potential subsidy programs in the following eight categories:

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

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

Preliminary Phase of the Subsidy Investigation

[208] In conducting its investigation, the CBSA sent Subsidy RFIs to the GOC, as well as to 58 potential exporters located in China that had been identified through internal CBSA documentation. Information was requested in order to establish whether there had been financial contributions made by any level of government and, if so, to establish if a benefit has been conferred on persons engaged in the production, manufacture, growth, processing, purchase, distribution, transportation, sale, export or import of OCTG; and whether any resulting subsidy

was specific in nature. The GOC was also requested to forward the RFIs to all subordinate levels of government that had jurisdiction over the exporters.

[209] The CBSA received substantially complete and timely Subsidy RFI responses from eight cooperative exporters located in China. These submissions were reviewed and supplemental RFIs were then forwarded to the exporters. The CBSA has now received responses to all the supplemental RFIs as well.

[210] A ninth exporter submission was received by the CBSA 13 days past the due date. It will be reviewed and analyzed for the final phase of the investigation.

[211] The CBSA received a response to the Subsidy RFI from the GOC on September 30, 2009. The CBSA's review of the GOC's submission indicated that a major proportion of the information requested had not been supplied. The GOC had limited the data provided to that of the "nine responding companies," rather than submitting information on all identified exporters as had been requested by the CBSA. Furthermore, the responses put forward in respect of the responding companies were inadequate, and the GOC had failed to address the new programs that several of the responding exporters had reported in their submissions.

[212] As a result, in a letter dated October 16, 2009, the CBSA advised the GOC that the information provided had been reviewed and was found to be insufficient for purposes of the investigation. A general outline of the submission's many shortcomings was also included. At the same time, the GOC was informed that if it subsequently submitted a complete response to the RFI in sufficient time to allow full analysis and verification of the information provided, the CBSA would endeavor to use this information for the purpose of the final phase of the investigation.

[213] Following a conference call held with CBSA officials on October 20, 2009, counsel for the GOC responded in writing on October 27, 2009. In counsel's letter, the GOC conveyed its strong objection to the CBSA's decision regarding its subsidy response and expressed dismay at the CBSA's decision to not provide an itemized list of the submission's deficiencies. Notwithstanding their protestations, the letter indicated that certain additional material would be provided to the CBSA.

[214] Additional information from the GOC was received by the CBSA on November 9, 2009. It will be analyzed for purposes of the final phase of the investigation.

[215] For the preliminary determination, the CBSA has nonetheless estimated an amount of subsidy for the eight cooperative exporters in China based on the information provided by these exporters.

[216] A summary of the preliminary results is included below, whereas an outline of the findings for the named subsidy programs can be found in **Appendix 2**. It should be noted that while 46 programs were identified at initiation, the CBSA's analysis of the cooperative exporter responses has resulted in the recognition of 16 additional programs not previously identified, resulting in a total of 62 programs currently under investigation.

[217] Any other potential subsidy programs that are subsequently identified and/or further reviewed may also be analyzed during the final stage of the investigation. This would include potential subsidy programs relating to the prices of major manufacturing inputs purchased from GOC sources, including SOEs.

Summary of Preliminary Results of Subsidy Investigation

[218] The CBSA estimated specific subsidy amounts for each of the eight cooperative exporters. For the purposes of the preliminary determination, the CBSA estimated the amount of subsidy for each exporter on the basis of the program(s) that the exporter reported it had utilized during the Subsidy POI.

[219] The information received from the cooperative exporters indicates that they received benefits under one or more of the following 25 programs:

- 1) Accelerated depreciation on fixed assets in Binhai New Area of Tianjin
- 2) Export Assistance Grant
- 3) Research & Development (R&D) Assistance Grant
- 4) Provincial Scientific Development Plan Fund
- 5) Five Points, One Line Strategy in Liaoning Province
- 6) Reduced Tax Rate for Productive FIEs Scheduled to Operate for a Period not less than 10 Years
- 7) 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
- 8) Preferential tax policies for domestic enterprises purchasing domestically produced equipment for technology upgrading purpose
- 9) Exemption of tariff and import VAT for the imported technologies and equipment
- 10) Liaoning High-tech Products & Equipment Exports Interest Assistance
- 11) Corporate Income Tax Reduction for High-New Technology Enterprises
- 12) Changzhou Qishuyan District Environmental Protection Fund
- 13) 2007 Technology Innovation Award
- 14) 2007 & 2008 Energy-saving Fund
- 15) Enterprise Innovation Award of Qishuyan District
- 16) Energy-saving Technique Special Fund
- 17) Changzhou Technology Plan
- 18) 2008 Water-saving Technique Assistance
- 19) 2009 Energy-saving Fund
- 20) Enterprise Technology Centers of Tianjin City & Jinnan District
- 21) Top ten privately-owned export enterprises of Tianjin for the year of 2008
- 22) Income Tax Exemption for enterprises changed ownership from SOE to private limited company
- 23) Grants for export increasing
- 24) Grants for International Certification
- 25) Income Tax Refund for Enterprises located in Tianjin Jinnan Economic Development Area

[220] Details regarding the estimated amounts of subsidy for each of the eight cooperative exporters are provided in **Appendix 1**. The CBSA's estimated amounts of subsidy for the cooperative exporters range from 0.33% to 2.47%, expressed as a percentage of export price.

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

- (i) the highest amount of subsidy (RMB per MT) estimated for each of the 25 programs for the eight cooperative exporters located in China; plus
- (ii) the simple average of these highest subsidy amounts in (i) applied to each of the remaining 37 potentially actionable subsidy programs for which information is not available or has not been provided.

[221] As a result, the estimated amount of subsidy for all other exporters is 15%, as a percentage of export price.

[222] The preliminary results indicate that 100% of the subject goods imported into Canada during the Subsidy POI were subsidized. The estimated overall weighted average amount of subsidy is equal to 12% of the export price.

[223] The respective estimated amounts of subsidy will be applied during the provisional period to exports made by each of the cooperative exporters that provided complete responses to the CBSA's RFI. The amount of subsidy calculated for all other exporters, estimated to be 15% of the export price, is applicable to those exporters that did not respond to the RFI, or provided a late or an incomplete submission.

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

[225] 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.

[226] SIMA does not define or provide any guidance regarding the determination of a "developing country" for purposes of Article 27.10 of the *WTO Agreement on Subsidies and Countervailing Measures*. As an administrative alternative, the CBSA refers to the *Development Assistance Committee List of Official Development Assistance Recipients* (DAC List of ODA

Recipients) for guidance⁴⁴. As China is included in the listing, the CBSA will extend developing country status to China for purposes of this investigation. Therefore, the investigation will be terminated if the amount of subsidy does not exceed 2% of its value calculated on a per unit basis or if the volume of subsidized goods represents less than 4% of total imports of like goods.

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

SUMMARY OF RESULTS – SUBSIDY

Period of Investigation - January 1, 2008 to June 30, 2009

Country	Estimated Subsidized Goods as Percentage of Country Imports	Estimated Weighted Average Amount of Subsidy*	Country Imports as Percentage of Total Imports	Estimated Subsidized Goods as Percentage of Total Imports
China	100%	12%	62%	62%

*As percentage of the export price

DECISION

[228] Based on the preliminary results of the investigations, on November 23, 2009, the CBSA made preliminary determinations of dumping and subsidizing respecting certain OCTG originating in or exported from the People’s Republic of China, pursuant to subsection 38(1) of SIMA.

PROVISIONAL DUTY

[229] Pursuant to subsection 8(1) of SIMA, provisional duties, payable by the importer in Canada, will be applied to dumped and subsidized OCTG that are released during the provisional period commencing on the day the preliminary determinations are made, and ending on the earlier of the day on which the CBSA causes the investigations to be terminated pursuant to subsection 41(1) or the day on which the Tribunal makes an order or finding.

[230] Provisional countervailing duty is based on the estimated amount of subsidy and is expressed as a percentage of export price of the goods. Provisional anti-dumping duty is based on the estimated margin of dumping, also expressed as a percentage of the export price of the goods. **Appendix 1** contains the estimated margins of dumping, estimated amounts of subsidy, and the rates of provisional duties, payable on subject goods released from the CBSA on and after November 23, 2009.

⁴⁴ The Organization for Economic Co-operation and Development, DAC List of ODA Recipients as at January 1, 2006, the document is available at: www.oecd.org/dataoecd/23/34/37954893.pdf

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

FUTURE ACTION

The Canada Border Services Agency

[232] The CBSA will continue its investigations of the dumping and subsidizing and will make final decisions by February 22, 2010.

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

The Canadian International Trade Tribunal

[234] The Tribunal has begun its full inquiry into the question of injury to the Canadian industry. The Tribunal is expected to issue its final decision by March 23, 2010.

[235] If the Tribunal finds that the dumping or subsidizing has not caused injury or is not threatening to cause injury, the proceedings will be terminated and all provisional duties collected, or security posted, will be returned. If the Tribunal makes an affirmative decision, anti-dumping duties and countervailing duties will be imposed on imports of OCTG.

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

RETROACTIVE DUTY ON MASSIVE IMPORTATIONS

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

90 days preceding the day of the preliminary determination could be subject to anti-dumping and/or countervailing duty.

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

UNDERTAKINGS

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

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

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

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

PUBLICATION

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

INFORMATION

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

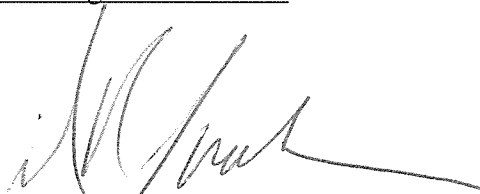
Mail SIMA Registry and Disclosure Unit
Anti-dumping and Countervailing Program
Trade Programs Directorate
Canada Border Services Agency
100 Metcalfe Street, 11th Floor
Ottawa, Ontario K1A 0L8
CANADA

Telephone Andrew Manera (613) 946-2052
Barbara Chouinard (613) 954-7373

Fax (613) 948-4844

Email SIMARegistry@cbsa-asfc.gc.ca

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



M.R. Jordan
Director General
Trade Programs Directorate

Attachment

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

Country	Estimated Margin of Dumping*	Estimated Amount of Subsidy*	Total Provisional Duties Payable*
Freet Group**			
Freet Petroleum Equipment Co., Ltd. of Shengli Oil Field the Thermal Recovery Equipment, Zibo Branch	84.43%	0.50%	84.93%
Faray Petroleum Steel Pipe Co., Ltd.	95.40%	0.50%	95.90%
Shengli Oil Field Freet Petroleum Equipment Co., Ltd.	99.59%	0.50%	100.09%
Shengli Oil Field Freet Petroleum Steel Pipe Co., Ltd.	52.78%	0.50%	53.28%
Huludao City Steel Pipe Industrial Co. Ltd.	82.04%	0.33%	82.37%
Jiangsu Changbao Steel Tube	71.28%	1.05%	72.33%
Jiangsu Chengde Steel Tube	83.13%	0.45%	83.58%
Shandong Molong Petroleum Machinery Co., Ltd.	110.69%	2.16%	112.85%
Tianjin Pipe (Group) Corporation	33.94%	0.49%	34.43%
Shengli Oilfield Shengji Petroleum Equipment Co., Ltd.	92.39%	2.47%	94.86%
Tianjin Tiangang Special Petroleum Pipe Manufacture Co., Ltd.	107.51%	0.37%	107.88%
All Other Exporters	167%	15%	182%

*As a percentage of export price.

**The Freet Group Subsidy is one consolidated amount for all companies totaling 0.50%.

APPENDIX 2 - SUMMARY OF PRELIMINARY FINDINGS FOR NAMED SUBSIDY PROGRAMS

As noted in the body of this document, the CBSA's review of the GOC's response to the Subsidy RFI indicated that sufficient information had not been provided to determine whether the programs that were used by the cooperative exporters constituted actionable subsidies, or to estimate the amount of subsidy on a program basis. This would normally prevent the CBSA from estimating specific amounts of subsidy for the cooperative exporters and result in the use of other available information. However, in recognition of the amount of cooperation and the volume of information provided by the cooperative exporters, the CBSA has estimated an amount of subsidy for cooperative exporters based on the information provided in their responses to the Subsidy RFI.

This appendix consists of descriptions of the 25 potentially actionable subsidy programs used by cooperative exporters in the current investigation, followed by a listing of the other potentially actionable subsidy programs under investigation that were not reported as used by the cooperative exporters.

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

Without a complete response to the Subsidy RFI from the GOC, the CBSA has used the best information available to describe the potentially actionable subsidy programs used by the cooperative exporters in the current investigation. This includes using information obtained from CBSA research on potential subsidy programs in China, information provided by the cooperative exporters, and descriptions of programs that the CBSA has previously publicly published in recent Statements of Reasons relating to subsidy investigations involving China.

Program 1: Accelerated depreciation on fixed assets in Binhai New Area of Tianjin

This program was established in the *Notice of the Ministry of Finance and the State Administration of Taxation on the Relevant Preferential Enterprise Income Tax Policies for Supporting the Development and Openness of Binhai New Area of Tianjin, Cai Shui (2006) No. 130*, which came into effect as of July 1, 2006. This program was established in order to promote the development of the Binhai New Area of Tianjin. The authorities responsible for administering this program are the Department of Public Finance of Tianjin Municipality, the State Taxation Bureau of Tianjin Municipality and the Local Taxation Bureau of Tianjin Municipality.

Under this program, enterprises located in the Binhai New Area of Tianjin are eligible to reduce the depreciation period of eligible fixed assets (excluding houses and buildings) by up to 40%.

Program 2: Export Assistance Grant

This program was established in the *Circular of the Trial Measures of the Administration of International Market Development Funds for Small and Medium-sized Enterprises*

Cai Qi No. 467, 2000, which was promulgated and came into force on October 24, 2000. This program was established to support the development of Small and Medium-sized Enterprises (SMEs), to encourage SMEs to join in the competition of international markets, to reduce the business risks of the enterprises, and to promote the development of the national economy. The granting authority responsible for this program is the foreign trade and economic department and the program is administered at local levels.

The funds provided under this program are for the purpose of: (i) holding or participating in overseas exhibitions, (ii) accreditation fees for quality management system, environment management system or for the product, (iii) promotion in the international market, (iv) exploring a new market, (v) holding training seminars and symposiums, and (vi) overseas bidding.

Program 3: Research & Development (R&D) Assistance Grant

This program appears to be established by governments at the local level and was established to encourage and support enterprises to develop new technologies and products, to promote energy savings, to enhance product quality, to improve export structure, and to cultivate and develop high-tech industries and new pillar industries.

Program 4: Provincial Scientific Development Plan Fund

This program appears to be established by governments at the local level and was established to provide financial assistance to research and development projects. The granting authorities responsible for this program are the Science and Technology Departments located in Liaoning province and Tianjin.

Program 5: Five Points, One Line Strategy in Liaoning Province

This program was established in the *Several Opinions of the People's Government of Liaoning Province on Encouraging the Extended Opening-up of the Coastal Development*. The "Five Points" include the following five industrial zones in Liaoning province: Dalian Changxing Island Seaport Industrial Zone, Yingkou Coastal Industrial Base, Liaoxi Jinzhou Bay Coastal Economic Zone, Dandong Industrial Zone and Dalian Huayuankou Economic Zone. Under this program, the Liaoning provincial government provides refunds of VAT and business tax, income tax reduction/exemption and fee exemptions to enterprises located within the above-mentioned five industrial zones. The granting authority responsible for this program is the Liaoning Development and Reform Commission.

Program 6: Reduced Tax Rate for Productive FIEs Scheduled to Operate for a Period not less than 10 Years

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

Under this program, from the year an FIE begins to make a profit, they may apply for and receive an exemption from income tax in the first and second years and a 50% reduction in the third, fourth, and fifth years of profitable operation. Should an FIE cease operation following a period of less than 10 years, that enterprise will be responsible for repaying the amount of tax that has been reduced or exempted under this program.

The program was terminated when the *Income Tax Law of the People's Republic of China for Enterprises* came into effect on January 1, 2008. However, according to Article 57 of the *Income Tax Law of the People's Republic of China for Enterprises* and the *Notification of the State Council on Carrying out the Transitional Preferential Policies concerning Enterprise Income Tax, Guo Fa (2007), No. 39*, enterprises currently receiving the benefits under this program as of January 1, 2008 can continue to receive the relevant preferential treatments set forth in the previous tax laws and administrative regulations until the end of the fifth profitable year.

Program 7: 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

This program was established in the *Circular of the Ministry of Finance and State Administration of Taxation Concerning the Issue of Tax Credit for Business Income Tax for Homemade Equipment Purchased by Enterprises with Foreign Investment and Foreign Enterprises (Cai Shui Zi [2000] No. 49)*, which came into force on July 1, 1999. This program was established to attract foreign investment and support technology innovation. The granting authority responsible for this program is the State Administration of Taxation and the program is administered by local tax authorities.

Under this program, 40% of the expenses incurred by certain FIEs and foreign enterprises on purchasing domestically produced equipment, are deducted from the increment of income tax of that year compared to the previous year. The deducted portion shall not exceed that year's total increment of income tax, and in the case where the total increment of income tax is less than 40% of such expenses; the exceeding part of the deductible expenses can be deducted from the next year's increment of income tax. Such postponement of deductibility shall not last for more than five years.

Program 8: Preferential tax policies for domestic enterprises purchasing domestically produced equipment for technology upgrading purpose

This program was established in the *Circular Concerning Printing and Distributing Interim Measures on Business Income Tax Credit Applicable to Technological Transformation Domestic Equipment Investment (Cai Shui Zi [1999] No. 290)*, which came into force on July 1, 1999. This program was established to encourage domestic investment and support the technology upgrading of enterprises. The granting authority responsible for this program is the State Administration of Taxation and the program is administered by local tax authorities.

Under this program, for all enterprises with investment on the technological transformation projects conforming to the State Industrial Policy in the nation, 40% of the expenses on

purchasing domestically produced equipment shall be deducted from the increment of income tax of that year compared to the previous year. In the case where the total increment of income tax is less than 40% of such expenses, the exceeding part of the deductible expenses can be deducted from the next year's increment of income tax. Such postponement of deductibility shall not last for more than five years.

Program 9: Exemption of tariff and import VAT for the imported technologies and equipment

The exemptions of tariffs and import VAT is provided for and administered in accordance with the *Circular of the State Council Concerning the Adjustment in the Taxation Policy of Import Equipment*, which was established on December 29, 1997, and came into effect on January 1, 1998. This program was established to further expand foreign capital utilization, attract technologies and equipment from abroad, promote structural adjustments in industry and technological advancement and to maintain the sustained, rapid and healthy development of the national economy. The granting authorities responsible for this program are the Ministry of Finance and the General Administration of Customs and the program is administered by local provincial and municipal customs branches.

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

Program 10: Liaoning High-tech Products & Equipment Exports Interest Assistance

This program appears to be established by governments at the local level and was established to provide financial support to enterprises of high-tech products or the equipment manufacturing industry in Liaoning province. The granting authority responsible for this program is the Liaoning Economic Commission.

Program 11: Corporate Income Tax Reduction for High-New Technology Enterprises

The program was established in the *Income Tax Law of the People's Republic of China for Enterprises*, which came into effect as of January 1, 2008. This program was established to provide income tax reduction for high-new technology enterprises and to promote enterprise technology upgrades. The granting authority responsible for this program is the State Administration of Taxation and the program is administered by local tax authorities.

Under this program, high-new technology enterprises may apply for and receive an income tax reduction at a reduced rate of 15%.

Program 12: Changzhou Qishuyan District Environmental Protection Fund

This program appears to be established by governments at the local level and was established to protect environment respecting sewage disposal. The granting authority responsible for this program is the Environment Protection Bureau of Qishuyan District of Changzhou. The CBSA is continuing to review this program in order to determine the administration and availability of this program.

Program 13: 2007 Technology Innovation Award

This program appears to be established by governments at the local level and was established to promote technology innovation and energy savings. The granting authority responsible for this program is the Changzhou Economic & Trade Commission. The CBSA is continuing to review this program in order to determine the administration and availability of this program.

Program 14: 2007 & 2008 Energy-saving Fund

This program appears to be established by governments at the local level and was established to promote energy savings. The granting authority responsible for this program is the Changzhou Economic & Trade Commission. The CBSA is continuing to review this program in order to determine the administration and availability of this program.

Program 15: Enterprise Innovation Award of Qishuyan District

This program appears to be established by governments at the local level and was established to encourage and support enterprises to develop high-tech products. The granting authority responsible for this program is the Qishuyan District Government of Changzhou. The CBSA is continuing to review this program in order to determine the administration and availability of this program.

Program 16: Energy-saving Technique Special Fund

This program appears to be established by governments at the local level and was established to encourage the development of energy-saving technologies. The granting authority responsible for this program is the Changzhou Economic & Trade Commission. The CBSA is continuing to review this program in order to determine the administration and availability of this program.

Program 17: Changzhou Technology Plan

This program appears to be established by governments at the local level and was established to encourage and support enterprises to develop new technologies. The granting authority responsible for this program is Changzhou Science and Technology Bureau. The CBSA is continuing to review this program in order to determine the administration and availability of this program.

Program 18: 2008 Water-saving Technique Assistance

This program appears to be established by governments at the local level and was established to encourage the development of water-saving technologies. The granting authority responsible for this program is Changzhou Water Conservancy Bureau. The CBSA is continuing to review this program in order to determine the administration and availability of this program.

Program 19: 2009 Energy-saving Fund

This program appears to be established by governments at the local level and was established to promote energy savings. The granting authority responsible for this program is the Department of Foreign Trade & Economic Cooperation of Jiangsu. The CBSA is continuing to review this program in order to determine the administration and availability of this program.

Program 20: Enterprise Technology Centers of Tianjin City & Jinnan District

This program was established in the *Notice on the Confirmation of the 15th Enterprise Technology Centres at the Municipal Level, Jin Jing Ke (2008), No. 15*, which was issued on June 30, 2008. This program was established to setup and approve enterprise technology centres in Tianjin and Jinnan District. The granting authorities responsible for this program are Tianjin City Economic Committee and Tianjin City Science & Technology Committee.

Program 21: Top ten privately-owned export enterprises of Tianjin for the year of 2008

Under this program, enterprises located in Tianjin city and elected as “Top ten Privately-owned Export Enterprises of Tianjin for the Year of 2008” may receive grants from the local government. The granting authority responsible for this program is the Government of Tianjin City.

Program 22: Income Tax Exemption for enterprises changed ownership from SOE to private limited company

This program appears to be established by governments at the local level and was established to promote re-employment of people who were formerly laid-off from SOEs. The granting authority responsible for this program is the Finance Bureau of Dongying District of Dongying City. The CBSA is continuing to review this program in order to determine the administration and availability of this program.

Program 23: Grants for export increasing

This program appears to be established by governments at the local level and was established to promote exports. The granting authority responsible for this program is the Finance Bureau of Dongying District of Dongying City. The CBSA is continuing to review this program in order to determine the administration and availability of this program.

Program 24: Grants for International Certification

This program appears to be established by governments at the local level and was established to encourage enterprises to compete in international markets. The granting authority responsible for this program is the Finance Bureau of Dongying District of Dongying City. The CBSA is continuing to review this program in order to determine the administration and availability of this program.

Program 25: Income Tax Refund for Enterprises located in Tianjin Jinnan Economic Development Area

This program appears to be established by governments at the local level and was established to provide income tax refund for domestic invested enterprises (DIEs) located in Tianjin Jinnan Economic Development Area. The granting authority responsible for this program is the Management Committee of Tianjin Jinnan Economic Development Area. Under this program, DIEs may apply for and receive income tax refunds up to 50% of the income tax paid to the local government.

OTHER POTENTIALLY ACTIONABLE SUBSIDY PROGRAMS

The following programs are also included in the current investigation. Questions concerning these programs were included in the RFIs sent to the GOC and to all known exporters of the goods in China. None of the cooperative exporters reported using these programs during the Subsidy POI. Without a complete response to the Subsidy RFI from the GOC, the CBSA does not have detailed descriptions of these programs; nor does it have sufficient information to determine that any of these programs do not constitute actionable subsidy programs. In other words, the CBSA does not have sufficient information to determine that any of these programs should be removed from the investigation. The CBSA will continue to investigate these programs in the final phase of the investigation.

Special Economic Zone (SEZ) Incentives and other Designated Areas

- Program 26: Preferential Tax Policies for Enterprises with Foreign Investment (FIEs) Established in Special Economic Zones (excluding Shanghai Pudong Area)
- Program 27: Preferential Tax Policies for FIEs Established in the Coastal Economic Open Areas and in the Economic and Technological Development Zones
- Program 28: Preferential Tax Policies for FIEs Established in the Pudong Area of Shanghai
- Program 29: Preferential Tax Policies in the Western Regions
- Program 30: Corporate Income Tax Exemption and/or Reduction in SEZs and other Designated Areas
- Program 31: Local Income Tax Exemption and/or Reduction in SEZs and other Designated Areas
- Program 32: Exemption/Reduction of Special Land Tax and Land Use Fees in SEZs and Other Designated Areas
- Program 33: Tariff and Value-added Tax (VAT) Exemptions on Imported Materials and Equipment in SEZs and other Designated Areas

- Program 34: Income Tax Refund where Profits Re-invested in SEZs and other Designated Areas
- Program 35: Preferential Costs of Services and/or Goods Provided by Government or State-owned Enterprises (SOEs) in SEZs and Other Designated Areas

Grants

- Program 36: The State Key Technology Renovation Projects
- Program 37: Reimbursement of Anti-dumping and/or Countervailing Legal Expenses by the Local Governments
- Program 38: Supportive Fund provided by the Government of Xuyi County, Jiangsu Province
- Program 39: Repaying Foreign Currency Loan by Returned VAT
- Program 40: Government export subsidy and product innovation subsidy
- Program 41: Innovative Experimental Enterprise Grant
- Program 42: Superstar Enterprise Grant
- Program 43: Awards to Enterprises whose Products Qualify for “Well-Known Trademarks of China” or “Famous Brands of China”
- Program 44: Export Brand Development Fund
- Program 45: Technical Renovation Loan Interest Discount Fund
- Program 46: Venture Investment Fund of Hi-Tech Industry
- Program 47: National Innovation Fund for Technology Based Firms
- Program 48: Guangdong – Hong Kong Technology Cooperation Funding Scheme
- Program 49: Grants for Encouraging the Establishment of Headquarters and Regional Headquarters with Foreign Investment

Equity Programs

- Program 50: Debt-to-Equity Swaps
- Program 51: Exemptions for SOEs from Distributing Dividends to the State

Preferential Loan Programs

- Program 52: Loans and Interest Subsidies provided under the Northeast Revitalization Program
- Program 53: Preferential Loans

Preferential Income Tax Programs

- Program 54: Preferential Tax Policies for Foreign Invested Export Enterprises
- Program 55: Preferential tax policies for FIEs which are technology intensive and knowledge intensive
- Program 56: Preferential Tax Policies for the Research and Development of FIEs
- Program 57: Income Tax Refund for Re-investment of FIE Profits by Foreign Investors
- Program 58: VAT and Income Tax exemption /reduction for Enterprises adopting Debt-to-Equity Swaps
- Program 59: Stamp Exemption on Share Transfers under Non-tradable Share Reform

Relief from Duties and Taxes on Materials and Machinery

Program 60: Relief from Duties and Taxes on Imported Material and other Manufacturing Inputs

Reduction in Land Use Fees

Program 61: Reduction in Land Use Fees

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

Program 62: Raw Materials Provided by Government at Less Than Fair Market Value