



OTTAWA, November 26, 2012

STATEMENT OF REASONS

**Concerning the making of Final Determinations of Dumping and Subsidizing
and the Termination of Dumping and Subsidizing Investigations respecting**

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

DECISION

Pursuant to subsection 41(1)(a) of the *Special Import Measures Act* (SIMA), on November 9, 2012, the President of the Canada Border Services Agency made final determinations respecting: the dumping of certain carbon steel welded pipe, commonly identified as standard pipe, in the nominal size range from ½ inch up to and including 6 inches (12.7 mm to 168.3 mm in outside diameter) inclusive, in various forms and finishes, usually supplied to meet ASTM A53, ASTM A135, ASTM A252, ASTM A589, ASTM A795, ASTM F1083 or Commercial Quality, or AWWA C200-97 or equivalent specifications, including water well casing, piling pipe, sprinkler pipe and fencing pipe, but excluding oil and gas line pipe made to API specifications exclusively, originating in or exported from Chinese Taipei, the Republic of India, the Sultanate of Oman, the Republic of Korea, Thailand, and the United Arab Emirates; and the subsidizing of these goods originating in or exported from the Republic of India.

On the same date, pursuant to paragraph 41(1)(b) of SIMA, the President terminated the dumping investigation respecting the above-mentioned goods originating in or exported from the Republic of Turkey, and the subsidy investigation respecting these goods originating in or exported from the Sultanate of Oman and the United Arab Emirates.

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

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SUMMARY OF EVENTS

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

[2] On April 13, 2012, pursuant to paragraph 32(1)(a) of the SIMA, the CBSA informed the Complainants that the complaint was properly documented. The CBSA also notified the governments of Chinese Taipei, India, Oman, the Republic of Korea, Thailand, Turkey and the UAE that a properly documented complaint had been received and provided the governments of India, Oman and the UAE with the non-confidential version of the subsidy portion of the complaint.

[3] Although the governments of India, Oman and the UAE were invited for consultations prior to the initiation of the subsidy investigation, pursuant to Article 13.1 of the *Agreement on Subsidies and Countervailing Measures*, none of the governments chose to participate in such consultations.

[4] The Complainants provided evidence to support the allegations that certain carbon steel welded pipe from Chinese Taipei, India, Oman, the Republic of Korea, Thailand, Turkey and the UAE had been dumped and that certain carbon steel welded pipe from India, Oman and the UAE had been subsidized. The evidence also disclosed a reasonable indication that the dumping and subsidizing had caused injury and were threatening to cause injury to the Canadian industry producing these goods.

[5] On May 14, 2012, pursuant to subsection 31(1) of SIMA, the President of the CBSA (President) initiated investigations respecting the dumping of certain carbon steel welded pipe from Chinese Taipei, India, Oman, the Republic of Korea, Thailand, Turkey and the UAE, and the subsidizing of certain carbon steel welded pipe from India, Oman and the UAE.

[6] Upon receiving notice of the initiation of the investigations, the Canadian International Trade Tribunal (Tribunal) commenced its preliminary injury inquiry. On July 13, 2012, pursuant to subsection 37.1(1) of SIMA, the Tribunal made a preliminary determination that there was evidence that disclosed a reasonable indication that the dumping and subsidizing of certain carbon steel welded pipe from the named countries had caused injury or retardation or were threatening to cause injury.

[7] On August 13, 2012, as a result of the CBSA's preliminary investigations and pursuant to subsection 38(1) of SIMA, the President made preliminary determinations of dumping of certain carbon steel welded pipe originating in or exported from Chinese Taipei, India, Oman, the Republic of Korea, Thailand, Turkey and the UAE and subsidizing of certain carbon steel welded pipe originating in or exported from India, Oman and the UAE, and began imposing provisional duties on imports of the subject goods pursuant to subsection 8(1) of SIMA.

[8] On August 14, 2012, the Tribunal initiated a full inquiry pursuant to section 42 of SIMA to determine whether the dumping and subsidizing of the above-mentioned goods had caused injury or retardation or were threatening to cause injury to the Canadian industry.

[9] The CBSA continued its investigation and, on the basis of the results, the President was satisfied that certain carbon steel welded pipe originating in or exported from Chinese Taipei, India, Oman, the Republic of Korea, Thailand and the UAE had been dumped and that the margins of dumping were not insignificant. Consequently, on November 9, 2012, the President made a final determination of dumping pursuant to paragraph 41(1)(a) of SIMA.

[10] Similarly, the President was satisfied that certain carbon steel welded pipe originating in or exported from India had been subsidized and that the amount of subsidy was not insignificant. As a result, on November 9, 2012, the President also made a final determination of subsidizing pursuant to paragraph 41(1)(a) of SIMA.

[11] On the same date, the President of the CBSA also terminated the dumping investigation in respect of certain carbon steel welded pipe originating in or exported from Turkey and the subsidy investigation in respect of the same goods from Oman and the UAE, pursuant to paragraph 41(1)(b) of SIMA. The President has determined, pursuant to subparagraphs 41(1)(a)(i) and (ii) of SIMA, that the goods from Turkey have been dumped but that the margin of dumping of these goods is insignificant, that the goods from Oman have been subsidized but that the amount of subsidy is insignificant, and that the goods from the UAE have not been subsidized. Provisional duties on imports of subject goods from countries for which the investigations have been terminated will cease and all duties collected will be refunded.

[12] The Tribunal's inquiry into the question of injury to the Canadian industry is continuing. Provisional duties will continue to be imposed on the subject goods from the six countries until the Tribunal renders its decision. The Tribunal has announced that it will issue its finding by December 11, 2012.

PERIOD OF INVESTIGATION DUMPING

[13] The period of investigation (POI) with respect to the dumping investigation covers all subject goods released into Canada from January 1, 2011 to December 31, 2011.

PERIOD OF INVESTIGATION SUBSIDY

[14] The period of investigation (POI) with respect to the subsidizing investigation covers all subject goods released into Canada from January 1, 2011 to December 31, 2011.

INTERESTED PARTIES

Complainants

[15] The Complainants are major producers of carbon steel welded pipe, accounting for a major proportion of the production of like goods in Canada.

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

Novamerican Steel Inc. (Novamerican)
6001 Irwin Street
Montréal, Quebec H8N 1A1

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

[17] Another major producer of like goods, Quali-T-Tube of Bromont, Quebec, provided a letter to the Complainants indicating its support of the complaint.¹

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

Importers

[19] Based on CBSA documentation, 112 importers were identified at the initiation of the investigations as having imported subject goods during the POI of January 1, 2011 to December 31, 2011. The CBSA sent an Importer RFI to each of these importers and received 17 responses during the investigations.

Exporters

[20] At the initiation of the investigations, the CBSA identified 205 potential exporters of the subject goods from CBSA import documentation and from information submitted in the complaint. In addition, as a result of the Importer Request for Information (RFI) responses, five more additional potential exporters of the goods under investigation were identified and the CBSA sent an Exporter Dumping RFI to each of these newly identified exporters, none of which are located in the countries concerned by the subsidy investigation.

¹ Exhibit 002 (NC) – Complaint – Non-Confidential Version, Exhibit 8

[21] In all, the CBSA received 11 exporter responses to the Exporter Dumping RFI and six exporter responses to the Exporter Subsidy RFI. For detailed exporter information in respect of the dumping investigation refer to the section on the Dumping Investigation later in this document. For detailed information concerning exporters and governments concerning the subsidy investigation refer to the section on the Subsidy Investigation.

Governments

[22] The subsidy investigation involved three countries: India, Oman and the UAE. The CBSA sent a Government Subsidy RFI to each of these named countries and received responses from all three governments over the course of the investigation.

PRODUCT DEFINITION

[23] The subject goods are defined as:

carbon steel welded pipe, commonly identified as standard pipe, in the nominal size range from ½ inch up to and including 6 inches (12.7 mm to 168.3 mm in outside diameter) inclusive, in various forms and finishes, usually supplied to meet ASTM A53, ASTM A135, ASTM A252, ASTM A589, ASTM A795, ASTM F1083 or Commercial Quality, or AWWA C200-97 or equivalent specifications, including water well casing, piling pipe, sprinkler pipe and fencing pipe, but excluding oil and gas line pipe made to API specifications exclusively, originating in or exported from Chinese Taipei, the Republic of India, the Sultanate of Oman, the Republic of Korea, Thailand, the Republic of Turkey and the United Arab Emirates

Additional Product Information

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

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

[26] Although CSWP is generally produced to industry standards such as ASTM A53, ASTM A135, ASTM A252, ASTM A589, ASTM A795, ASTM F1083, Commercial Quality and AWWA C200-97, it may also be produced to foreign standards such as BS1387 or to proprietary specifications as is often the case with fencing pipe. While standard pipe may be manufactured to any of the standards mentioned above, the ASTM A53 specification is the most common as it is considered to be the highest quality and is suitable for welding, coiling, bending and flanging.

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

Production Process

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

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

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

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

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

Classification of Imports

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

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

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

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

LIKE GOODS

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

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

[38] The CBSA is of the opinion that subject and like goods constitute only one class of goods. The Tribunal has previously recognized CSWP as a single class of goods in NQ-2008-001 respecting certain carbon steel welded pipe from China.

[39] In the Tribunal's Determination and Reasons – Preliminary Injury Inquiry No. PI-2012-003 Carbon Steel Welded Pipe issued July 30, 2012, the Tribunal stated that there is no argument or evidence provided that would warrant taking a different approach. For the purposes of the current preliminary injury inquiry, the Tribunal is satisfied that the subject goods and the like goods constitute one class of goods.

CANADIAN INDUSTRY

[40] The Complainants, Novamerican of Montréal, Quebec and Bolton, of Bolton, Ontario, account for a major proportion of known domestic production of like goods.

IMPORTS INTO CANADA

[41] The following table presents the CBSA's analysis of imports of certain carbon steel welded pipe for purposes of the final determinations.

**Import Volumes of Certain Carbon Steel Welded Pipe
January 1, 2011 – December 31, 2011 (POI)**

Country	Import Volume as a % of Total Imports
Chinese Taipei	19.0%
India	9.5%
Oman	4.3%
Republic of Korea	7.0%
Thailand	12.8%
Turkey	12.4%
UAE	7.2%
Imports – other Countries	27.8%
Total Imports	100.0%

INVESTIGATION PROCESS

[42] With respect to the dumping investigation, the CBSA requested information from potential exporters, vendors and importers, concerning shipments of certain carbon steel welded pipe released into Canada during the dumping POI of January 1, 2011 to December 31, 2011.

[43] With respect to the subsidy investigation, the CBSA requested information from known and potential exporters located in India, Oman and the UAE, as well as from the governments of these countries. The information requested concerned potential actionable subsidies provided to exporters or producers of certain carbon steel welded pipe released into Canada during the subsidy POI of January 1, 2011 to December 31, 2011.

[44] After reviewing the responses to the RFIs, supplemental RFIs were sent to each of the responding exporters and governments, to clarify information submitted by the respective parties. In addition, on-site verifications were conducted at the premises of selected exporters and the Government of the UAE during the final phase of the dumping and subsidy investigations. Several importers were requested to provide additional information for clarification.

[45] Details pertaining to the information submitted by the exporters in response to the Exporter Dumping RFI as well as the results of the CBSA's dumping investigation can be found in the "Dumping Investigation" section below. Details pertaining to the information submitted by the exporters and the governments of India, Oman and the UAE in response to the Subsidy RFI as well as the results of the CBSA's subsidy investigation can be found in the "Subsidy Investigation" section of this *Statement of Reasons*.

[46] As part of the final stage of the investigations, case briefs and reply submissions were provided by several counsel representing the Complainants and exporters. Details of all representations can be found in **Appendix 3** to this document.

[47] Under Article 15 of the World Trade Organization (WTO) *Anti-dumping Agreement*, developed countries are to give regard to the special situation of developing country members when considering the application of anti-dumping measures under the Agreement. Possible constructive remedies provided for under the Agreement are to be explored before applying anti-dumping duty where they would affect the essential interests of developing country members. As India, Thailand and Turkey are listed on the *Development Assistance Committee (DAC) List of Official Development Assistance (ODA) Recipients* maintained by the *Organization for Economic Co-operation and Development (OECD)*², the President recognizes India, Thailand and Turkey as developing countries for purposes of actions taken pursuant to SIMA.

[48] Accordingly, the obligation under Article 15 of the WTO *Anti-dumping Agreement* was met by providing the opportunity for exporters to submit price undertakings. In this particular investigation, the CBSA did not receive any proposals for undertakings from any of the identified exporters in India, Thailand and Turkey.

² The Organization for Economic Co-operation and Development, DAC List of ODA Recipients as at January 1, 2012, the document is available at: <http://www.oecd.org/development/aidstatistics/48858205.pdf>

DUMPING INVESTIGATION

[49] The CBSA received responses to the Exporter Dumping RFI from the following companies:

Chinese Taipei

Chung Hung Steel Corporation
Shin Yang Steel Co. Ltd.
Yieh Phui Enterprise Co. Ltd.

Republic of India

Manu International

Sultanate of Oman

No exporters provided a response.

Republic of Korea

No exporters provided a response.

Thailand

Pacific Pipe Public Company, Ltd.
Saha Thai Steel Pipe Company

Republic of Turkey

Borusan Mannesmann Boru Sanayi ve Ticaret A.Ş.
Erbosan Erciyas Boru Sanayii ve Ticaret A.Ş.

United Arab Emirates

Abu Dhabi Metal Pipes & Profiles Industries Complex LLC
Ajmal Steel Tubes and Pipes Industries LLC
Conares Metal Supply Ltd.

Normal Values

[50] The normal value of goods sold to importers in Canada is generally based on the domestic selling prices of like goods in the country of export pursuant to section 15 of SIMA, or on the aggregate of the cost of production of the goods, a reasonable amount for administrative, selling and all other costs, and a reasonable amount for profits, pursuant to paragraph 19(b) of SIMA. Where, in the opinion of the President, sufficient information has not been furnished or is not available, normal values are determined pursuant to a ministerial specification in accordance with subsection 29(1) of SIMA.

Export Prices

[51] The export price of goods sold to importers in Canada is generally based on the lesser of the adjusted exporter's sale price for the goods or the adjusted importer's purchase price, pursuant to section 24 of SIMA. These prices are adjusted where necessary by deducting the costs, charges, expenses, duties and taxes resulting from the exportation of the goods, as provided for in subparagraphs 24(a)(i) to 24(a)(iii) of SIMA. Where, in the opinion of the President, sufficient information has not been furnished or is not available, export prices are determined pursuant to a ministerial specification in accordance with subsection 29(1) of SIMA.

Results of the Dumping Investigation

[52] The CBSA determined a margin of dumping for each cooperative exporter by comparing the total normal value with the total export price of the goods. When the total export price is less than the total normal value, the difference is the margin of dumping for that specific exporter.

[53] 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 considered to be dumped by that exporter is zero.

[54] In determining the weighted average margin of dumping for a country, the overall margins of dumping found in respect of each exporter were weighted according to each exporter's volume of subject carbon steel welded pipe exported to Canada during the POI.

[55] Based on the preceding, 100% of certain carbon steel welded pipe originating in or exported from Chinese Taipei, India, Oman, the Republic of Korea and Thailand and imported into Canada during the POI were dumped. In the case of the UAE and Turkey, 69.1% and 1.4%, respectively, of the subject goods imported into Canada during the POI were dumped. The weighted average margin of dumping for each country can be found in the table entitled "Margin of Dumping and Volume of Dumped Goods" at the end of this section.

[56] Under paragraph 41(1)(a) of SIMA, the President shall make a final determination of dumping when he is satisfied that the goods have been dumped and that the margin of dumping of the goods of a country is not insignificant. Pursuant to subsection 2(1) of SIMA, a margin of dumping of less than 2% of the export price of the goods is defined as insignificant. The margin of dumping of certain carbon steel welded pipe from Chinese Taipei, India, Oman, the Republic of Korea, Thailand and the UAE is not less than 2% of the export price of the goods and is, therefore, not insignificant. In the case of Turkey, the margin of dumping of certain carbon steel welded pipe from this country is less than 2% of the export price of the goods and is, therefore, insignificant.

[57] For purposes of a preliminary determination of dumping, the President is responsible for determining whether the actual and potential volume of dumped goods is negligible. After a preliminary determination of dumping, the Tribunal assumes this responsibility. In accordance with subsection 42(4.1) of SIMA, if the Tribunal determines the volume of dumped goods from a country is negligible, the Tribunal is required to terminate its injury inquiry in respect of those goods.

Dumping Results by Exporter

[58] A summary of the margins of dumping determined for each cooperative exporter is found in **Appendix 1** while specific margin of dumping details relating to each exporter are presented below.

Chinese Taipei – Chung Hung Steel Corporation

[59] Chung Hung Steel Corporation (Chung Hung) was established in 1983 as a manufacturer of steel products and began producing pipe in 1987. The company currently produces hot and cold-rolled coil as well as various pipe products such as black pipe, rectangular pipe, galvanized pipe, API pipe and PE coated pipe. In February of 2000 Chung Hung became an affiliate company of China Steel Corporation through a majority share acquisition.³

[60] For the purposes of the final determination, normal values for the goods sold to the importer in Canada were determined under section 15 of SIMA, as there were sufficient domestic sales of like goods to permit a proper comparison with the sales of the goods to the Canadian importer. Adjustments to the domestic selling prices were made in accordance with paragraph 5(d) of the *Special Import Measures Regulations* (SIMR) as the goods sold to the importer in Canada and the like goods differed in their conditions of sale. Adjustments to the domestic selling prices also were made in accordance with section 6 of the SIMR for discounts that were generally granted.

[61] Export prices were determined pursuant to section 24 of SIMA, based on Chung Hung's selling prices to the importer in Canada, adjusted by deducting all costs, charges and expenses incurred in preparing the goods for shipment to Canada and resulting from the exportation and shipment of the goods.

[62] The total normal value was compared with the total export price for all subject goods imported into Canada during the POI. Based on the results of the investigation, the goods exported to Canada by Chung Hung were determined to have been dumped by a weighted average margin of 0.005% (rounded to 0.0% for reporting purposes), expressed as a percentage of the export price.

³ Exhibits D 104 Pro & 128 Pro

Chinese Taipei - Shin Yang Steel Co., Ltd.

[63] Shin Yang Steel Co., Ltd. (Shin Yang) is a wholly-owned subsidiary of Yieh Phui Enterprise Co., Ltd., an exporter of subject goods to Canada during the POI and a co-respondent to the exporter RFI (see below). Prior to the company becoming established in April 2011, Shin Yang was the Pipe Business Division of Yieh Phui Enterprise Co., Ltd. Shin Yang produces and sells carbon steel and galvanized steel pipes.⁴

[64] For the purposes of the final determination, normal values for these goods were determined in accordance with section 15 of SIMA, as there were sufficient domestic sales of like goods to permit a proper comparison with the sales of the goods to the Canadian importer. In determining the normal values, adjustments were made to the domestic selling prices for rebates in accordance with section 6 of the SIMR as well as for delivery costs included in the selling price in accordance with section 7 of the SIMR.

[65] Where normal values could not be determined under section 15 by reason that there were not such a number of sales of like goods that complied with all the terms and conditions referred to in section 16 of SIMA, the normal values were determined pursuant to paragraph 19(b) of SIMA, based on the aggregate of the cost of production of the goods, a reasonable amount for administrative, selling and all other costs and a reasonable amount for profits. The cost of production was determined in accordance with subparagraph 11(1)(a)(i) of the SIMR, based on the verified cost data relating to the goods as provided by Shin Yang, while a reasonable amount for administrative, selling and all other costs was determined in accordance with subparagraph 11(1)(c)(i) of the SIMR. The amount for profit was determined in accordance with subparagraph 11(1)(b)(i) of the SIMR based on the profits earned by Shin Yang on the sales of like goods during the profitability analysis period (PAP).

[66] Export prices were determined pursuant to section 24 of SIMA, based on Shin Yang's selling prices to the importer in Canada, adjusted by deducting all costs, charges and expenses incurred in preparing the goods for shipment to Canada and resulting from the exportation and shipment of the goods.

[67] The total normal value was compared with the total export price for all subject goods imported into Canada during the POI. It was found that the goods exported by Shin Yang were dumped by a margin of 0.4%, expressed as a percentage of the export price.

⁴ Exhibits D 96 Pro, 145 Pro & 239 Pro

Chinese Taipei – Yieh Phui Enterprise Co., Ltd.

[68] Yieh Phui Enterprise Co., Ltd. (Yieh Phui) is a producer of various steel products such as cold-rolled steel sheet, galvanized sheet and both carbon and galvanized steel pipe. The company was established in 1978 and is listed on the Taiwan Stock Exchange. During the POI Yieh Phui produced and sold both carbon and galvanized steel pipe but, in April 2011, it transferred its entire pipe production facilities to Shin Yang and has not been involved in the production or sales of carbon steel welded pipe since then.⁵

[69] For the purposes of the final determination, normal values for these goods were determined in accordance with section 15 of SIMA, as there were sufficient domestic sales of like goods to permit a proper comparison with the sales of the goods to the Canadian importer. In determining the normal values, adjustments were made to the domestic selling prices for rebates in accordance with section 6 of the SIMR as well as for delivery costs included in the selling price in accordance with section 7 of the SIMR.

[70] Where the normal values could not be determined under section 15 by reason that there were not such a number of sales of like goods that complied with all the terms and conditions referred to in section 16 of SIMA, the normal values were determined pursuant to paragraph 19(b) of SIMA, as the aggregate of the cost of production of the goods, a reasonable amount for administrative, selling and all other costs and a reasonable amount for profits. The cost of production was determined in accordance with subparagraph 11(1)(a)(i) of the SIMR, based on the verified cost data relating to the goods as provided by Yieh Phui, while a reasonable amount for administrative, selling and all other costs was determined in accordance with subparagraph 11(1)(c)(i) of the SIMR. The amount for profit was determined in accordance with subparagraph 11(1)(b)(i) of the SIMR based on the profits earned by Yieh Phui on the sales of like goods during the PAP.

[71] Export prices were determined pursuant to section 24 of SIMA, based on Yieh Phui's selling prices to the importer in Canada, adjusted by deducting all costs, charges and expenses incurred in preparing the goods for shipment to Canada and resulting from the exportation and shipment of the goods.

[72] The total normal value was compared with the total export price for all subject goods imported into Canada during the POI. It was found that the goods exported by Yieh Phui were dumped by a margin of 4.7%, expressed as a percentage of the export price.

India – Manu International

[73] Manu International (Manu) is a large, privately-held partnership and manufacturer of fencing material and accessories located in India.⁶

⁵ Exhibits D 96 Pro, 145 Pro & 243 Pro

⁶ Exhibits D 134 Pro, 153 Pro, 166 Pro & 175 Pro

[74] For the purposes of the final determination, Manu did not have sales of carbon steel welded pipe in its domestic market. As such, normal values for the goods sold to the importer in Canada were determined in accordance with paragraph 19(b) of SIMA, as the aggregate of the cost of production of the goods, a reasonable amount for administrative, selling and all other costs, and a reasonable amount for profits. The cost of production was determined in accordance with subparagraph 11(1)(a)(i) of the SIMR, based on the cost data submitted by Manu, and a reasonable amount for administrative, selling and all other costs was determined in accordance with subparagraph 11(1)(c)(i) of the SIMR. The amount for profit was determined in accordance with subparagraph 11(1)(b)(iv) of the SIMR based on the profits made by other producers in India on sales of goods that are of the same general category as the goods sold to the importer in Canada.

[75] Export prices were determined pursuant to section 24 of SIMA, based on Manu's selling prices less all costs, charges and expenses incurred in preparing the goods for shipment to Canada and resulting from the exportation and shipment of the goods.

[76] The total normal value was compared with the total export price for all subject goods imported into Canada during the POI. The subject goods exported by Manu were found to have been dumped by a weighted average margin of dumping of 11.6%, expressed as a percentage of export price.

Thailand – Pacific Pipe Public Company Limited

[77] Pacific Pipe Public Company Limited (Pacific Pipe) is a manufacturer and exporter of carbon steel welded pipe and is listed on the Stock Exchange of Thailand.⁷

[78] For the purposes of the final determination, normal values for the goods sold to the importer in Canada were determined in accordance with section 15 of SIMA, as there were sufficient domestic sales of like goods to permit a proper comparison with the sales of the goods to the Canadian importer. Adjustments to the domestic selling prices were made under paragraphs 5(a) and 5(d) of the SIMR as the goods sold to the importer in Canada and the like goods differed in their quality and in their conditions of sale, respectively. Also, adjustments to the domestic selling prices were made under section 10 of the SIMR for duties borne on the components of like goods which were not borne on the components of the goods sold to the importer in Canada.

[79] Export prices were determined pursuant to section 24 of SIMA, based on Pacific Pipe's selling prices to the importer in Canada, adjusted by deducting all costs, charges and expenses incurred in preparing the goods for shipment to Canada and resulting from the exportation and shipment of the goods.

⁷ Exhibits D 88 Pro, 150 Pro, 157, Pro 235, Pro & 237 Pro

[80] The total normal value was compared with the total export price for all subject goods imported into Canada during the POI. The goods exported to Canada by Pacific Pipe were dumped by a weighted average margin of dumping of 5.4%, expressed as a percentage of the export price.

Thailand – Saha Thai Steel Pipe Company

[81] Saha Thai Steel Pipe Company (Saha Thai) is a manufacturer and exporter of carbon steel welded pipe to Canada and is listed on the Stock Exchange of Thailand.⁸

[82] For the purposes of the final determination, normal values for the goods sold to the importer in Canada were determined in accordance with section 15 of SIMA where possible, as there were sufficient domestic sales of like goods to permit a proper comparison with the sales of the goods to the Canadian importer. Adjustments were made to the domestic selling prices for delivery costs included in the selling price in accordance with section 7 of the SIMR.

[83] For those goods where the normal values could not be determined under section 15 by reason that there were not such a number of sales of like goods that complied with all the terms and conditions referred to in section 16 of SIMA, the normal values were determined pursuant to paragraph 19(b) of SIMA, based on the cost of production of the goods, a reasonable amount for administrative, selling and all other costs and a reasonable amount for profits. The cost of production was determined in accordance with subparagraph 11(1)(a)(i) of the SIMR, based on verified cost data, while a reasonable amount for administrative, selling and all other costs was determined in accordance with subparagraph 11(1)(c)(i) of the SIMR. Lastly, the amount for profit was determined in accordance with subparagraph 11(1)(b)(i) of the SIMR based on the profits earned by the company on the sales of like goods during the PAP.

[84] Export prices were determined pursuant to section 24 of SIMA, based on Saha Thai's selling prices to the importer in Canada adjusted by deducting the costs, charges and expenses incurred in preparing the goods for shipment to Canada and resulting from the exportation and shipment of the goods.

[85] The total normal value was compared with the total export price for all subject goods imported into Canada during the POI. The goods exported to Canada by Saha Thai were dumped by a weighted average margin of dumping of 3.8% expressed as a percentage of the export price.

Turkey – Borusan Mannesmann Boru Sanayi ve Ticaret A.Ş.

[86] Borusan Mannesmann Boru Sanayi ve Ticaret A.S. (Borusan) is Turkey's leading steel pipe manufacturer, producing such products as standard pipe, line pipe, oil country tubular goods, boiler tubes, and spiral and industrial pipes.⁹

⁸ Exhibits D 94 Pro, 137 Pro & 242 Pro

⁹ Exhibits D 101 Pro, 106 Pro, 148 Pro, 222 Pro, 229 Pro & 253 Pro

[87] For the purposes of the final determination, normal values for the goods sold to the importer in Canada were determined in accordance with section 15 of SIMA, as there were sufficient domestic sales of like goods to permit a proper comparison with the sales of the goods to the Canadian importer. Adjustments to the domestic selling prices were made in accordance with paragraph 5(a) of the SIMR in those cases where the goods sold to the importer in Canada and the like goods differed in their quality, structure, design or material. In addition, adjustments were made to the domestic selling prices for discounts and rebates in accordance with section 6 of the SIMR and for delivery costs included in the selling price in accordance with section 7 of the SIMR.

[88] Where normal values could not be determined under section 15 by reason that there were not such a number of sales of like goods that complied with all the terms and conditions referred to in section 16 of SIMA, the normal values were determined pursuant to paragraph 19(b) of SIMA, based on the aggregate of the cost of production of the goods, a reasonable amount for administrative, selling and all other costs and a reasonable amount for profits. The cost of production was determined in accordance with subparagraph 11(1)(a)(i) of the SIMR, based on verified cost data, while a reasonable amount for administrative, selling and all other costs was determined in accordance with subparagraph 11(1)(c)(i) of the SIMR. The amount for profit was determined in accordance with subparagraph 11(1)(b)(i) of the SIMR based on the weighted average profit made on the sales of like goods.

[89] Export prices were determined pursuant to section 24 of SIMA, based on Borusan's selling prices to the importer in Canada, adjusted by deducting all costs, charges and expenses incurred in preparing the goods for shipment to Canada and resulting from the exportation and shipment of the goods.

[90] The total normal value was compared with the total export price for all subject goods imported into Canada during the POI. The results of the dumping investigation show that the subject goods exported by Borusan to Canada during the POI were not dumped.

Turkey – Erbosan Erciyas Boru Sanayii ve Ticaret A.Ş.

[91] Erbosan Erciyas Boru Sanayii ve Ticaret A.Ş. (Erbosan) is a pipe manufacturer and exporter located in Kayseri, Turkey. The company manufactures carbon steel pipe and tube products as well as galvanized tubular products from hot-rolled steel coil.¹⁰

[92] For the purposes of the final determination, normal values for the goods sold to the importer in Canada were determined in accordance with section 15 where possible as there were sufficient domestic sales of like goods to permit a proper comparison with the sales of the goods to the Canadian importer. Adjustments were made to the domestic selling prices in accordance with paragraphs 5(a) and 5(d) of the SIMR as the goods sold to the importer in Canada and the like goods differed in their quality and in their conditions of sale, respectively. Also, adjustments were made to the domestic selling prices for discounts that were generally granted in accordance with section 6 of the SIMR.

¹⁰ Exhibits D 91 Pro, 138 Pro, 167 Pro, 221 Pro & 250 Pro

[93] Where normal values could not be determined under section 15 by reason that there were not such a number of sales of like goods that complied with all the terms and conditions referred to in section 16 of SIMA, normal values were determined pursuant to paragraph 19(b) of SIMA, based on the cost of production of the goods, a reasonable amount for administrative, selling and all other costs and a reasonable amount for profits. The cost of production was determined in accordance with subparagraph 11(1)(a)(i) of the SIMR, based on verified cost data, while a reasonable amount for administrative, selling and all other costs was determined in accordance with subparagraph 11(1)(c)(i) of the SIMR. The amount for profit was determined in accordance with subparagraph 11(1)(b)(i) of the SIMR based on the weighted average profit made on the sales of like goods.

[94] Export prices were determined pursuant to section 24 of SIMA, based on Erbosan's selling prices to the importer in Canada, adjusted by deducting all costs, charges and expenses incurred in preparing the goods for shipment to Canada and resulting from the exportation and shipment of the goods.

[95] The total normal value was compared with the total export price for all subject goods imported into Canada during the POI. The results of the dumping investigation show that the subject goods exported by Erbosan to Canada during the POI were not dumped.

United Arab Emirates – Abu Dhabi Metal Pipes & Profiles Industries Complex LLC

[96] Abu Dhabi Metal Pipes & Profiles Industries Complex LLC (ADPICO), located in Dubai, UAE, is a producer and exporter of carbon steel welded pipe to Canada.¹¹

[97] For the purposes of the final determination, normal values for the goods sold to the importer in Canada were determined in accordance with paragraph 19(b) of SIMA as the company did not have a sufficient number of sales of like goods that complied with all the terms and conditions referred to in section 16 of SIMA. The cost of production was determined in accordance with subparagraph 11(1)(a)(i) of the SIMR based on verified cost data while a reasonable amount for administrative, selling and all other costs was determined in accordance with subparagraph 11(1)(c)(i) of the SIMR. The amount for profit was determined in accordance with subparagraph 11(1)(b)(iv) of the SIMR based on the weighted average profit made by other pipe producers in the country of export on sales of goods of the same general category as the goods sold to the importer in Canada.

[98] Export prices were determined pursuant to section 24 of SIMA, based on ADPICO's selling prices to the importer in Canada, adjusted by deducting all costs, charges and expenses incurred in preparing the goods for shipment to Canada and resulting from the exportation and shipment of the goods.

¹¹ Exhibits D 126 Pro, 131 Pro, 171 Pro, 232 Pro, 234 Pro & 248 Pro

[99] The total normal value was compared with the total export price for all subject goods imported into Canada during the POI. The goods exported to Canada by ADPICO were dumped by a weighted average margin of dumping of 8.4%, expressed as a percentage of the export price.

United Arab Emirates – Conares Metal Supply Ltd.

[100] Conares Metal Supply (Conares), located in Dubai, UAE, is a producer and exporter of carbon steel welded pipe to Canada. Conares was established in 2000 and is a privately-held limited liability company.¹²

[101] For the purposes of the final determination, normal values for the goods sold to the importer in Canada were determined in accordance with section 15 where possible as there were sufficient domestic sales of like goods to permit a proper comparison with the sales of the goods to the Canadian importer. Adjustments were made to the domestic selling prices for delivery costs included in the selling price in accordance with section 7 of the SIMR.

[102] Where normal values could not be determined under section 15 by reason that there were not such a number of sales of like goods that complied with all the terms and conditions referred to in section 16 of SIMA, normal values were determined pursuant to paragraph 19(b) of SIMA. The cost of production was determined in accordance with subparagraph 11(1)(a)(i) of the SIMR, based on the verified cost data relating to the exported goods, while a reasonable amount for administrative, selling and all other costs was determined in accordance with subparagraph 11(1)(c)(i) of the SIMR. The amount for profit was determined in accordance with subparagraph 11(1)(b)(ii) of the SIMR based on the weighted average profit made on Conares' domestic sales of goods of the same general category.

[103] Export prices were determined pursuant to section 24 of SIMA, based on Conares' selling prices to the importer in Canada, adjusted by deducting all costs, charges and expenses incurred in preparing the goods for shipment to Canada and resulting from the exportation and shipment of the goods.

[104] The total normal value was compared with the total export price for all subject goods imported into Canada during the POI. The results of the dumping investigation show that the subject goods exported by Conares to Canada during the POI were not dumped.

United Arab Emirates - Ajmal Steel Tubes and Pipes Industries LLC

[105] One other exporter provided a response to the CBSA's RFI that could not be used for calculating normal values in this investigation.

¹² Exhibits D 99 Pro, 131 Pro, 163 Pro & 245 Pro

[106] Ajmal Steel Tubes and Pipes Industries LLC (Ajmal), a producer of ERW black and hot-dipped galvanized tubes and pipes located in Mussafah, Abu Dhabi, provided a response to the CBSA's dumping RFI. However, despite repeated requests from the CBSA, the company did not provide the bases it used for allocating costs nor could it reconcile certain costs to the audited financial statements.¹³

[107] As such, Ajmal's normal values were determined in accordance with subsection 29(1) of SIMA, as in the opinion of the President, sufficient information has not been furnished or is not available to enable the determination of normal value as provided in sections 15 to 23 of the Act. In accordance with the ministerial specification, the normal values of the goods sold to the importer in Canada were determined by advancing the export prices of the goods as determined under section 24 of SIMA by the highest amount by which the normal value exceeded the export price on an individual transaction (54.2%) for a cooperative exporter.

[108] Export prices were determined pursuant to section 24 of SIMA, based on Ajmal's selling price to the importer in Canada, adjusted to take into account all costs, charges and expenses incurred in preparing the goods for shipment to Canada and resulting from the exportation and shipment of the goods.

[109] The total normal value was compared with the total export price for all subject goods imported into Canada during the POI. The goods exported to Canada by Ajmal were dumped by a weighted average margin of dumping of 54.2%, expressed as a percentage of the export price.

All Other Exporters - Margin of Dumping

[110] For all other exporters that did not provide the requested information during the course of the dumping investigation, normal values were determined in accordance with subsection 29(1) of SIMA, as in the opinion of the President, sufficient information has not been furnished or is not available to enable the determination of normal value as provided in sections 15 to 23 of the Act. In accordance with the ministerial specification, the normal values of the goods sold to the importer in Canada were determined by advancing the export prices of the goods as determined under section 24 of SIMA by the highest amount by which the normal value exceeded the export price on an individual transaction (54.2%) for a cooperative exporter.

[111] For all of the other exporters, import pricing information available from the CBSA's internal information systems was used for the purposes of determining export price.

[112] The subject goods exported to Canada by all other exporters during the POI were found to be dumped by a margin of dumping of 54.2%, expressed as a percentage of export price.

¹³ Exhibits D 133 Pro & 252 Pro

Summary of Results - Dumping

[113] The following table summarizes the results of the dumping investigation respecting all subject goods released into Canada during the POI.

Margin of Dumping and Volume of Dumped Goods January 1, 2011 to December 31, 2011

Country	Volume of Dumped Goods as a Percentage of Country Imports	Weighted Average Margin of Dumping	Volume of Country Imports as a Percentage of Total Imports	Volume of Dumped Goods as a Percentage of Total Imports
Chinese Taipei	100.0%	8.9%	18.9%	18.9%
India	100.0%	53.9%	9.5%	9.5%
Oman	100.0%	54.2%	4.3%	4.3%
Republic of Korea	100.0%	54.2%	7.0%	7.0%
Thailand	100.0%	6.5%	12.8%	12.8%
Turkey	1.4%	0.8%	12.6%	0.2%
UAE	69.1%	17.9%	7.2%	5.0%

REPRESENTATIONS CONCERNING THE DUMPING INVESTIGATION

[114] Following the October 2, 2012 close of the record, case arguments with respect to the dumping investigation were received from counsel representing Novamerican Steel Inc. and Bolton Steel Tube Co. Ltd. (the Complainants) and the exporter, Borusan Mannesmann Boru Sanayi ve Ticaret (Borusan). Reply submissions were filed on behalf of: the Complainants; and exporters Borusan, Erbosan Erciyas Boru Sanayi ve Ticare (Erbosan), and Conares Metal Supply Ltd. (Conares).

[115] The issues raised by participants through the case arguments and reply submissions pertaining to the dumping investigation, as well as the CBSA's response to these issues, are provided in **Appendix 3**.

SUBSIDY INVESTIGATION

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

[117] 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.

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

[119] A “prohibited subsidy” is either 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, or is an export subsidy. An export subsidy is a subsidy, or portion of a subsidy, that is contingent, in whole or in part, on export performance. An “enterprise” is defined as including a group of enterprises, an industry and a group of industries. These terms are all defined in section 2 of SIMA.

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

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

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

[122] Financial contributions provided by State-Owned Enterprises (SOEs) may also be considered to be provided by the government for purposes of this investigation. An SOE may be considered to constitute “government” for the purposes of subsection 2(1.6) of SIMA if it possesses, exercises, or is vested with governmental authority. Without limiting the generality of the foregoing, the CBSA may consider the following factors as indicative of whether the SOE meets this standard:

- (a) the SOE is granted or vested with authority by statute;
- (b) the SOE is performing a government function;
- (c) the SOE is meaningfully controlled by the government; or
- (d) some combination thereof.

[123] The following presents the results of the CBSA’s investigation into the alleged subsidizing of certain carbon steel welded pipe originating in the Republic of India, the Sultanate of Oman and the United Arab Emirates.

REPUBLIC OF INDIA

[124] At the initiation of the investigation, the CBSA sent subsidy RFIs to the Government of the Republic of India (GOI), as well as to all known exporters/producers and identified vendors of certain carbon steel welded pipe in India. The GOI was also requested to forward the RFIs to all subordinate levels of government that had jurisdiction over the exporters. As well, the exporters were requested to forward a portion of the RFI to their input suppliers, who were asked to respond to questions pertaining to their legal characterization as SOEs.

[125] In conducting its investigation, the CBSA requested information in respect of 36 identified programs, as listed in **Appendix 2**, which were grouped into the following seven categories:

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

[126] Comprehensive and timely responses to the subsidy RFI were received from the GOI and from one exporter, Manu International. A second exporter in India, Surya Roshni Ltd. (Surya), submitted a late response to the original subsidy RFI that was found to be lacking in certain important information, and did not respond to a supplemental RFI. As a result, for the purposes of the final determination, Surya is included under the “India Other Exporters” subsidy rate.

[127] In its original response to the CBSA's Subsidy RFI, the GOI provided general descriptions of the alleged subsidy programs identified by the CBSA and submitted copies of the relevant supporting laws, regulations and policies.

[128] Of the 36 alleged subsidy programs identified at the initiation of the investigation, the GOI confirmed the existence of 32 of them. The GOI stated that it did not operate or have specific information pertaining to three of the named programs, although it did not submit evidence to indicate that such benefits do not exist and/or are not provided to exporters of subject goods. The GOI also maintained that a fourth identified program, the *Duty Entitlement Passbook Scheme* (DEPB), had been terminated on October 1, 2011.

[129] During the final phase of the investigation, the CBSA sought additional information and/or clarification on the previously identified subsidy programs, as well as on a possible new subsidy program introduced as a replacement for the terminated DEPB. In its supplemental response, the GOI submitted additional information on certain programs, but did not provide all the information that was requested in regard to the previously identified programs or the replacement program for the DEPB. In addition, the GOI was not able to provide the information requested by the CBSA respecting the specificity of the non-export-oriented programs.

[130] Given that the GOI has not provided sufficient information to eliminate any of the originally identified programs, the CBSA has determined that 36 potentially actionable subsidy programs are available to exporters of certain carbon steel welded pipe in India. An outline of the investigation results respecting India is provided below.

Results of the Subsidy Investigation - India

Manu International

[131] Of the 36 subsidy programs investigated by the CBSA, three programs were determined to be actionable subsidies provided to Manu International during the POI. The total amount of subsidy for Manu International in respect of these three programs was determined in the prescribed manner pursuant to subsection 30.4 (1) of SIMA and found to equal 3,577 Indian rupees per metric ton (INR/MT), or 4.6 %, when expressed as a percentage of the export price.

[132] The three programs used by Manu International are described as per the following:

Category III: Grants
Program 23: Focus Product Scheme

[133] This program was established as per Chapter 3.15 of India's Foreign Trade Policy (2009-2014), which was issued by the Ministry of Commerce and Industry in 2010. The stated objective of the program is to encourage the export of products that have high export or employment potential, so as to offset any infrastructure inefficiencies and costs associated with the marketing of these products. Under this program, exports of certain notified products to all countries are entitled to a duty credit equivalent to 2% of the FOB value of exports made as of August 27, 2009.

[134] Information obtained during the investigation has led to the determination that the Focus Product Scheme is a financial contribution pursuant to paragraph 2(1.6)(b) of SIMA, in that amounts that would otherwise be owing and due to the government are reduced and/or exempted, and would confer a benefit to the recipient equal to the amount of the reduction/exemption .

[135] It is determined to be a specific subsidy under paragraph 2(7.2)(b) of SIMA as it is contingent upon export performance and therefore constitutes a prohibited subsidy as defined in subsection 2(1) of SIMA.

[136] The amount of subsidy was calculated in accordance with subsection 27.1(2) of the SIMR, in that the financial contribution to the exporter, in respect of any amount of duty owed and due to the government that was deducted, was treated as a grant under section 27 of the SIMR. This sum was then allocated over the total quantity of subsidized goods to which the grant was applicable, to yield an amount of subsidy equal to 1,680/MT, or 2.1% when expressed as a percentage of export price.

Category IV: Preferential Loan Programs;
Program 25: Pre-shipment & Post Shipment Export Financing

[137] This program was established by the Reserve Bank of India (RBI) in 1968, with an intention to make short-term financing available to exporters at internationally comparable and competitive interest rates. At the same time, the program sought to ensure that the rates were above the banks' cost of financing for short-term loans of the same duration in the relevant currency.

[138] Pre-shipment financing is issued by a financial institution when a seller requires working capital respecting the goods prior to shipment. Post shipment financing is a type of loan provided by a financial institution to an exporter or seller against a shipment that has already been made. Under the RBI's program, Manu International was able to receive export credit at a preferential interest rate.

[139] Information obtained during the investigation has led to the determination that preferential Pre-shipment & Post-shipment Export Financing is a financial contribution pursuant to paragraph 2(1.6)(b) of SIMA, in that amounts that would otherwise be owing and due to the government are reduced and/or exempted, and would confer a benefit to the recipient equal to the amount of the reduction/exemption. The GOI's financial contribution in this instance is established under paragraph 2(1.6)(d) of SIMA, where the GOI permits or directs a non-governmental body to carry out an activity referred to in paragraph 2(1.6)(b) of SIMA.

[140] It is determined to be a specific subsidy under paragraph 2(7.2)(b) of SIMA as it is contingent upon export performance and therefore constitutes a prohibited subsidy as defined in subsection 2(1) of SIMA.

[141] The amount of subsidy was calculated in accordance with section 28 of the SIMR, as the amount by which the interest paid on the preferential loans was lower than the interest that would have been payable for comparable commercial loans. This sum was allocated over the quantity of subject goods for which Manu International had availed itself of the preferential loans, to yield an amount of subsidy equal to 615/MT, or 0.8% when expressed as a percentage of export price.

Category V: Relief from Duties and Taxes on Materials and Machinery
Program 29: Duty Entitlement Pass Book Scheme

[142] The objective of this program was to neutralize the incidence of customs duty on the import content of exported products through the granting of duty credits. The program was administered by the Directorate General of Foreign Trade.

[143] According to Chapter 4 of the Foreign Trade Policy (2009 – 2014), duty credit under this program was determined by calculating the deemed import content of the exported product through the use of Standard Input Output Norms that took into account the value added to the exported product.

[144] Information obtained during the investigation has led to the determination that the Duty Entitlement Passbook Scheme is a financial contribution pursuant to paragraph 2(1.6)(b) of SIMA, in that amounts that would otherwise be owing and due to the government are reduced and/or exempted, and would confer a benefit to the recipient equal to the amount of the reduction/exemption.

[145] It is determined to be a specific subsidy under paragraph 2(7.2)(b) of SIMA as it is contingent upon export performance and therefore constitutes a prohibited subsidy as defined in subsection 2(1) of SIMA.

[146] The amount of subsidy was calculated in accordance with subsection 27.1(2) of the SIMR, in that the financial contribution to the exporter, in respect of any amount of duty owed and due to the government that was deducted, was treated as a grant under section 27 of the SIMR. This sum was then allocated over the total quantity of subsidized goods to which the grant was applicable, to yield an amount of subsidy equal to 1,283/MT, or 1.6% when expressed as a percentage of export price..

Other Exporters - India

[147] The CBSA has not received sufficient information to enable the calculation of specific amounts of subsidy for other exporters of certain carbon steel welded pipe in India. As a result, with respect to the exporters in India from whom information was requested but not provided, the CBSA has determined an amount of subsidy under a ministerial specification pursuant to subsection 30.4(2) of SIMA based on:

- i. the amount of subsidy for each of the 3 subsidy programs, as found at the final determination, for the cooperative exporter, Manu International; plus,
- ii. the lowest amount of subsidy for the 3 subsidy programs in (i), applied to each of the remaining 33 potentially actionable subsidy programs, for which information is not available or has not been provided at the final determination.

[148] This determination is equal to 23,872 INR/MT, or 53.1% of the export price of the subject goods imported into Canada during the POI.

Amount of Subsidy - India

[149] On the basis of information obtained during the investigation, as verified and analyzed by the CBSA, it is determined that 100% of the subject goods imported from India during the POI were subsidized by a weighted average amount of subsidy of 52.4%, when expressed as a percentage of the export price.

SULTANATE OF OMAN

[150] At the initiation of the investigation, the CBSA sent subsidy RFIs to the Government of the Sultanate of Oman (GSO), as well as to the the sole exporter of subject goods in Oman, Al Jazeera Steel Products Company SAOG (Al Jazeera). The GSO was also requested to forward the RFIs to all subordinate levels of government that had jurisdiction over the exporter.

[151] In conducting its investigation, the CBSA requested information in respect of the following six potential subsidy programs:

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

[152] The Government of the Sultanate of Oman (GSO) submitted a comprehensive response to the CBSA's RFI on June 25, 2012, which provided detailed information on the alleged subsidy programs, along with copies of the relevant supporting laws, regulations and policies. On July 24, 2012, the CBSA also received a substantially complete response to the subsidy RFI from Al Jazeera.

[153] The CBSA reviewed the submissions received from the GSO and Al Jazeera, and forwarded them both supplemental subsidy RFIs, to which replies were received on September 24, 2012. An outline of the investigation results respecting Oman is provided below.

Results of the Subsidy Investigation - Oman

[154] On the basis of information obtained during the investigation, the CBSA carried out the following analysis of the identified subsidy programs in Oman:

- Program 1: Tariff Exemptions on imported equipment, machinery, raw materials and packaging material

[155] Customs duty exemption for machinery, equipment, spare parts, raw materials, semi-manufactured materials and packing material is conferred to Al Jazeera through a joint program administered by all governments in the Gulf Cooperation Council. Entitlement to these exemptions is dependent on a company's holding an industrial licence granted by the GSO. The GSO provided substantial evidence indicating that eligibility either for an industrial licence or for duty exemption under this program is not restrictive in any manner that would render the subsidy specific pursuant to the provisions of subsections 2(7.2) or 2(7.3) of SIMA.¹⁴ As a result, the CBSA has determined that the subsidies provided to Al Jazeera under the GSO's tariff exemption regime are not actionable.

¹⁴ Exhibit S 147 Pro, SFR2,SFR3,SFR4

Program 2: Land and buildings for less than fair market value

[156] Al Jazeera is located in the Sohar Industrial Estate of Oman, which is not in a Free Trade Zone. The company constructed and continues to operate its plants on land leased from the GSO's Public Establishment for Industrial Estates. Information submitted by the GSO and Al Jazeera indicates that the exporter pays rent for this land at the standard rate designated for companies in possession of an industrial licence both inside and outside the Sohar Industrial Estate.¹⁵ As a result, for purposes of the final determination, the CBSA finds that Al Jazeera has not received any actionable subsidies by obtaining land or buildings at less than fair market value.

Program 3: Electricity, water and natural gas for less than fair market value

[157] Similarly as in the case of land lease rates, Al Jazeera pays electricity, water, and natural gas at the standard rate designated for companies in possession of an industrial licence both inside and outside the Sohar Industrial Estate.¹⁶ Therefore, for purposes of the final determination, the CBSA finds that Al Jazeera has not received any actionable subsidies by purchasing utilities at less than fair market value.

Program 4: Soft loans for industrial projects provided by the Oman Development Bank

[158] Information provided by Al Jazeera and the GSO indicates that Al Jazeera has not received any soft (i.e. low-interest) loans from the Oman Development Bank at any time prior to or during the POI. However, during the POI, the company was still paying off a low-interest loan provided through a comparable predecessor program run by Oman's Ministry of Commerce and Industry. Information submitted indicates that the 0.013% subsidy Al Jazeera received through this program was non-specific and is therefore not actionable.¹⁷

Program 5: Post-shipment financing scheme provided by the Export Credit Guarantee Agency

[159] Oman's Export Credit Guarantee Agency (ECGA) subsidizes 1% of the interest rate applicable to the export sales that it ensures through a Post-shipment Financing Scheme. During the POI, Al Jazeera received financial contributions from the ECGA, which conferred an amount of subsidy equal to 0.027 Omani Rials per metric ton (OMR/MT) or 0.008% of the export price of the goods.¹⁸

[160] Information obtained during the investigation has led to the determination that the Post-shipment Financing Scheme provided by Oman's ECGA is actionable as a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA, in that it involves the direct transfer of funds or liabilities or the contingent transfer of funds or liabilities.

¹⁵ Exhibit S148 NC, SFR 5; Exhibit S 94 NC at 27

¹⁶ Exhibit S148 NC, SFR 5; Exhibit S 93 Pro, Annex 30; Exhibit S 093 Pro, Annex 31; Exhibit S 149 Pro, SFR7

¹⁷ Exhibit S 148 NC, pages 7-13; Exhibit S 149 Pro, pages 4-8

¹⁸ Exhibit S 147 Pro, page 14

[161] It is determined to be a specific subsidy under paragraph 2(7.2)(b) of SIMA as it is contingent upon export performance and therefore constitutes a prohibited subsidy as defined in subsection 2(1) of SIMA.

Program 6: Pre-shipment credit guarantees provided by the
Export Credit Guarantee Agency

[162] Al Jazeera had not received any preferential loans through the Pre-shipment Financing Scheme provided by the Export Credit Guarantee Agency of Oman.

Amount of Subsidy - Oman

[163] On the basis of information obtained during the investigation, as verified and analyzed by the CBSA, it is determined that 100% of the subject goods imported from Oman during the POI were subsidized by a weighted average amount of subsidy of 0.008%, when expressed as a percentage of the export price.

UNITED ARAB EMIRATES

[164] At the initiation of the investigation, the CBSA sent subsidy RFIs to the Government of the United Arab Emirates (GUAEE) as well as to all identified exporters of certain carbon steel welded pipe in the UAE. The GUAEE was also requested to forward the RFIs to all subordinate levels of government that had jurisdiction over the exporters.

[165] In conducting its investigation, the CBSA requested information respecting the following six potential subsidy programs:

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

[166] The GUAEE submitted a substantially complete response to the CBSA's Subsidy RFI on July 5, 2012, as well as several supplemental supporting documents on July 10, 2012. The CBSA reviewed this submission and forwarded the GUAEE a supplemental subsidy RFI on July 31, 2012, to which a reply was received on August 14, 2012.

[167] Similarly, substantially complete Subsidy RFI responses were received from three exporters in the UAE: Abu Dhabi Metal Pipes & Profiles Industries Complex LLC (ADPICO); Ajmal Steel Tube and Pipes Industries LLC (Ajmal); and Conares Metal Supply Ltd. (Conares). The CBSA reviewed the submissions received from these responding exporters and forwarded them supplemental Subsidy RFIs, to which responses were received by the end of August, 2012.

[168] CBSA officers subsequently conducted on-site verification of the information received from the GUAE in meetings held with government officials at the premises of the GUAE Ministry of Economy in Dubai on September 6, 2012. Additional support documents were provided to the CBSA at that time as well as immediately prior to the closing of the record on October 2, 2012.

[169] The CBSA also conducted on-site verification meetings at the premises of UAE exporters ADPICO and Conares in early September 2012, at which time further support documents were provided.

[170] An outline of the investigation results respecting the UAE is provided below.

Results of the Subsidy Investigation - UAE

Program 1: Income Tax exemptions

[171] Information provided by the GUAE and by the exporters, as well as that obtained through CBSA research, confirmed that the UAE does not levy general income taxes either on corporations or on individuals. Income taxes are paid only by foreign-owned banks and by petroleum companies.¹⁹ As a result, income tax exemptions granted to exporters of subject goods in the UAE are not considered specific pursuant to the provisions of subsections 2(7.2) or 2(7.3) of SIMA, and are, therefore, not actionable.

Program 2: Duty exemptions on imports and exports

[172] Duty exemptions for industrial enterprises in the UAE are conferred through the same Gulf Cooperation Council program that is in effect in Oman. Substantial data and supporting documentation were provided indicating that eligibility for duty exemption under this program is not restrictive in any manner that would render the subsidy specific pursuant to the provisions of subsections 2(7.2) or 2(7.3) of SIMA.²⁰ Therefore the duty exemptions granted to UAE exporters of certain carbon steel welded pipe are not considered to be actionable subsidies.

[173] At the same time, information was provided indicating that exporters of subject goods in the UAE are not exempted from paying other types of applicable customs fees.²¹

¹⁹ Exhibit S 155 NC, Tabs 1&4

²⁰ Exhibit S 081 NC, pages 12-13; Exhibit S 159 Pro, Exhibit 10

²¹ Exhibit S 151 Pro, SVE 13&14; Exhibit S 144 Pro, VE-46; Exhibit S 114 Pro, Attachment 23

Programs 3 & 4: Electricity and/or water for less than fair market value

[174] The provision of electricity and water in the UAE is administered by three agencies: the Dubai Electricity and Water Authority; the Abu Dhabi Distribution Company; and the Federal Electricity and Water Authority (responsible for the remaining Emirates).²² Information and supporting documents were provided to confirm that the exporters of subject goods all paid for electricity and water either at or above the general rates that applied to all industrial companies, regardless of sector or location.²³ As a result, for purposes of the final determination, the CBSA finds that exporters of carbon steel welded pipe in the UAE had not received any actionable subsidies by obtaining utilities at less than fair market value.

Program 5: Land and/or buildings for less than fair market value

[175] The co-operating exporters were all located either in free trade zones or special industrial areas. However, information and supporting documents provided by the exporters and the GUAE confirmed that neither land nor buildings are provided to enterprises located in these areas at preferential rates. Rather, the evidence indicated that prices there are set at market rates, and tend to be higher than those on the outside, where fewer government services are provided.²⁴ As a result, for purposes of the final determination, the CBSA finds that exporters of carbon steel welded pipe in the UAE had not received any actionable subsidies by obtaining land or buildings at less than fair market value.

Program 6: Preferential export lending provided by the Emirates Industrial Bank

[176] Information obtained from the GUAE indicated that the Emirates Industrial Bank, now called the Emirates Development Bank, had not provided loans to any exporters of subject goods either before or during the POI.²⁵ This was supported through an examination of the records of the responding exporters, which confirmed that no exporter had received any preferential lending from any government-owned bank whatsoever.²⁶ As a result, for purposes of the final determination, the CBSA finds that exporters of carbon steel welded pipe in the UAE had not received any actionable subsidies through preferential lending.

Determination of the Amount for Subsidy - UAE

[177] Information provided by the government and the responding exporters in the UAE, which was further researched and verified by the CBSA, has led to the conclusion that no actionable subsidies were conferred to UAE exporters of certain carbon steel welded pipe during the POI.

²² Exhibit S 159 Pro, VE 1,5&6

²³ Exhibit S 114 Pro, attachments 24&25; Exhibit S 144 Pro, VE 49; Exhibit S 151 Pro, SVE 3&5

²⁴ Exhibit S 158 NC,VE-4; Exhibit S 160 NC, exhibits 1&6

²⁵ Exhibit S 160 NC, exhibit 8

²⁶ Exhibit S 114 Pro, attachment 1; Exhibit S 089 Pro, attachment D28; Exhibit S 151 Pro, SVE 10&11

SUMMARY OF RESULTS – SUBSIDY

Amounts of Subsidy January 1, 2011 to December 31, 2011

Country	Weighted Average Amount of Subsidy*
India	52.4%
Oman	0.008%
UAE	0.0%

*expressed as a percentage of the export price

[178] In making a final determination of subsidizing under paragraph 41(1)(a) of SIMA, the President must be satisfied that the subject goods have been subsidized and that the amount of subsidy on the goods of a country is not insignificant. According to subsection 2(1) of SIMA, an amount of subsidy that is less than 1% of the export price of the goods is considered insignificant.

[179] As shown in the above table, the investigation results indicate that the subject goods originating in or exported from the UAE have not been subsidized.

[180] The investigation results also indicate that the amount of subsidy on the goods from Oman is insignificant.

[181] With respect to India, it must be further noted that according to section 41.2 of SIMA, the President is required to take into account Article 27.10 of the *WTO Agreement on Subsidies and Countervailing Measures* when conducting a subsidy investigation. This provision stipulates that a countervailing duty investigation involving a product from a developing country should be terminated as soon as the authorities determine that the overall level of subsidies granted upon the product in question does not exceed 2% of its value calculated on a per unit basis.

[182] SIMA does not define or provide any guidance regarding the determination of a “developing country” for purposes of Article 27.10 of the *WTO Agreement on Subsidies and Countervailing Measures*. As an administrative alternative, the CBSA refers to the *Development Assistance Committee List of Official Development Assistance Recipients* (DAC List of ODA Recipients) for guidance.²⁷ As India is included in the listing, the CBSA has extended developing country status to India for purposes of this investigation.

²⁷ The Organization for Economic Co-operation and Development, DAC List of ODA Recipients as at January 1, 2012, the document is available at: <http://www.oecd.org/development/aidstatistics/48858205.pdf>

[183] Notwithstanding, as indicated in the table below, the amount of subsidy found respecting India during this investigation is not insignificant.

**Amount of Subsidy and Volume of Subsidized Goods
January 1, 2011 to December 31, 2011**

Country	Subsidized Goods as a Percentage of Country Imports	Weighted Average Amount of Subsidy*	Country Imports as a Percentage of Total Imports	Subsidized Goods as a Percentage of Total Imports
India	100.0%	52.4%	9.5%	9.5%

*expressed as a percentage of the export price

[184] For purposes of the preliminary determination of subsidizing, the President has responsibility for determining whether the actual or potential volume of subsidized goods is negligible. After a preliminary determination of 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 subsidized goods from a country is negligible.

REPRESENTATIONS CONCERNING THE SUBSIDY INVESTIGATION

[185] Following the October 2, 2012 close of the record, case arguments respecting the subsidy investigation were received from counsel representing the Complainants. Reply submissions were filed on behalf of Conares and the GSO.

[186] The issues raised by participants through the case arguments and reply submissions concerning to the subsidy investigation, as well as the CBSA's response to these issues, are provided in **Appendix 3**.

DECISIONS

[187] On the basis of the results of the dumping investigation, the President is satisfied that certain carbon steel welded pipe originating in or exported from Chinese Taipei, India, Oman, the Republic of Korea, Thailand and the UAE have been dumped and that the margin of dumping is not insignificant. Consequently, on November 9, 2012, the President made a final determination of dumping pursuant to paragraph 41(l)(a) of SIMA.

[188] On the basis of the results of the subsidy investigation, the President is satisfied that certain carbon steel welded pipe originating in or exported from India has been subsidized and that the amounts of subsidy are not insignificant. As a result, on November 9, 2012, the President made a final determination of subsidizing pursuant to paragraph 41(1)(a) of SIMA.

[189] The President is also satisfied that the margin of dumping with respect to certain carbon steel welded pipe originating in or exported from Turkey is insignificant. As a result, on November 9, 2012, the President terminated the dumping investigation with respect to these goods pursuant to paragraph 41(1)(b) of SIMA.

[190] The President is also satisfied that certain carbon steel welded pipe originating in or exported from Oman have been subsidized but that the amount of subsidy is insignificant and that the goods from the UAE have not been subsidized. As a result, on November 9, 2012, the President terminated the subsidy investigation with respect to these goods pursuant to paragraph 41(1)(b) of SIMA.

[191] **Appendix 1** contains a summary of the margins of dumping and amounts of subsidy relating to the final determinations.

FUTURE ACTION

[192] The provisional period began on August 13, 2012, and will end on the date the Tribunal issues its finding. The Tribunal is expected to issue its decision by December 11, 2012. Subject goods imported during the provisional period will continue to be assessed provisional duties as determined at the time of the preliminary determinations. For further details on the application of provisional duties, refer to the *Statement of Reasons* issued for the preliminary determinations, which is available on the CBSA website at www.cbsa-asfc.gc.ca/sima-lmsi.

[193] As a result of the President's decision to terminate the dumping investigation concerning certain carbon steel welded pipe from Turkey and terminate the subsidy investigations concerning certain carbon steel welded pipe from Oman and the UAE, all provisional dumping duties that have been collected from Turkey and all provisional countervailing duties that have been collected or security posted, from Oman and the UAE will be returned to the importers.

[194] If the Tribunal finds that the dumped and subsidized goods have not caused injury and do not threaten to cause injury, all proceedings relating to these investigations concerning the six named countries will be terminated. In this situation, all provisional duties paid or security posted by importers will be returned.

[195] If the Tribunal finds that the dumped and subsidized goods have caused injury, the anti-dumping and/or countervailing duties payable on subject goods released by the CBSA during the provisional period will be finalized pursuant to section 55 of SIMA. Imports released by the CBSA after the date of the Tribunal's finding will be subject to anti-dumping duty equal to the margin of dumping and countervailing duty equal to the amount of subsidy.

[196] The importer in Canada shall pay all applicable duties. If the importers of such goods do not indicate the required SIMA code or do not correctly describe the goods in the customs documents, an administrative monetary penalty could be imposed. The provisions of the *Customs Act*²⁸ apply with respect to the payment, collection or refund of any duty collected under SIMA. As a result, failure to pay duty within the prescribed time will result in the application of interest.

[197] In the event of an injury finding by the Tribunal, normal values and amounts of subsidy have been provided to the co-operating exporters for future shipments to Canada and these normal values and amounts of subsidy would come into effect the day after an injury finding. Information regarding normal values of the subject goods should be obtained from the exporter.

[198] Exporters of subject goods who did not provide sufficient information in the dumping investigation will have normal values established by advancing the export price by 54.2% based on a ministerial specification pursuant to section 29 of SIMA. Anti-dumping duty will apply based on the amount by which the normal value exceeds the export price of the subject goods. Similarly, exporters of subject goods who did not provide sufficient information in the subsidy investigation will be subject to a countervailing duty amount of 23,872 Indian Rupees per metric ton, based on a ministerial specification pursuant to subsection 30.4(2) of SIMA.

[199] In the case of India, both anti-dumping and countervailing duties may apply to the same goods. Under section 10 of SIMA, only the amount by which the margin of dumping exceeds the countervailing duty attributable to export subsidies will be levied as anti-dumping duty.

RETROACTIVE DUTY ON MASSIVE IMPORTATIONS

[200] Under certain circumstances, anti-dumping and/or countervailing duty can be imposed retroactively on subject goods imported into Canada. When the Tribunal conducts its inquiry on 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.

[201] In respect of importations of subsidized goods that have caused injury, this provision is only applicable where the President 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. As defined in subsection 2(1) of SIMA, a “prohibited subsidy” is either an export subsidy or a subsidy or portion of subsidy that is contingent, in whole or in part, on the use of goods that are produced or that originate in the country of export.

²⁸ *Customs Act* R.S.C. 1985

PUBLICATION

[202] A notice of these final determinations and terminations of dumping and subsidizing will be published in the *Canada Gazette* pursuant to paragraph 41(3)(a) of SIMA.

INFORMATION

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

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

Telephone: Patrick Mulligan 613-952-6720
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Fax: 613-948-4844

Email: SIMARegistry@cbsa-asfc.gc.ca

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



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

Attachments

APPENDIX 1 – SUMMARY OF MARGINS OF DUMPING AND AMOUNTS OF SUBSIDY

Exporter	Margin of Dumping*	Amount of Subsidy (per Metric Tonne)	Amount of Subsidy*
Chinese Taipei			
Chung Hung Steel Corporation	0.005%		
Shin Yang Steel Co., Ltd.	0.4%		
Yieh Phui Enterprise Co., Ltd.	4.7%		
All Other Exporters	54.2%		
Chinese Taipei Overall	8.9%		
Republic of India			
Manu International	11.6%	3,577 INR	4.6%
All Other Exporters	54.2%	23,872INR	53.1%
Republic of India Overall	53.9%		52.4%
Sultanate of Oman			
Al Jazeera Steel Products Company SAOG	54.2%	.027 OMR	0.008%
Sultanate of Oman Overall	54.2 %		
Republic of Korea			
All Exporters	54.2%		
Republic of Korea Overall	54.2%		
Thailand			
Pacific Pipe Public Company Limited	5.4%		
Saha Thai Steel Company Limited	3.8%		
All Other Exporters	54.2%		
Thailand Overall	6.5%		
Republic of Turkey			
Borusan Mannesmann Boru Sanayi ve Ticaret A.S.	0.0%		
Erbosan Erciya Boru Sanayii ve Ticaret A.S.	0.0%		
All Other Exporters	54.2%		
Republic of Turkey Overall	0.8%		
United Arab Emirates			
Abu Dhabi Metal Pipes & Profiles Industries Complex	8.4%		0.0%
Conares Metal Supply Ltd.	0.0%		0.0%
All Other Exporters	54.2%		0.0%
United Arab Emirates Overall	17.9%		

*Expressed as a percentage of export price.

INR – Indian Rupee

OMR – Omani Rials

APPENDIX 2 - SUBSIDY PROGRAMS IN INDIA INVESTIGATED BY THE CBSA

I. Special Economic Zones (SEZ)

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

II. Export Oriented Units (EOU)

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

III. Grants

- Program 14: Assistance to states for developing export infrastructure and allied activities
- Program 15: Market access initiative
- Program 16: Market development assistance
- Program 17: Meeting expenses for statutory compliances in buyer country for trade related matters
- Program 18: Towns of export excellence
- Program 19: Brand promotion and quality
- Program 20: Test houses
- Program 21: Export and trading houses
- Program 22: Focus market scheme
- Program 23: Focus product scheme
- Program 24: Research & development financial assistance

IV. Preferential Loan Programs

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

V. Relief from Duties and Taxes on Materials and Machinery

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

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

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

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

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

APPENDIX 3 - DUMPING AND SUBSIDY REPRESENTATIONS

The various representations made to the CBSA with respect to the dumping and subsidy investigations, including case arguments and reply submissions, are provided below. Following the case arguments and reply submissions is the CBSA's response to the issues raised. Case arguments were received from counsel representing Novamerican Steel Inc. and Bolton Steel Tube Co. Ltd. (the Complainants) and the exporter, Borusan Mannesmann Boru Sanayi ve Ticaret (Borusan). Reply submissions were filed on behalf of: the Complainants; exporters Borusan, Erbosan Erciyas Boru Sanayi ve Ticare (Erbosan), and Conares Metal Supply Ltd. (Conares); as well as the Government of the Sultanate of Oman (GSO).

Given that the CBSA's final determination supersedes any decision made at the preliminary determination stage of the investigation, the CBSA will only address issues raised within the context of the preliminary determination to the extent that these issues carry relevance for the final determination.

General Arguments Concerning the Dumping Investigation

Cost of galvanizing

Case Argument

The Complainants submit that the "CBSA should be very cautious when presented with the unusually low cost of galvanizing."²⁹ They further present the cost of zinc based on the London Metal Exchange and estimate the number of metric tonnes of galvanized pipes which should be produced by using one metric tonne of zinc. Their estimate is based on "the average of the Nova and Bolton figures."³⁰

Reply Submission

Counsel for Borusan states that the CBSA verified the company's galvanizing costs.³¹ Conares Metal Supply further submits that the CBSA should reject new evidence filed by the complainant as it was submitted on the closing of the record date on October 2, 2012, and cannot be verified for accuracy. Furthermore, this reply submission notes that "It is highly questionable why the data of Bolton Steel Tube Co. Ltd. was provided as representative of all producers everywhere."³²

²⁹ Case Arguments from Novamerican Steel Inc. and Bolton Steel Tube Co. Ltd. Exhibit 260, paragraph 1

³⁰ Case Arguments from Novamerican Steel Inc. and Bolton Steel Tube Co. Ltd. Exhibit 260, paragraph 4

³¹ Reply Submission from Borusan Mannesmann Boru Sanayi ve Ticaret, Exhibit 266, paragraph 2

³² Reply Submission from Conares Metal Supply, Exhibit 268, response to paragraph 36 and paragraphs 1-4

CBSA Response

The CBSA verified the information presented by the exporters during the investigation. As such, the CBSA is confident of the information provided by the exporters, which was subsequently used to calculate the respective normal values.

Insufficiency of or lack of supporting data upon which to calculate normal values

Case Argument

The Complainants submit that “full Request for Information (RFI) responses by all of an exporter’s Canadian importers are a critical prerequisite to the issuance of normal values.”³³

CBSA Response

There is no requirement under SIMA that an exporter’s unrelated Canadian importer(s) furnish a response to the RFI as a prerequisite to the CBSA calculating and issuing normal values to the exporter.

Profitability/conversion cost

Case Argument

The Complainants “request that CBSA fully satisfy itself that the exporters are presenting their full costs to produce pipe.”³⁴

Reply Submission

Counsel for Borusan notes that all reported raw material costs were verified by the CBSA.³⁵ Conares submits that the CBSA verified the information necessary to calculate the normal value during on site verification and found them to be satisfactory.³⁶

CBSA Response

The CBSA has verified the information presented by the exporters during the investigation and on-site verification and the CBSA is satisfied with the accuracy of the raw material costs.

³³ Case Arguments from Novamerican Steel Inc. and Bolton Steel Tube Co. Ltd. Exhibit 260, paragraph 5

³⁴ Case Arguments from Novamerican Steel Inc. and Bolton Steel Tube Co. Ltd. Exhibit 260, paragraph 6

³⁵ Reply Submission from Borusan Mannesmann Boru Sanayi ve Ticaret, Exhibit 266, paragraph 4

³⁶ Reply Submission from Conares Metal Supply, Exhibit 268, Response to paragraphs 34-35

Company Specific Arguments Concerning the Dumping Investigation

Abudhabi Metal Pipes and Profiles Industrial Complex LLC (ADPICO)

Case Argument

The Complainants submit that ADPICO's suggestion that A53 grade A may be compared to any other standard pipe including A500 grade A in its response to SRFI #1 is too broad and should not be accepted. They also argue that if square and rectangular pipe are included in ADPICO's response, the CBSA should determine that the exporter's data is not accurate and complete and should not be relied upon in the calculations of normal value.

CBSA Response

The CBSA verified the information presented by the company and removed the square and rectangular pipes from the information submitted. The normal values are based on the revised information.

Ajmal Steel Tubes and Pipe Industries LLC (Ajmal)

Case Argument

The Complainants submit that the CBSA is not in a position to calculate a company-specific rate or company-specific normal values for this exporter since the exporter did not respond to the CBSA's request in a timely manner.

CBSA Response

As part of the final determination of dumping, the President formed the opinion that sufficient information had not been furnished or was not available to enable the determination of normal values for Ajmal as provided in sections 15 to 28 of SIMA. As such, normal values for Ajmal are determined in accordance with the ministerial specification, pursuant to subsection 29(1) of SIMA.

Borusan Mannesmann Boru Sanayi ve Ticaret A.S. (Borusan)

Case Arguments

In their case brief, the Complainants submit that the CBSA should carefully review the Selling, General and Administrative (SG&A) ratio, like goods analysis, accuracy of the ocean freight, and full costs of standard pipe production for Borusan.

Counsel for Borusan argues that a duty drawback adjustment is justified under section 10 of the SIMR. Counsel also states that the exchange rate methodology should be based on the Bank of Canada exchange rate prevailing on the date of sale and that neither the normal value nor the export price should be converted to Canadian dollars; the only conversion should be converting the export price, expressed in US dollars, to Turkish lira.

Reply Submissions

The Complainants' reply submission focuses on the case brief provided by Borusan. The reply submission states that Borusan's economic-theory approach to section 10 of SIMR is not consistent with the language of the provision itself. It further states that the CBSA has the authority and duty to consider the use of date of receipt of payment for the exchange rate.

The reply submission presented by Borusan argues that the SG&A ratio, like goods analysis, accuracy of the ocean freight, and revised full costs of standard pipe production were all verified by the CBSA during onsite verification.

CBSA Response

The CBSA thoroughly examined all costs including SG&A ratio, ocean freight, and full costs of standard pipe production provided by Borusan in its original submissions and during the course of the on-site verification conducted at the company's premises. Regarding the selection and reporting of like goods, the CBSA is satisfied that the proper identical and similar like goods have been used for the purpose of calculating normal values for the goods exported to Canada by Borusan during the POI.

According to the CBSA, the duty drawback adjustment is not justified under section 10 of the SIMR. Section 10 of the SIMR requires an adjustment to the selling prices of like goods only in instances where taxes or duties are borne by like goods (or parts thereof) and are not borne by the goods sold to the importer in Canada. As this was not the case regarding the like goods used by the CBSA to calculate normal values, no adjustment to the domestic selling prices was warranted.

With regards to the issue of exchange rates, the CBSA has converted normal values, expressed in Turkish lira, and export prices, expressed in US dollars, to Canadian dollars based on the date of sale for SIMA purposes. In this case, the date of receipt of payment was the date of sale.

In accordance with subsection 44(1) of the SIMR both the normal value and the export price were converted to Canadian dollars as both values are expressed in a currency of a country other than Canada.

Manu International

Case Argument

The Complainants submit "that if Manu was not verified, then it should not receive company-specific normal values."³⁷

³⁷ Case Arguments from Novamerican Steel Inc. and Bolton Steel Tube Co. Ltd. Exhibit 260, paragraph 44

CBSA Response

The CBSA requested and received supporting documentation from Manu during the investigation process. The information was thoroughly examined, analyzed and verified. The CBSA is satisfied that the information received from Manu was sufficient to allow the determination of normal values for this company.

Case Arguments Concerning the Subsidy Investigation

India

Case Argument

The Complainants argue that the Government of India (GOI) has repeatedly refused to provide specific exporter information and details on whether or not the exporters of subject goods have benefited from particular subsidy programs. The Complainants submit that the GOI's position renders it impossible for the CBSA to fully verify the data provided, and that the CBSA should approach India's RFI responses with caution. In particular, the Complainants questioned the GOI's information on subsidy programs respecting: Special Economic Zones; Export Oriented Units; Preferential Loans; the Advance Authorization Scheme; the Duty Entitlement Pass Book Scheme; a new Duty Drawback Scheme; Captive Mining Rights; and the Purchase of iron ore from State-owned Enterprise for less than fair market value.

Reply Submission

No reply submissions were received in respect of subsidies in India.

CBSA Response

The CBSA found the GOI's response to be deficient in several aspects. In particular, the GOI did not provide the requested information on all the identified programs or on the replacement program for the Duty Entitlement Passbook Scheme. In addition, the GOI did not provide a response to questions on the specificity of the non-export-oriented programs. As a result, the CBSA has concluded that 36 subsidy programs are available to exporters of certain carbon steel welded pipe in India, the same number identified at the initiation of the investigation. All 36 programs are reflected in the amount of subsidy determined for the non-responding exporters.

The CBSA is satisfied that the information provided by the GOI and by Manu International, as verified by the CBSA, is sufficient to accurately determine specific subsidy amounts in respect of the three programs found to have been utilized by this responding exporter.

Oman

Case Argument

The Complainants submit that, insofar as the only means by which an industrial enterprise can operate and access duty free imports is to establish itself in an industrial estate or free trade zone, such benefits are limited to specific enterprises and are tied to export. The Complainants also maintain that Oman's Soft Loan Program is still in effect and is countervailable. In addition, the Complainants cite conflicting statements from the Government of the Sultanate of Oman (GSO) on the incentives available respecting land leases, provision of electricity, water and natural gas.

Reply Submission

Counsel for the GSO has replied that access to duty free imports is contingent on the granting of an industrial licence and is not limited to enterprises having established themselves in industrial estates or free trade zones. In addition, the GSO affirms that Oman's preferential loan scheme pursuant to Royal Decree No. 17/97 is not in effect. With respect to the incentive rates available for land, electricity, water and gas, the GSO maintains that the Complainant's allegations are based on data of limited significance, and that the term "incentive" could simply refer to beneficial rates available to all industrial enterprises.

CBSA Response

The CBSA conducted a full examination of the data submitted and has concluded that the granting of import duty exemptions to enterprises in Oman is not determined by the location of the enterprise, and that eligibility either for an industrial licence or for duty exemption is not restrictive in any manner that would render the subsidy specific under SIMA.³⁸ Available information also indicates that Al Jazeera pays for land usage and for electricity, water and gas at the standard rates designated for companies in possession of an industrial licence both inside and outside the industrial estate where the exporter is located. It is noted that this industrial estate is not in a free trade zone.

Respecting preferential loans provided by the GSO, the information available indicates that there is indeed a soft loan program currently in effect in Oman pursuant to Royal Decree No. 18/2006; however, Al Jazeera did not receive any loans under this program either before or during the POI. On the other hand, during the POI, the company was still paying off a low-interest loan provided through a predecessor soft loan program provided under Royal Decree No. 18/97, that has since been abolished. The CBSA concluded that the 0.013% subsidy Al Jazeera received under this program was non-specific and, therefore, not actionable.³⁹

³⁸ Exhibit S 147 Pro, SFR2,SFR3, SFR4

³⁹ Exhibit S 148 NC, pages 7-13; Exhibit S 149 Pro, pages 4-8

United Arab Emirates

Case Argument

Similarly as in the case of Oman, the Complainants submit that, insofar as the only means by which an industrial enterprise in the UAE can operate and access duty free imports is to establish itself in an industrial estate or free trade zone, such benefits are limited to specific enterprises and are tied to export. In addition, the Complainants point out although Conares and the Government of the United Arab Emirate (GUAEE) claim that there is no program providing utilities for less than fair value, the evidence indicates otherwise. The Complainants have also made representation respecting the loan interest rates granted to an exporter in the UAE.

Reply Submission

Counsel for Conares argues that operating in a free trade zone does not entitle a company to duty free imports and that there is verified evidence on the record to indicate that Conares has paid duties during the POI. Counsel maintains that there is also verified evidence of Conares' payment for the provision of water.

CBSA Response

Evidence obtained during the investigation indicates that customs duty exemption in the UAE is granted for machinery, equipment, spare parts, raw materials, semi-manufactured materials and packing material under a program that is generally available and is not considered an actionable subsidy under SIMA.⁴⁰ At the same time, other information was provided indicating that exporters of subject goods in the UAE are not exempted from paying other types of applicable customs duties and/or fees.⁴¹

Respecting utility payment in the UAE, the CBSA received information and support documents to confirm that the exporters of subject goods paid for electricity and water either at or above the general rates that applied to all industrial companies, regardless of sector or location.⁴² Likewise, the verified evidence indicates that none of the responding exporters had received any preferential lending from any government-owned bank.⁴³

⁴⁰ Exhibit S 147 Pro, SFR2,SFR3, SFR4

⁴¹ Exhibit S 151 Pro, SVE 13&14; Exhibit S 144 Pro, VE-46; Exhibit S 114 Pro, Attachment 23

⁴² Exhibit S 114 Pro, attachments 24&25; Exhibit S 144 Pro, VE 49; Exhibit S 151 Pro, SVE 3&5

⁴³ Exhibit S 114 Pro, attachment 1; Exhibit S 089 Pro, attachment D28; Exhibit S 151 Pro, SVE 10&11