



4214-42
AD/1403
4218-39
CV/138

OTTAWA, September 26, 2014

STATEMENT OF REASONS

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

**CERTAIN CONCRETE REINFORCING BAR
ORIGINATING IN OR EXPORTED FROM THE PEOPLE'S REPUBLIC OF CHINA,
THE REPUBLIC OF KOREA AND THE REPUBLIC OF TURKEY**

DECISION

Pursuant to subsection 38(1) of the *Special Import Measures Act*, on September 11, 2014, the President of the Canada Border Services Agency made preliminary determinations of dumping and subsidizing, respecting certain concrete reinforcing bar originating in or exported from the People's Republic of China, the Republic of Korea, and the Republic of Turkey.

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

TABLE OF CONTENTS

SUMMARY OF EVENTS	1
PERIOD OF INVESTIGATION	2
PROFITABILITY ANALYSIS PERIOD.....	2
INTERESTED PARTIES	2
Complainants	2
Importers	3
Exporters	3
Surrogate Producers	3
Foreign Governments.....	3
PRODUCT INFORMATION.....	4
Definition	4
Additional Product Information.....	4
Production Process.....	5
Product Use.....	6
Classification of Imports.....	6
LIKE GOODS.....	7
CLASSES OF GOODS.....	7
THE CANADIAN INDUSTRY	7
IMPORTS INTO CANADA.....	7
REPRESENTATIONS FROM THE GOVERNMENT OF THE REPUBLIC OF KOREA	8
REPRESENTATIONS FROM THE GOVERNMENT OF TURKEY	8
INVESTIGATION PROCESS	8
DUMPING INVESTIGATION.....	9
Normal Values	9
Export Prices.....	10
Margin of Dumping	10
Preliminary Results of the Dumping Investigation.....	10
Section 20 Inquiry.....	13
Preliminary Results of the Section 20 Inquiry	14
Summary of the Preliminary Results of the Section 20 Inquiry	19
Summary of the Preliminary Results of the Dumping Investigation	21
SUBSIDY INVESTIGATION.....	21
China.....	23
The Republic of Korea.....	25
Turkey.....	27
Summary of Preliminary Results of Subsidy Investigation.....	31
DECISIONS.....	32
PROVISIONAL DUTY	32
FUTURE ACTION.....	33
The Canada Border Services Agency	33
The Canadian International Trade Tribunal.....	33

RETROACTIVE DUTY ON MASSIVE IMPORTATIONS.....	34
UNDERTAKINGS	34
PUBLICATION	35
INFORMATION.....	35
APPENDIX 1 – Representations from the Government of the Republic of Korea.....	36
APPENDIX 2 – Representations from the Government of Turkey.....	38
APPENDIX 3 – Summary of the Estimated Margins of Dumping, Estimated Amounts of Subsidy, and Provisional Duties Payable	39
APPENDIX 4 – Summary of Preliminary Findings for Named Subsidy Programs – China	40
APPENDIX 5 – Summary of Preliminary Findings for Named Subsidy Programs – The Republic of Korea.....	50
APPENDIX 6 – Summary of Preliminary Findings for Named Subsidy Programs – Turkey	55

SUMMARY OF EVENTS

[1] On April 24, 2014, the Canada Border Services Agency (CBSA) received a written complaint from Alta Steel Inc. of Edmonton, Alberta, ArcelorMittal LCNA of Contrecoeur, Quebec and Gerdau Longsteel North America of Whitby, Ontario (the Complainants), alleging that imports of certain concrete reinforcing bar originating in or exported from the People's Republic of China (China), the Republic of Korea, and the Republic of Turkey (Turkey) are being dumped and subsidized. The Complainants alleged that the dumping and subsidizing has caused injury and is threatening to cause injury to the Canadian industry producing these goods.

[2] On May 15, 2014, pursuant to paragraph 32(1)(a) of the *Special Import Measures Act* (SIMA), the CBSA informed the Complainants that the complaint was properly documented. The CBSA also notified the Government of China (GOC), the Government of the Republic of Korea (GOK) and the Government of Turkey (GOT) that a properly documented complaint had been received and provided these governments with the non-confidential version of the subsidy portion of the complaint related to their country.

[3] The governments of the countries under investigation were invited for consultations prior to the initiation of the investigations, pursuant to Article 13.1 of the *Agreement on Subsidies and Countervailing Measures*. Consultations were held with the GOK and the GOT. No consultations were requested by the GOC.

[4] On June 5, 2014, the Government of Canada received written representations from the GOK with respect to its views on the adequacy of the evidence presented in the non-confidential version of the subsidy portion of the complaint. On June 11, 2014, consultations pursuant to Article 13.1 of the ASCM were held between the Government of Canada and the GOK. During these consultations, the GOK reiterated the written representations with respect to its views on the adequacy of the evidence presented in the non-confidential version of the subsidy complaint.

[5] On June 11, 2014, consultations pursuant Article 13.1 of the ASCM were held between the Government of Canada and the GOT. On the same day, the Government of Canada received written representations from the GOT with respect to its views on the accuracy and adequacy of the evidence presented in the non-confidential version of the subsidy complaint.

[6] On June 13, 2014, pursuant to subsection 31(1) of SIMA, the President of the CBSA (President) initiated investigations respecting the dumping and subsidizing of certain concrete reinforcing bar from China, the Republic of Korea and Turkey.

[7] Upon receiving notice of the initiation of the investigations, the Canadian International Trade Tribunal (Tribunal) commenced a preliminary injury inquiry, pursuant to subsection 34(2) of SIMA, into whether the evidence discloses a reasonable indication that the alleged dumping and subsidizing of certain concrete reinforcing bar originating in or exported from China, the Republic of Korea and Turkey has caused injury or retardation or is threatening to cause injury to the Canadian industry producing the goods.

[8] On August 12, 2014, pursuant to subsection 37.1(1) of SIMA, the Tribunal made a preliminary determination that there is evidence that discloses a reasonable indication that the alleged dumping and subsidizing of certain concrete reinforcing bar from China, the Republic of Korea and Turkey has caused injury or is threatening to cause injury to the domestic industry.

[9] On September 11, 2014, as a result of the CBSA's preliminary investigations and pursuant to subsection 38(1) of SIMA, the President made preliminary determinations of dumping and subsidizing of certain concrete reinforcing bar originating in or exported from China, the Republic of Korea and Turkey.

[10] On September 11, 2014, pursuant to subsection 8(1) of SIMA, provisional duty was imposed on imports of dumped and subsidized goods that are of the same description as any goods to which the preliminary determination applies, and that are released during the period commencing on the day the preliminary determinations were made and ending on the earlier of the day on which the President of the CBSA causes the investigation to be terminated pursuant to subsection 41(1) of SIMA or the day the Tribunal makes an order or finding pursuant to subsection 43(1) of SIMA.

PERIOD OF INVESTIGATION

[11] The Period of Investigation (POI) with respect to dumping and subsidizing covered all subject goods released into Canada from January 1, 2013 to March 31, 2014.

PROFITABILITY ANALYSIS PERIOD

[12] The Profitability Analysis Period covered domestic sales and costing information for goods sold from January 1, 2013 to March 31, 2014.

INTERESTED PARTIES

Complainants

[13] The Complainants represent all domestic production of like goods.¹

[14] The names and addresses of the three complainants are:

Alta Steel Inc.
9401 34 Street
Edmonton, AB T6B 2X6

Gerdau Longsteel North America
Hopkins Street South
Whitby, ON L1N 5T1

ArcelorMittal LCNA
4000 Routes des Acieries
Contrecoeur, QC J0L 1C0

¹ Refer to the definition of like goods in the Like Goods section on page 7

Importers

[15] At the initiation of the investigations, the CBSA identified 32 potential importers of the subject goods from information provided by the Complainants and CBSA import entry documentation over the period of January 1, 2013 to March 31, 2014.

[16] The CBSA sent an importer Request for Information (RFI) to all potential importers of the goods. The CBSA received five responses to the importer RFI.

Exporters

[17] At the initiation of the investigations, the CBSA identified 137 potential exporters and producers (90 located in China, 13 in the Republic of Korea and 34 in Turkey) of the subject goods from information provided by the Complainants and CBSA import entry documentation. The CBSA sent exporter dumping and exporter subsidy RFIs to each of these potential exporters and producers and sent an exporter section 20 RFI to potential exporters and producers located in China.

[18] The CBSA received five responses to the exporter dumping RFI, five responses to the exporter subsidy RFI and one response to the exporter section 20 RFI.

Surrogate Producers

[19] As part of the section 20 inquiry, surrogate country RFIs were sent to all known exporters and producers of concrete reinforcing bar in Chinese Taipei and the Kingdom of Thailand. A total of 24 RFIs were sent to these producers requesting domestic selling and costing information for certain concrete reinforcing bar produced at their facilities.

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

Foreign Governments

[21] The CBSA sent a government subsidy RFI to each of the GOC, GOK and GOT. The CBSA received responses to the Government Subsidy RFI from the GOK and the GOT and both of these responses were considered substantially complete for the purposes of the preliminary determination. The CBSA did not receive a response to the government subsidy RFI from the GOC.

[22] The CBSA also sent the GOC a government section 20 RFI. The CBSA did not receive a response to the government section 20 RFI from the GOC.

PRODUCT INFORMATION

Definition

[23] The subject goods are defined as:

Hot-rolled deformed steel concrete reinforcing bar in straight lengths or coils, commonly identified as rebar, in various diameters up to and including 56.4 millimeters, in various finishes, excluding plain round bar and fabricated rebar products, originating in or exported from the People's Republic of China, the Republic of Korea, and the Republic of Turkey.

[24] The subject goods will be referred to as "Rebar" and concrete reinforcing bar, interchangeably.

Additional Product Information²

[25] For further clarity, the subject goods include all hot-rolled deformed bar, rolled from billet steel, rail steel, axle steel, low alloy-steel and other alloy steel that does not comply with the definition of stainless steel.

[26] Uncoated rebar, sometimes referred to as black rebar, is generally used for projects in non-corrosive environments where anti-corrosion coatings are not required. On the other hand, anti-corrosion coated rebar is used in concrete projects that are subjected to corrosive environments, such as road salt. Examples of anti-corrosion coated rebar are epoxy or hot-dip galvanized rebar. The subject goods include uncoated rebar and rebar that has a coating or finish applied.

[27] Fabricated rebar products are generally engineered using computer automated design programs, and are made to the customer's unique project requirements. The fabricated rebar products are normally finished with either a protective or corrosion-resistant coating. Fabricated rebar is not included in the product definition of subject goods. Rebar that is simply cut-to-length is not considered to be a fabricated rebar and it is included in the definition of subject goods.

[28] Rebar is produced in Canada in accordance with the National Standard of Canada CAN/CSA-G30.18-M92 for Billet-Steel Bar for Concrete Reinforcement (National Standard) prepared by the Standards Association and approved by the Standards Council of Canada.

² Dumping Exhibit 2 (NC) –Complaint – Pages 4-6

[29] The following are the most common bar designation numbers for the subject goods in Canada, with the corresponding diameter in millimeters in brackets: 10 (11.3), 15 (16.0), 20 (19.5), 25 (25.2), 30 (29.9), 35 (35.7). Rebar sizes are commonly referred to as the bar designation number combined with the letter “M”. Thus, 10M rebar has a designation number of 10 and a diameter of 11.3 millimeters. Other diameters may also be demanded, and other measurement systems employed. For example, Imperial measure #7 bar (approximately 22 mm) is a common designation used in the mine roofing industry.

[30] The National Standard identifies two grades of rebar, namely regular or “R” and weldable or “W”. R grades are intended for general applications while W grades are used where welding, bending or ductility is of special concern. Welded rebar was a premium product for the Canadian industry, reflecting the higher cost of alloy steel; however, since all imports have been weldable product, Canadian production has shifted to weldable as a standard product. Weldable rebar is substitutable for regular rebar in all applications, though the reverse does not hold.

[31] The National Standard also identifies yield strength levels of 300, 400, and 500. This number refers to the minimum yield strength and is measured in megapascal (MPa). The grade and yield strength of rebar is identified by combining yield strength number with grade. Thus, 400R is regular rebar with a yield strength of 400 MPa, and 400W is weldable rebar with a yield strength of 400 MPa. Yield strength is measured with an extensometer in accordance with the requirements of section 9 of the National Standard.

[32] The standard lengths for rebar are 6 metres (20 feet), 12 metres (40 feet) and 18 metres (60 feet), although rebar can be cut and sold in other lengths as specified by customers, or sold in coils.

Production Process³

[33] Deformed steel concrete reinforcing bar can be produced in an integrated steel production facility, or using ferrous scrap metal as the principal raw material. Scrap metal is melted in an electric arc furnace and is further processed in a ladle arc-refining unit. The molten steel is then continuously cast into rectangular billets of steel that are cut-to-length. An integrated facility would also produce billets from molten steel. The billets are then rolled into various sizes of rebar, which is cut to various lengths depending on the customers’ requirements.

[34] Deformed rebar is rolled with deformations on the bar, which provides gripping power so that concrete adheres to the bar and provides reinforcing value. The deformations must conform to requirements set out in national standards.

³ Dumping Exhibit 2 (NC) –Complaint – Pages 5-6

Product Use⁴

[35] The subject goods are used in a number of applications, the most common of which is construction.

[36] Rebar is most commonly used to reinforce concrete and masonry structures. It enhances the compressional and tensional strength of concrete and helps prevent the concrete from cracking during curing or following changes in temperature.

[37] Residential markets primarily use rebar in smaller sizes, while the heavy construction and fabrication markets use most of the larger sizes of rebar.

Classification of Imports

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

7213.10.00.00	Bar and rods, hot-rolled, in irregularly wound coils, of iron or non-alloy steel. - Containing indentations, ribs, grooves or other deformations produced during the rolling process
7214.20.00.00	Other bar and rods of iron or non-alloy steel, not further worked than forged, hot-rolled, hot-drawn or hot-extruded, but including those twisted after rolling. - Containing indentations, ribs, grooves or other deformations produced during the rolling process or twisted after rolling

[39] In some instances, imports of subject goods are also classified under the following HS Classification numbers:

7215.90.00.90	Other bars and rods of iron or non-alloy steel. – Other,
7227.90.00.90	Bars and rods, hot-rolled, in irregularly wound coils, of other alloy steel. – Other,

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

⁴ Dumping Exhibit 2 (NC) –Complaint – Page 6

LIKE GOODS

[41] 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.

[42] Concrete reinforcing bar produced by the domestic industry competes directly with, has the same end uses as, and can be substituted for, the subject goods. Also, both are made from the same input material and are produced in the same general manner. Therefore, the CBSA has concluded that the rebar produced by the Canadian industry constitutes like goods to the subject goods.

CLASSES OF GOODS

[43] The dumping and subsidy investigations were initiated on a single class of goods. However, as a result of the Tribunal’s preliminary injury inquiry⁵, the Tribunal is of the opinion that the question of whether there are multiple classes of goods merits further consideration for the inquiry under section 42 of SIMA. As such, the Tribunal requested the CBSA to collect, in addition to the single class of subject goods as defined at initiation, separate information on the dumping and subsidizing of the following potential classes of goods:

1. uncoated (or black) rebar; and
2. coated rebar, split into the following types:
 - a. Epoxy coated rebar,
 - b. Hot-dip galvanized rebar,
 - c. Dual-coated rebar (galvanized and epoxy-coated),
 - d. Enamel-coated rebar,
 - e. Stainless-steel clad rebar, and
 - f. Other coated rebar.

[44] In response to this request, on September 11, 2014, the CBSA submitted to the Tribunal the information it had available on the potential classes of goods.

THE CANADIAN INDUSTRY

[45] As previously stated, the Complainants represent the entire domestic production of like goods.

IMPORTS INTO CANADA

[46] During the preliminary phase of the investigations, the CBSA refined the estimated volume of imports based on information from CBSA import entry documentation and other information received from exporters and importers.

⁵ Preliminary Injury Inquiry No. PI-2014-001 Certain Concrete Reinforcing Bar, issued on August 27, 2014. Reasons available online at <http://www.citt.gc.ca/en/node/6780>.

[47] The following table presents the CBSA's analysis of imports of certain concrete reinforcing bar for purposes of the preliminary determinations:

**Import Volumes of Certain Concrete Reinforcing Bar
(January 1, 2013 to March 31, 2014)**

Imports into Canada	% of Total Import Volume
China	7.5%
Republic of Korea	9.3%
Turkey	19.1%
All Other Countries	64.1%
Total Imports	100.0%

REPRESENTATIONS FROM THE GOVERNMENT OF THE REPUBLIC OF KOREA

[48] On June 5, 2014, the GOK made representations with respect to the initiation of the subsidy investigation of certain concrete reinforcing bar.

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

REPRESENTATIONS FROM THE GOVERNMENT OF TURKEY

[50] On June 11, 2014, the GOT made representations with respect to the initiation of the dumping and subsidy investigations of concrete reinforcing bar.

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

INVESTIGATION PROCESS

[52] Regarding the dumping investigation, information was requested from all known and potential exporters, producers, vendors and importers, concerning shipments of certain concrete reinforcing bar released into Canada during the dumping POI of January 1, 2013 to March 31, 2014.

[53] Regarding the section 20 inquiry, information was requested from all known and potential exporters and producers in China and from the GOC. Information was also requested from surrogate producers located in Chinese Taipei and the Kingdom of Thailand.

[54] Regarding the subsidy investigation, information related to potential actionable subsidies was requested from all known and potential exporters in China, the Republic of Korea and Turkey. Information was also requested from the GOC, GOK and GOT, concerning financial contributions made to exporters or producers of certain concrete reinforcing bar released into Canada during the subsidy POI of January 1, 2013 to March 31, 2014.

[55] After reviewing the responses to the RFIs, Supplemental Requests for Information (SRFI) were sent to responding parties to clarify information provided in the submissions and request additional information.

[56] Several parties requested an extension to respond to the RFIs.⁶ The CBSA did not agree to these requests as the reasons identified in the request letters did not constitute unforeseen circumstances or unusual burdens. At that time, the CBSA relayed that it could not guarantee that submissions received after the due date would be taken into consideration for purposes of the preliminary phase of the investigations.

[57] Preliminary determinations are based on the information available to the President at the time of the preliminary determinations. Any additional information provided in supplemental RFI responses will be taken into consideration during the final phase of the investigations. During the final phase of the investigations, submissions will be verified. The results of these verifications will be taken into consideration for the President's final decision.

DUMPING INVESTIGATION

[58] The CBSA received substantially complete responses to the dumping RFI from five exporters: one exporter located in each of China and Turkey and three exporters from the Republic of Korea.

Normal Values

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

[60] In situations where the President of the CBSA is of the opinion that section 20 conditions apply, normal value cannot be estimated on the basis of domestic selling prices or on the full cost of goods plus profit.

[61] The CBSA did not receive any responses to the surrogate country RFIs. As a result, normal values for the exporter from China that submitted a complete response were estimated using a surrogate country methodology, based on the average of the estimated normal values from the producers in Turkey and the Republic of Korea that provided completed responses to the RFI. This information represented the best information available for the purposes of the preliminary determination.

⁶ Subsidy Exhibits: 44 (PRO) - Request for Extension - Government of the Republic of Turkey, 45 (NC) - Request for Extension - Hyundai Steel, 46 (PRO) - Request for Extension - Habas Sinai ve Tibbi Gazlar Istihsal Endustrisi S.A., 47 (NC) - Request for Extension - Government of the Republic of Korea

Export Prices

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

Margin of Dumping

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

Preliminary Results of the Dumping Investigation

[64] With respect to the exporters from the Republic of Korea and Turkey that provided substantially complete responses to the RFI, on or before the identified due date, company-specific information was used for the preliminary determination in estimating normal values and export prices for goods shipped to Canada.

[65] As mentioned above, for the exporter from China that provided a substantially complete response to the RFI, a surrogate country methodology was used for the preliminary determination in estimating normal values. Export prices for the goods shipped to Canada were estimated using company-specific information.

[66] For those exporters that did not submit a complete response to the RFI, the normal value of the goods was estimated by advancing the export price by the highest amount by which the normal value exceeded the export price on an individual transaction for an exporter that provided a substantially complete response to the RFI, excluding anomalies.

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

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

The Republic of Korea

Hyundai Steel Company

[69] Hyundai Steel Company is an exporter of subject goods from the Republic of Korea during the POI.

[70] Hyundai Steel Company's head office is located in Seoul, Republic of Korea. Their response to the dumping RFI was substantially complete. Hyundai Steel Company had domestic sales of concrete reinforcing bar during the POI. However, many of these sales were unprofitable and could not be used to estimate normal values for Hyundai Steel Company. Normal values were estimated using the methodology of section 15 of SIMA based on domestic pricing where possible. Normal values for goods that do not have profitable domestic sales were estimated using the methodology of paragraph 19(b) of SIMA, as the sum of cost of production, a reasonable amount for administrative, selling and all other costs, and a reasonable amount for profits. The amount for profits was estimated pursuant to paragraph 11(b)(i) of the *Special Import Measures Regulations (SIMR)* based on the weighted-average profit of the profitable domestic sales made by Hyundai Steel Company during the POI.

[71] For subject goods exported from Hyundai Steel Company to Canada during the POI, export prices were estimated using the methodology of section 24 of SIMA, based on the exporter's selling price less all costs, charges and expenses resulting from the exportation of the goods.

[72] The total estimated normal value compared with the total estimated export price results in an estimated margin of dumping of 14.5%, expressed as a percentage of the export price, for Hyundai Steel Company.

Hyundai Corporation

[73] Hyundai Corporation is an exporter of subject goods from the Republic of Korea during the POI. All subject goods exported to Canada by Hyundai Corporation during the POI were produced by Hyundai Steel. In their RFI responses, Hyundai Steel Company and Hyundai Corporation have stated that they are not related. For the purposes of the preliminary determination the companies have been treated as not related. The CBSA will investigate this potential relationship further, along with other potential associated companies involved in the shipment of subject goods to Canada.

[74] Hyundai Corporation's head office is located in Seoul, the Republic of Korea. The response to the dumping RFI was substantially complete. Hyundai Corporation did not have domestic sales of concrete reinforcing bar during the POI. As such, normal values were estimated using the methodology of paragraph 19(b) of SIMA, as the sum of cost of production, a reasonable amount for administrative, selling and all other costs, and a reasonable amount for profits. The amount for profits was estimated pursuant to paragraph 11(b)(iv) of SIMR based on the profit of a Republic of Korea producer of goods of the same general category, as determined from publically available 2013 financial statements.

[75] For subject goods exported from Hyundai Corporation to Canada during the POI, export prices were estimated using the methodology of section 24 of SIMA, based on the exporter's selling price less all costs, charges and expenses resulting from the exportation of the goods.

[76] The total estimated normal value compared with the total estimated export price results in an estimated margin of dumping of 21.5%, expressed as a percentage of the export price, for Hyundai Corporation.

G.S Global Corporation (GSG)

[77] GSG is an exporter of subject goods from the Republic of Korea during the POI. All of the subject goods exported to Canada by GSG during the POI were produced by Hyundai Steel.

[78] GSG's head office is located in Seoul, Republic of Korea. The response to the dumping RFI was substantially complete. GSG did not have domestic sales of concrete reinforcing bar during the POI. Normal values were estimated using the methodology of paragraph 19(b) of SIMA, as the sum of cost of production, a reasonable amount for administrative, selling and all other costs, and a reasonable amount for profits. The amount for profits was estimated pursuant to paragraph 11(b)(iv) of SIMR based on the profit of a producer of goods of the same general category in the Republic of Korea, as determined from publically available 2013 financial statements.

[79] For subject goods exported from GSG to Canada during the POI, export prices were estimated using the methodology of section 24 of SIMA, based on the exporter's selling price less all costs, charges and expenses resulting from the exportation of the goods.

[80] The total estimated normal value compared with the total estimated export price results in an estimated margin of dumping of 25.6%, expressed as a percentage of the export price, for GSG.

Turkey

Habas Sinai ve Tibbi Gazlar Istihsal Endustrisi A.S. (Habas)

[81] Habas is an exporter of subject goods from Turkey during the POI.

[82] Habas' head office is located in Istanbul, Turkey. The response to the dumping RFI was substantially complete. Habas had domestic sales of concrete reinforcing bar during the POI. However, many of these sales were unprofitable and could not be used to estimate normal values for Habas. Normal values were estimated using section 15 of SIMA based on domestic pricing where possible. Normal values for goods that do not have profitable domestic sales were estimated using the methodology of paragraph 19(b) of SIMA, as the sum of cost of production, a reasonable amount for administrative, selling and all other costs, and a reasonable amount for profits. The amount for profits was estimated pursuant to paragraph 11(b)(iv) of SIMR based on the weighted-average profit of three Turkish producers of goods of the same general category, as determined from publically available 2013 financial statements.

[83] For subject goods exported from Habas to Canada during the POI, export prices were estimated using the methodology of section 24 of SIMA, based on the exporter's selling price less all costs, charges and expenses resulting from the exportation of the goods.

[84] The total estimated normal value compared with the total estimated export price results in an estimated margin of dumping of 15.2%, expressed as a percentage of the export price, for Habas.

China

Section 20 Inquiry

[85] Section 20 of SIMA may be applied to determine the normal value of goods in a dumping investigation where certain conditions prevail in the domestic market of the exporting country. In the case of a prescribed country under paragraph 20(1)(a) of SIMA,⁷ it is applied where, in the opinion of the President, domestic prices are substantially determined by the government of that country and there is sufficient reason to believe that they are not substantially the same as they would be if they were determined in a competitive market. Where section 20 is applicable, the normal values of goods are not determined using domestic prices or costs in that country.

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

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

[88] For the purpose of this investigation, the Complainants requested that section 20 be applied in the determination of normal values due to the alleged existence of the conditions set forth in paragraph 20(1)(a) of SIMA. The Complainants provided information to support these allegations concerning the long products steel sector in China, which includes concrete reinforcing bar industry.

⁷ China is a prescribed country under section 17.1 of the Special Import Measures Regulations

[89] At the initiation of the investigation, the CBSA had sufficient evidence, supplied by the Complainants, from its own research and from past investigations, to support the initiation of a section 20 inquiry to examine the extent of GOC involvement in pricing in the long products steel sector, which includes concrete reinforcing bar. The information indicated that prices in China in this sector have been influenced by various GOC industrial policies. Consequently, the CBSA sent section 20 RFIs to the GOC and all known long products steel producers and exporters in China to obtain information on the matter.

Preliminary Results of the Section 20 Inquiry

[90] In response to the section 20 RFIs, the CBSA received a substantially complete response from one exporter, Shandong Shiheng Special Steel Group Co., Ltd. (Shiheng Special Steel) located in Shandong Province.⁸

[91] The following is the CBSA's analysis of the relevant factors that are present in the Chinese steel industry and which affect the long products steel sector, which includes concrete reinforcing bar.

Industrial Policies

[92] As cited in previous section 20 inquiries⁹, the National Steel Industry Development Policy (2005 National Steel Policy)¹⁰ dated July 8, 2005, outlines the GOC future plans for the domestic steel industry in China. The major objectives of the 2005 National Steel Policy are:

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

⁸ Dumping Exhibits 56 (PRO) and 57 (NC) - Response to Section 20 RFI - Shandong Shiheng Special Steel Group Co., Ltd.

⁹ Certain Seamless Steel Casing (2008), Certain Oil Country Tubular Goods (2010), Certain Carbon Steel Welded Pipe (2008 & 2011), Certain Pup Joints (2011), Certain Piling Pipe (2012) and Certain Galvanized Steel Wire (2013).

¹⁰ Dumping Exhibit 36 (PRO) – Document No. 25 - 2005-07 NDRC [2005] 35 - Steel Industry Development Policy.

[93] On March 20, 2009, the GOC promulgated the Blueprint for the Adjustment and Revitalization of the Steel Industry (2009 Steel Revitalization/Rescue Plan)¹¹, issued by the General Office of the State Council. This macro-economic policy was the GOC's response to the international financial crisis and is also the action plan for the steel industry for the period between 2009 and 2011. This plan includes the following major tasks:

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

[94] There are common measures between the two GOC policies but, in addition, the 2009 Steel Revitalization/Rescue Plan is an acceleration of some major objectives of the 2005 National Steel Policy, in that there continues to be the strict control of new additions to steel production capacity, more stipulated mergers and acquisitions to consolidate the steel industry in China into larger conglomerates and also a focus on product quality.

[95] There are also provincial versions to the 2009 Steel Revitalization/Rescue Plan. An example of the provincial version of the national plan is the Shandong Province Iron and Steel Industry Restructuring and Revitalization Plan.¹² This 2009 provincial plan mirrors the policy objectives of the national 2009 Steel Revitalization/Rescue Plan, but is tailored to reflect the conditions for the iron and steel industry in Shandong Province.

[96] Further support that the domestic prices are substantially determined by the GOC and are not substantially the same as they would be in a competitive market in the steel industry in China can be found in the GOC's new macro-economic policy entitled, 12th Five-Year Plan: Iron and Steel (2011 Development Plan for the Steel Industry).¹³

¹¹ Dumping Exhibit 36 (PRO) – Document No. 55. - 2009-03 SC [2009] 6 - 2009 Steel Industry Restructuring and Revitalization Plan.

¹² Dumping Exhibit 36 (PRO) – Document 58 - 2009-04 Shandong [2009] No. 45 - Shandong Provincial Steel Industry Restructuring and Revitalization.

¹³ Dumping Exhibit 36 (PRO) – Document 100 - 2011-11 MIIT [2011] 480 - Steel Industry 12th Five Year Development Plan

[97] The 2011 Development Plan for the Steel Industry is the most recent five year plan for the steel industry that was released by the GOC's Ministry of Industry and Information Technology on November 7, 2011. It serves as the guiding document for the development of the Chinese steel industry for the 2011-2015 period and its directives include:

- increased mergers and acquisitions to create larger, more efficient steel companies;
- GOC restrictions on steel capacity expansion;
- upgrading of steel industry technology;
- greater GOC emphasis on high-end steel products;
- GOC directed relocation of iron and steel companies to coastal areas.

[98] Also included in this plan are minimum requirements for steel production in order to eliminate smaller players in the market. Through this plan, the GOC is continuing its reform and restructuring of the Chinese steel industry. The GOC's target is that by 2015, China's top 10 steel producers will represent 60 % of the country's total steel output. According to the 2005 National Steel Plan, the long-range GOC target for mergers and acquisitions is to have the top 10 Chinese steel producers account for 70 % of total national steel production by 2020. This plan is the next development stage of GOC directives aimed at achieving this long-range 2020 target.

[99] The 2011 Development Plan for the Steel Industry also addresses ongoing issues in the steel industry with the directive to strictly control expansion of steel production capacity, accelerate the development of higher value steel products and to continue to advance mergers and restructuring.

[100] Therefore the main task of the 2011 Development Plan for the Steel Industry is to control total volume by eliminating obsolete (backward) production and controlling new production capacity. The scope of the GOC's reforms in the steel sector in China is to be obtained by industry concentration targets through mergers and acquisitions by the end of 2015. These GOC objectives are likely to conflict with the commercial interests of producers in the long products steel sector, which includes concrete reinforcing bar. These objectives will likely affect production volumes, competition and ultimately prices.

[101] In October 2011, a pilot project was launched by the National Development and Reform Commission (NDRC) to restructure the steel industry in Shandong Province.¹⁴ The main objectives of the restructuring is to phase out backward production thereby improving energy conservation, control total production capacity in order to stop blind investment, improve industrial concentration through mergers¹⁵ and plant relocations and increase the production of higher value added steel products.

¹⁴ Dumping Exhibit 80 (NC) – Document 23 – Shandong [2012] No. 8 - Implementation of the Restructuring of the Steel Industry in Shandong Province.

¹⁵ Dumping Exhibit 80 (NC) – Document 35 – Shandong Province Steel Industry Restructuring to Start. The objective is to establish one large provincial steel company (Shandong Iron and Steel Group) and five regional steel companies (Zibo, Weifang, Laiwu, Linyi, Binzhou). This would be achieved through the merger of state owned and privately owned steel mills through equity swaps or partnership agreements.

[102] The GOC has also provided tax refunds on exported steel products to promote exports but has slowly been eliminating them since 2005, the year the 2005 National Steel Policy came into effect. The GOC first introduced these export tax refund measures in 1985 and the tax refund for exports was set at 6%. The tax refund for exports was raised to 15% in 1999 during the Asian financial crises and it significantly stimulated exports.

[103] In addition to curtailing the tax refund measure for exports, the GOC has also imposed taxes on the export of various steel products, in order “to control exports of energy intensive industries and ease its huge trade surplus”.

[104] For example, steel billet¹⁶ and concrete reinforcing bar were at one time eligible for the tax refund of 13% for exports. However, over time the amount of the tax refund has been reduced to 0% for exports for these two steel products. The tax refund on exports of steel billet was eliminated in April 2005 and an export tax was implemented in November 2006. The tax refund on exports of steel long products, including concrete reinforcing bar, was eliminated in April 2007 and an export tax implemented in June 2007. The export tax on steel long products, including concrete reinforcing bar was increased to 15% in January 2008. It should be noted that these two products are closely linked, as the steel billet is rolled into various long products, including concrete reinforcing bar.

[105] With the removal of the tax refund on exports, the GOC is ensuring that one of the objectives of the 2005 National Steel Policy is being addressed by implementing Article 30 of the policy, which states the following: the export of initially processed products like coke, ferroalloy, pig iron, steel scarp, semi-finished products (inclusive of ingot) products that consume much energy and generate heavy pollution, will be restrained. The export tax rebate for these products will be reduced or lifted.

[106] This article of the 2005 National Steel Policy is being implemented and the tax refund on numerous steel products have been reduced or removed, including concrete reinforcing bar.

Analysis of Domestic Prices in China

[107] The CBSA requested concrete reinforcing bar pricing from the GOC and from producers in China. The GOC did not respond to the RFIs, however, the CBSA did receive information on concrete reinforcing bar domestic prices from one concrete reinforcing bar producer.

[108] The complaint provided information from the Steel Business Briefing (SBB), a global independent source of steel pricing information, comparing worldwide concrete reinforcing bar prices for the period January 2012 to March 2014. This information indicated that domestic prices of concrete reinforcing bar in China were always lower in China when compared to pricing in other markets.¹⁷

¹⁶ Steel billet is used in the manufacture of long products such as plain bars, rebar, rods, tubes, pipes and wire.

¹⁷ Dumping Exhibit 1(PRO) Complaint, Attachment 29.

[109] The CBSA was also able to obtain domestic pricing information from MySteel Weekly¹⁸ for the concrete reinforcing bar market in China for 2013 and the first three months of 2014. The prices reported in MySteel Weekly were in line with what the SBB reported.¹⁹

[110] Since no responses to the surrogate producer section 20 RFI were received, the CBSA used pricing information available from the Republic of Korea and Turkey and has conducted a preliminary price analysis on domestic prices of concrete reinforcing bar. The analysis showed that domestic prices in China were between 18% and 32% lower when compared to domestic prices in the Republic of Korea and Turkey.²⁰

[111] Given that concrete reinforcing bar is a commodity product²¹ freely traded on the world market this price discrepancy further indicates that domestic prices of concrete reinforcing bar in China are not the same as they would be if they were determined under competitive market conditions.

Relationship between the Long Products Steel Sector and Other Steel Sectors in China

[112] The President of the CBSA has issued opinions in respect of the following steel sectors in China that domestic prices are substantially influenced by the GOC and that they are not substantially the same as they would be if they were determined in a competitive market:

- Wire rod sector - Certain galvanized steel wire (2013)
- Steel pipe sector - Certain piling pipe (2012)
- Oil country tubular goods sector - Certain pup joints (2011)
- Hot-rolled steel plate sector - Certain hot-rolled carbon steel plate and high strength low-alloy steel plate (2010)
- Flat-rolled steel industry sector - Certain flat hot-rolled carbon and alloy steel sheet and strip (2010)
- Welded pipe sector - Certain carbon steel welded pipe (2008 & 2011)
- Oil country tubular goods sector - Certain oil country tubular goods (2010)
- Oil country tubular goods sector - Certain seamless carbon or alloy steel oil and gas well casing (2008)

[113] These numerous opinions indicate that the GOC exerts control over the Chinese steel industry, which encompasses the long products steel sector, including the concrete reinforcing bar industry. Accordingly, there is sufficient reason to believe that the domestic prices are not substantially the same as they would be if they were determined in a competitive market.

¹⁸ MySteel Weekly is an independent observer of the Chinese steel market.

¹⁹ Dumping Exhibit 67 (PRO) - MySteel Weekly, Issue #, 301, 305, 307, 311, 314, 319, 323, 328, 332, 336, 340, 344, 349, 353 and 357.

²⁰ Refer to Attachment 3 of this report for additional details.

²¹ Canadian International Trade Tribunal in Inquiry No. NQ 99-002, January 12, 2000, concerning certain concrete reinforcing bar originating in or exported from the Republic of Cuba, the Republic of Korea and the Republic of Turkey. Page 23, Global Economic Factors, "The Tribunal notes that price trends in one part of the world generally influence prices in other parts of the world, especially for a commodity-type product such as rebar, and that the Canadian market is not and cannot be insulated from world price pressures".

Summary of the Preliminary Results of the Section 20 Inquiry

[114] The wide range and material nature of the GOC measures have resulted in significant influence on the steel industry in China including the long products steel sector, which includes concrete reinforcing bar. Based on the preceding, for the purposes of the preliminary determination, the President is of the opinion that:

- domestic prices are substantially determined by the GOC and
- there is sufficient reason to believe that the domestic prices are not substantially the same as they would be in a competitive market.

[115] During the final stage of the dumping investigation, the CBSA will continue the section 20 inquiry and further verify and analyze relevant information. The President may reaffirm his opinion that the conditions of section 20 exist in the long products steel sector, which includes concrete reinforcing bar, as part of the final phase of the investigation, or conclude that the determination of normal values may be made using domestic selling prices and costs in China.

Normal Values – Section 20

[116] For purposes of a preliminary determination of dumping, normal values are generally estimated on the basis of domestic selling prices of the goods in the country of export, or on the full cost of the goods including administrative, selling and all other costs plus a reasonable amount for profits.

[117] For purposes of this preliminary determination, normal values for Shandong Shiheng Special Steel Group Co., Ltd. could not be estimated on the basis of domestic selling prices in China or on the full cost of goods plus profit, because the President formed the opinion that domestic prices in the steel long products sector, which includes concrete reinforcing bar, in China are substantially determined by the GOC and there is sufficient reason to believe that the domestic prices are not substantially the same as they would be in a competitive market.

[118] Where domestic prices are substantially determined by the GOC and there is sufficient reason to believe that the domestic prices are not substantially the same as they would be in a competitive market, the CBSA may estimate normal values using the selling price, or the total cost and profit, of like goods sold by producers in a surrogate country, pursuant to paragraph 20(1)(c) of SIMA.

[119] Where normal values cannot be estimated as per the methodology under paragraph 20(1)(c), SIMA provides an alternative methodology to calculate normal values under paragraph 20(1)(d), using re-sales in Canada of like goods imported from a third country. The CBSA determined that this provision could also not be used given that the importers did not provide sufficient re-sale information, in addition to the lack of information from producers in surrogate countries.

[120] Accordingly, given the absence of information, the CBSA has used an alternative method to estimate normal values using a surrogate country methodology based on information from cooperative exporters in the Republic of Korea and Turkey who had shipped subject goods to Canada during the period of investigation.

Shandong Shiheng Special Steel Group Co., Ltd. (Shiheng Special Steel)

[121] Shiheng Special Steel provided responses to the dumping RFI and section 20 RFI that were considered to be substantially complete.

[122] Due to the preliminary section 20 results outlined above, normal values for Shiheng Special Steel were estimated using the surrogate country methodology mentioned above, based on the average of the estimated normal values from the producers in Turkey and the Republic of Korea that provided complete responses to the RFI.

[123] For subject goods exported from Shiheng Special Steel to Canada during the POI, export prices were estimated using the methodology of section 24 of SIMA, based on the exporter's selling price less all costs, charges and expenses resulting from the exportation of the goods.

[124] The total estimated normal value compared with the total estimated export price results in an estimated margin of dumping of 25.4% for Shiheng Special Steel.

All Other Exporters – Margin of Dumping

[125] For all other exporters, the normal values and related margins of dumping were based on the highest amount by which an estimated normal value exceeded an estimated export price (32.9%), on an individual transaction during the POI as estimated for an exporter with a complete submission. Export prices were obtained through CBSA import documentation for the subject goods imported into Canada during the dumping POI.

[126] As such, normal values for all other exporters were estimated by advancing the estimated export price of the goods by 32.9%.

Summary of the Preliminary Results of the Dumping Investigation

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

Summary of Preliminary Results of the Dumping Investigation Period of Investigation – January 1, 2013 to March 31, 2014

Country	Estimated Volume of Dumped Goods as Percentage of Country Imports	Estimated Margin of Dumping	Estimated Volume of Country Imports as Percentage of Total Imports	Estimated Volume of Dumped Goods as Percentage of Total Imports
China	100%	28.7%	7.5%	7.5%
Republic of Korea	100%	19.2%	9.3%	9.3%
Turkey	100%	16.5%	19.1%	19.1%

[128] Under subsection 35(1) of SIMA, the President is required to terminate an investigation prior to the preliminary determination if he is satisfied that the margin of dumping of the goods of a country is insignificant or that the volume of dumped goods of a country is negligible. Pursuant to subsection 2(1) of SIMA, a margin of dumping of less than 2% is defined as insignificant, and a volume of dumped goods from a country forming less than 3% of total imports is considered negligible.

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

SUBSIDY INVESTIGATION

[130] 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 World Trade Organization (WTO) Agreement, that confers a benefit.

[131] 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.

[132] 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.

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

[134] 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.

[135] 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.

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

[137] The following presents the preliminary results of the investigation into the subsidizing of certain concrete reinforcing bar originating in or exported from China, the Republic of Korea and Turkey.

China

Preliminary Phase of the Subsidy Investigation – China

[138] At the initiation of the investigation, the CBSA sent a subsidy RFI to the GOC, as well as to the potential exporters and producers located in China that had been identified in the complaint and through internal CBSA documentation. Information was requested in order to establish whether there had been financial contributions made by any level of government, including SOEs possessing, exercising or vested with government authority, and, if so, to establish if a benefit has been conferred on persons engaged in the production, manufacture, growth, processing, purchase, distribution, transportation, sale, export or import of certain concrete reinforcing bar; and whether any resulting subsidy was specific in nature. The GOC was also requested to forward the RFIs to all subordinate levels of government that had jurisdiction over the exporters. The exporters were requested to forward a portion of the RFI to their input suppliers, who were asked to respond to questions pertaining to their legal characterization as SOEs.

[139] In conducting its investigation, the CBSA requested information respecting 179 identified programs, as listed in **Appendix 4**, which were grouped into the following following seven categories:

- I. Special Economic Zone (SEZ) and Other Designated Areas Incentives;
- II. Preferential Loans and Loan Guarantees;
- III. Grants and Grant Equivalents;
- IV. Preferential Tax Programs;
- V. Relief from Duties and Taxes on Inputs, Materials and Machinery;
- VI. Goods/Services Provided by the Government at Less than Fair Market Value; and
- VII. Equity Programs

[140] A Complete response to the subsidy RFI was received from Shiheng Special Steel and its associated suppliers and trading company. The GOC did not provide a response.

[141] During the final phase of the investigation, the CBSA will seek to verify the information provided by Shiheng Special Steel, and further examine the previously identified subsidy programs. For purposes of the final determination, the CBSA may also consider any other potential subsidy programs that have not yet been identified.

[142] A summary of the preliminary results respecting China is included below, whereas an outline of the named subsidy programs can be found in **Appendix 4**.

Preliminary Results of Subsidy Investigation - China

Shandong Shiheng Special Steel Group Co., Ltd.

[143] For the purposes of the preliminary determination, the CBSA estimated, based on its analysis of the information provided by Shiheng Special Steel, an amount of subsidy on the basis of the financial benefits received under the following three programs:

- Program 19: Debt Forgiveness
- Program 46: Financial Subsidy
- Program 162: Tax policies for the deduction of research and development expenses

[144] For the purposes of the preliminary determination, all three programs are considered to be specific and therefore actionable. More information is provided in **Appendix 4**.

[145] The CBSA has estimated that Shiheng Special Steel received an amount of subsidy equal to 0.6%, when expressed as a percentage of the export price.

All other exporters - China

[146] For all other exporters in China that did not furnish sufficient information, the amount of subsidy is estimated based on:

- 1) the amount of subsidy for the three programs, as found at the preliminary determination, for the sole exporter that provided a complete response to the RFI (Shiheng Special Steel) located in China, plus;
- 2) the average of the amount of subsidy for three programs listed in (1), applied to each of the remaining 176 potentially actionable subsidy programs for which sufficient information is not available or has not been provided at the preliminary determination.

[147] Using the above methodology, the estimated amount of subsidy for all other exporters is 25.2%, expressed as a percentage of the export price.

[148] Following the above methodology, it is estimated that 100% of the subject goods imported from China are subsidized. The estimated overall weighted average amount of subsidy for China is equal to 11.3% of the export price of the subject goods.

The Republic of Korea

Preliminary Phase of the Subsidy Investigation – the Republic of Korea

[149] At the initiation of the investigation, the CBSA sent subsidy RFIs to the GOK, as well as to all known exporters/producers and identified vendors of certain concrete reinforcing bar in the Republic of Korea. Information was requested in order to establish whether there had been financial contributions made by any level of government, including SOEs possessing, exercising or vested with government authority, and, if so, to establish if a benefit has been conferred on persons engaged in the production, manufacture, growth, processing, purchase, distribution, transportation, sale, export or import of certain concrete reinforcing bar; and whether any resulting subsidy was specific in nature. The GOK 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.

[150] In conducting its investigation, the CBSA requested information respecting 30 identified programs, as listed in **Appendix 5**, which were grouped into the following seven categories:

- I. National Excellence in Steel Products Strategy;
- II. Government Owned Banks Providing Subsidies through Various Preferential Export-Contingent Assistance;
- III. Subsidy Programs Administered by the Korea Trade Insurance Corporation;
- IV. Targeted Tax Exemptions, Deductions, and Credits;
- V. Government of Korea Subsidies to Dongbu Steel's Plants in Asan Bay;
- VI. Other Preferential Loans and Financing Assistance;
- VII. Other Korean Subsidies;

[151] A complete response to the exporter subsidy RFI was received from one exporter, Hyundai Steel Company. Responses were also received by two other exporters that were considered incomplete for purposes of the preliminary determination.

[152] A complete response to the government subsidy RFI was received from the GOK.

[153] In its response to the government subsidy RFI, the GOK provided general descriptions of the alleged subsidy programs identified by the CBSA and submitted copies of the relevant supporting laws, regulations and policies.

[154] Based on the information available, the CBSA is of the opinion that the following programs may be export subsidies, which are considered to be prohibited subsidies:

- Program 5: Korea Export-Import Bank Short-Term Export Credit
- Program 6: Korea Export-Import Bank Export Factoring
- Program 7: Korea Export-Import Bank Export Loan Guarantees
- Program 8: Korea Export-Import Bank Trade Bill Rediscounting Program
- Program 9: Korea Development Bank and Industrial Bank of Korea Short-Term Discounted Loans for Export Receivables
- Program 10: Short-Term Export Insurance
- Program 11: Export Credit Guarantees

[155] The CBSA was also notified of the existence of one additional subsidy program by Hyundai Steel Company:

- Program 31: Industrial Technology Innovation Promotion Program

[156] During the final phase of the investigation, the CBSA will seek to verify the information provided by the GOK, Hyundai Steel Company and the other companies in Korea who responded to the RFI, and further examine the previously identified subsidy programs. For purposes of the final determination, the CBSA may also consider any other potential subsidy programs that have not yet been identified.

[157] A summary of the preliminary results respecting the Republic of Korea is included below, whereas an outline of the named subsidy programs can be found in **Appendix 5**.

Preliminary Results of the Subsidy Investigation – the Republic of Korea

Hyundai Steel Company

[158] For the purposes of the preliminary determination, sufficient information was provided by Hyundai Steel Company to permit the CBSA to estimate a specific amount of subsidy for this exporter. The company reported that it received benefits under the following five programs:

- Program 14: Research or Human Resource Development Expense Tax Deductions Under the Restriction of Special Taxation Act (RSTA) Article 10(1)(3)
- Program 16: Tax Credit for Investment in Energy-Saving Facilities Under RSTA Article 25-2
- Program 22: Targeted Facilities Subsidies through Korea Finance Corporation, Korea Development Bank and Industrial Bank of Korea “New Growth Engine Industry Fund”
- Program 24: Subsidies to Korean Rebar producers located within Industrial Complexes
- Program 31: Industrial Technology Innovation Promotion Program

[159] For the purposes of the preliminary determination, all five programs were considered to be specific and therefore actionable. These programs are analyzed in **Appendix 5**.

[160] Hyundai Steel Company also indicated that they participated in two other programs during the POI for which sufficient information was not provided to calculate a benefit:

Program 28: Sale of Assets of Hanbo Steel to Hyundai Steel

Program 30: Provision of Electricity at Less Than Fair Market Value

[161] The CBSA has estimated that Hyundai Steel Company received an amount of subsidy equal to 0.3%, when expressed as a percentage of the export price.

All other exporters – the Republic of Korea

[162] For all other exporters in the Republic of Korea that did not furnish sufficient information or did not furnish information in a timely fashion, the amount of subsidy is estimated based on:

- 1) the amount of subsidy for the five programs, as found at the preliminary determination, for the sole exporter that provided a complete response to the RFI (Hyundai Steel Company) located in the Republic of Korea, plus;
- 2) the average of the amount of subsidy for the five programs listed in (1), applied to each of the remaining 26 potentially actionable subsidy programs for which sufficient information is not available or has not been provided at the preliminary determination.

[163] Using the above methodology, the estimated amount of subsidy for all other exporters in the Republic of Korea is 3.8%, expressed as a percentage of the export price.

[164] Following the above methodology, it is estimated that 100% of the subject goods imported from the Republic of Korea are subsidized. The estimated overall weighted average amount of subsidy for the Republic of Korea is equal to 2.0% of the export price of the subject goods.

Turkey

Preliminary Phase of the Subsidy Investigation – Turkey

[165] At the initiation of the investigation, the CBSA sent subsidy RFIs to the Government of Turkey (GOT), as well as to all known exporters/producers and identified vendors of certain concrete reinforcing bar in Turkey. Information was requested in order to establish whether there had been financial contributions made by any level of government, including SOEs possessing, exercising or vested with government authority, and, if so, to establish if a benefit has been conferred on persons engaged in the production, manufacture, growth, processing, purchase, distribution, transportation, sale, export or import of certain concrete reinforcing bar; and whether any resulting subsidy was specific in nature. The GOT 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.

[166] In conducting its investigation, the CBSA requested information respecting 43 identified programs, as listed in **Appendix 6**, which were grouped into the following six categories:

- I. Investment Encouragement Program (IEP);
- II. Turk Eximbank Programs;
- III. Regional-based, Organized Industrial Zone (OIZ), and Free Zone Programs;
- IV. Goods/Services provided by the Government of Turkey (GOT) at Less Than Fair Market Value;
- V. Research and Development Programs; and
- VI. Other Programs.

[167] A complete response to the exporter subsidy RFI was received from one exporter, Habas.

[168] A complete response to the government subsidy RFI was received from the GOT.

[169] In its response to the government Subsidy RFI, the GOT provided general descriptions of the alleged subsidy programs identified by the CBSA and submitted copies of the relevant supporting laws, regulations and policies.

[170] Of the 43 alleged subsidy programs identified at the initiation, the GOT indicated that six of the programs were no longer in effect and were not in effect during the POI. The GOT provided supporting legislation confirming the termination of the programs. The CBSA is satisfied with the evidence available that these programs are no longer in effect and were not in effect during the POI and will no longer investigate these subsidies. These programs are:

- Program 22: Energy support program
- Program 23: Law 5084 – Withholding of Income Tax on Wages and Salaries
- Program 24: Law 5084 – Incentive for Employers’ Share in Insurance Premiums
- Program 25: Law 5084 – Allocation of free land
- Program 28: OIZ – Exemptions from customs duties, value-added tax, and payments for Public Housing Fund
- Program 29: OIZ – Credits for research and development investments, environmental investments, certain technology investments

[171] At the same time, the GOT confirmed the existence of the remaining 37 programs identified at the initiation of the investigation.

[172] Based on the information available the CBSA is of the opinion that the following programs may be export subsidies, which are considered to be prohibited subsidies:

- Program 7: Turk Eximbank – Pre-shipment export credit program Including sub-programs: Priority development areas export credit program Free trade zone pre-shipment foreign currency export credit program
- Program 8: Turk Eximbank – Foreign trade companies short-term export credit program
- Program 9: Turk Eximbank – Pre-export credit program Including sub-program: Free trade zone pre-export foreign currency export credit program
- Program 10: Turk Eximbank – Pre-export credit program for small and medium scale enterprises
- Program 11: Turk Eximbank – Short-term export credit discount program
- Program 12: Turk Eximbank – Short-term pre-shipment rediscount program
- Program 13: Turk Eximbank – Ship-building finance and guarantee program
- Program 14: Turk Eximbank – Specific export credit program
- Program 15: Turk Eximbank – International transportation marketing credit program
- Program 16: Turk Eximbank – Credit program for participating in overseas trade fairs
- Program 17: Turk Eximbank – International Islamic Trade Finance Corporation backed production finance credit program
- Program 18: Turk Eximbank – Export finance intermediation loan agreement
- Program 19: Turk Eximbank – The European Investment Bank credit program
- Program 20: Turk Eximbank – Buyers’ credit and guarantee program
- Program 21: Turk Eximbank – Short-term export credit insurance program
- Program 42: Deduction from taxable income for export revenue

[173] During the final phase of the investigation, the CBSA will seek to verify the information provided by the GOT and Habas, and further examine the previously identified subsidy programs. For purposes of the final determination, the CBSA may also consider any other potential subsidy programs that have not yet been identified.

[174] A summary of the preliminary results respecting Turkey is included below, whereas an outline of the named subsidy programs can be found in **Appendix 6**.

Preliminary Results of the Subsidy Investigation - Turkey

Habas

[175] For the purposes of the preliminary determination, sufficient information was provided by Habas to permit the CBSA to estimate a specific amount of subsidy for this exporter. The company reported that it received benefits under the following four programs:

- Program 37: Provision of natural gas at less than fair market value
- Program 39: Research and Development – Tax breaks and other assistance
- Program 41: Social Security Grant Program
- Program 42: Deduction from taxable income for export revenue

[176] For the purposes of the preliminary determination, all four programs were considered to be specific and therefore actionable. These programs are analyzed in **Appendix 6**.

[177] The CBSA is of the opinion that Program 42 may be a prohibited subsidy, by virtue of being an export subsidy. This subsidy will be investigated further in the final phases of the investigation.

[178] Habas also benefitted from the following program:

- Program 43: Inward processing certificate exemption

[179] However, the benefit received by Habas in relation to this program was not actionable. This program is analyzed in **Appendix 6**.

[180] The CBSA has estimated that Habas received an amount of subsidy equal to 2.5%, when expressed as a percentage of the export price.

All other exporters - Turkey

[181] For all other exporters in Turkey that did not furnish sufficient information or did not furnish information in a timely fashion, the amount of subsidy is estimated based on:

- 1) the amount of subsidy for the four programs, as found at the preliminary determination, for the sole exporter that provided a complete response to the RFI (Habas) located in Turkey, plus;
- 2) the average of the amount of subsidy for the four programs listed in (1), applied to each of the remaining 33 potentially actionable subsidy programs for which sufficient information is not available or has not been provided at the preliminary determination.

[182] Using the above methodology, the estimated amount of subsidy for all other exporters is 22.8%, expressed as a percentage of the export price.

[183] Following the above methodology, it is estimated that 100% of the subject goods imported from Turkey are subsidized. The estimated overall weighted average amount of subsidy for Turkey is equal to 4.0% of the export price of the subject goods.

Summary of Preliminary Results of Subsidy Investigation

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

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

[186] 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.²² Since China and Turkey are included in the listing, the CBSA extends developing country status to China and Turkey for purposes of this investigation.

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

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

²² The Organization for Economic Co-operation and Development, DAC List of ODA Recipients from 2011 to 2013, the document is available at: www.oecd.org/dac/stats/DAC%20List%20used%20for%202012%20and%202013%20flows.pdf

**Summary of Preliminary Results of Subsidy Investigation
Period of Investigation - January 1, 2013 to March 31, 2014**

Country	Estimated Subsidized Goods as Percentage of Country Imports	Estimated Amount of Subsidy*	Estimated Volume of Country Imports as Percentage of Total Imports	Estimated Volume of Subsidized Goods as Percentage of Total Imports
China	100%	11.3%	7.5%	7.5%
Republic of Korea	100%	2.0%	9.3%	9.3%
Turkey	100%	4.0%	19.1%	19.1%

*expressed as a percentage of the export price.

DECISIONS

[189] Based on the information available to the President, on September 11, 2014, the President made preliminary determinations respecting the alleged injurious dumping and subsidizing of certain concrete reinforcing bar from China, the Republic of Korea and Turkey, pursuant to subsection 38(1) of SIMA.

PROVISIONAL DUTY

[190] Pursuant to subsection 8(1) of SIMA, provisional duty payable by the importer in Canada will be applied to dumped and subsidized certain concrete reinforcing bar that are released during the period commencing on the day the preliminary determinations are made and ending on the earlier of the day on which the President causes the investigations to be terminated, in accordance with subsection 41(1), or the day on which the Tribunal makes an order or finding. The President considers that the imposition of provisional duty is needed to prevent the injury which, as per the Tribunal's preliminary determination, was caused by the dumping and subsidizing of certain concrete reinforcing bar.

[191] Provisional duty is based on the estimated margin of dumping and the estimated amount of subsidy, expressed as a percentage of the export price of the goods. **Appendix 3** contains the estimated margins of dumping, estimated amounts of subsidy and the rates of provisional duty payable on subject goods released from the CBSA on and after September 11, 2014.

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

FUTURE ACTION

The Canada Border Services Agency

[193] The CBSA will continue its investigations of the dumping and subsidizing and the President will make final decisions by December 10, 2014.

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

The Canadian International Trade Tribunal

[195] The Tribunal has begun its inquiry into the question of injury to the Canadian industry. The Tribunal is expected to issue its finding by January 9, 2015.

[196] If the Tribunal finds that the dumping has not caused injury, retardation or is not threatening to cause injury, the proceedings will be terminated and all provisional duty collected or security posted will be returned.

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

[198] If the Tribunal finds that the subsidizing has not caused injury, retardation or is not threatening to cause injury, the proceedings will be terminated and all provisional duty collected or security posted will be returned.

[199] If the Tribunal makes a finding that the subsidizing has caused injury, retardation or is threatening to cause injury, countervailing duties in the amount equal to the amount of subsidy on the imported goods will be levied, collected and paid on imports of certain concrete reinforcing bar.

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

RETROACTIVE DUTY ON MASSIVE IMPORTATIONS

[201] Under certain circumstances, anti-dumping and/or countervailing duty can be imposed retroactively on subject goods imported into Canada. When the Tribunal conducts its inquiry on material injury to the Canadian industry, it may consider if dumped and/or subsidized goods that were imported close to or after the initiation of the investigation constitute massive importations over a relatively short period of time and have caused injury to the Canadian industry. Should the Tribunal issue a finding that there were recent massive importations of dumped and/or subsidized goods that caused injury, imports of subject goods released by the CBSA in the 90 days preceding the day of the preliminary determination could be subject to anti-dumping and/or countervailing duty.

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

UNDERTAKINGS

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

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

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

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

PUBLICATION

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

INFORMATION

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

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

Telephone: Dean Pollard 613-954-7410
Paul Pomnikow 613-948-7809

Fax: 613-948-4844

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

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



Brent McRoberts
Director General
Trade and Anti-dumping Programs Directorate

Attachments

APPENDIX 1 - Representations from the Government of the Republic of Korea

Insufficient Evidence

The GOK submitted that the World Trade Organization (WTO)'s Agreement on Subsidies and Countervailing Measures (ASCM) sets out the conditions to be met and the procedure to be followed when an authority of a Member State initiates a subsidy investigation. The GOK stated that the application for the initiation of a subsidy investigation must include *sufficient evidence of the existence of (a) a subsidy and, if possible, its amount, (b) injury within the meaning of Article VI injury*. The GOK submitted that the complaint does not meet the requirements listed above, as the complaint contains only allegations without evidence to support the allegations.

CBSA Response

The CBSA met the threshold for initiating a subsidy investigation, as required by subsection 31(1) of SIMA. The subsidy investigation was initiated following receipt of a properly documented complaint. This complaint contained the elements required by the definition of the term "properly documented complaint" in subsection 2(1) and the provisions of subsection 31(1) of SIMA. The information presented by the Complainants, together with supplementary data available to the CBSA and CBSA import documentation, substantiated the Complainants' allegations that certain concrete reinforcing bar from the Republic of Korea have been subsidized.

The CBSA determined that the Complainants provided the information about subsidies in the Republic of Korea that was reasonably available to them. The CBSA also undertook its own research and determined that there was evidence that certain concrete reinforcing bar from the Republic of Korea have been subsidized. Therefore, the CBSA initiated a subsidy investigation with respect to these goods.

Injury

The GOK submitted that Article 15.5 of the WTO's ASCM states that "it must be demonstrated that the subsidized imports are, through the effects of subsidies, causing injury within the meaning of the Agreement. The demonstration of a causal relationship between the subsidized imports and the injury to the domestic industry shall be based on an examination of all relevant evidence before the authorities. The authorities shall also examine any known factors other than the subsidized imports". The GOK submitted that the CBSA has ignored relevant facts in establishing the existence of injury as the country that exports the highest volume of concrete reinforcing bar to Canada has been excluded from the list of subject countries in the complaint.

CBSA Response

The President was of the opinion that the information provided in the complaint disclosed a reasonable indication that the alleged dumping and subsidizing of certain concrete reinforcing bar from the Republic of Korea have caused injury and are threatening to cause injury to the Canadian industry producing the like goods. Further, the Tribunal conducted a preliminary injury inquiry and determined, on August 12, 2014, that the evidence discloses a reasonable indication that the alleged dumping and subsidizing of the goods have caused or are threatening to cause injury to the Canadian industry.

APPENDIX 2 - Representations from the Government of Turkey

Insufficient Evidence

The GOT submitted that there is no evidence to support the allegations that producers of certain concrete reinforcing bar in Turkey have benefited from “remarkable and sector specific subsidies”.

CBSA Response

The CBSA met the threshold for initiating a subsidy investigation, as required by subsection 31(1) of SIMA. The subsidy investigation was initiated following receipt of a properly documented complaint. This complaint contained the elements required by the definition of the term “properly documented complaint” in subsection 2(1) and the provisions of subsection 31(1) of SIMA. The information presented by the Complainants, together with supplementary data available to the CBSA and CBSA import documentation, substantiated the Complainants’ allegations that certain concrete reinforcing bar from the Republic of Turkey have been subsidized.

The CBSA determined that the Complainants provided the information about subsidies in Turkey that was reasonably available to them. The CBSA also undertook its own research and determined that there was evidence that certain concrete reinforcing bar from Turkey have been subsidized. Therefore, the CBSA initiated a subsidy investigation with respect to these goods.

Insufficiency of Non-confidential Version of the Complaint

The GOT submitted that the information concerning the injury indicators in the complaint, which was provided to the GOT is insufficient. The GOT advised that Article 12.4.1 of the ASCM states “the authorities shall require interested Members or interested parties providing confidential information to furnish non-confidential summaries thereof. These summaries shall be in sufficient detail to permit a reasonable understanding of the substance of the information submitted in confidence”. The GOT submitted that they should be provided with additional data concerning the alleged injury to permit a reasonable assessment of the complaint.

CBSA Response

The CBSA is of the opinion that the non-confidential version of the complaint is in accordance with paragraph 85(1)(b) of SIMA.

APPENDIX 3 – Summary of the Estimated Margins of Dumping, Estimated Amounts of Subsidy, and Provisional Duties Payable

The following table lists the estimated margins of dumping, the estimated amounts of subsidy and the provisional duty payable by exporter as a result of the decisions mentioned above. Imports of subject goods released from the CBSA, on or after September 11, 2014, will be subject to provisional duties at the rates specified below.

Exporter	Estimated Margin of Dumping*	Estimated Amount of Subsidy*	Total Provisional Duty Payable*
China			
Shiheng Special Steel	25.4%	0.6%	26.0%
All Other Exporters	32.9%	25.2%	58.1%
The Republic of Korea			
Hyundai Steel Company	14.5%	0.3%	14.8%
Hyundai Corporation	21.5%	3.8%	25.3%
GSG	25.6%	3.8%	29.4%
All Other Exporters	32.9%	3.8%	36.7%
Turkey			
Habas	15.2%	2.5%	17.7%
All Other Exporters	32.9%	22.8%	55.7%

*expressed as a percentage of the export price.

APPENDIX 4 - Summary of Preliminary Findings for Named Subsidy Programs - China

As noted in the body of this document, the GOC did not submit a response to the subsidy RFI, which significantly impeded the CBSA's ability to conduct a proper analysis of the programs for the preliminary determination. However, in recognition of the amount of cooperation and the volume of information provided by the responding exporter, the CBSA has estimated an amount of subsidy for Shiheng Special Steel based on the information provided in its response to the subsidy RFI.

This appendix consists of a listing of 179 potentially actionable subsidy programs which were reviewed by the CBSA in the current subsidy investigation. It is followed by descriptions of the three programs used by the responding exporter in the current investigation. Summaries of the legislative basis on which the programs are considered potentially actionable or non-actionable are also provided below.

Potentially Actionable Subsidy Programs Identified by the CBSA

Questions concerning these programs were included in the RFIs sent to the GOC and to all known exporters of the subject goods in China. Without a complete response to the government subsidy RFI from the GOC, the CBSA does not have detailed descriptions of these programs. In other words, the CBSA has, to date, not determined if any of these programs should be removed from the investigation. The CBSA will continue to investigate these programs in the final phase of the investigation.

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

- Program 1: Award for Baotou Rare Earth High and New Technology Industrial Development Zone for Excellent Construction Projects
- Program 2: Fuyang and Hangzhou City Government Grants for Enterprises Operating Technology and Research and Development Centers
- Program 3: Science and Technology Fund - Tianjin Binhai New Area and the Tianjin Economic and Technological Development Area
- Program 4: Corporate Income Tax Exemption and/or Reduction in SEZs and other Designated Areas
- Program 5: Exemption/Reduction of Special Land Tax and Land Use Fees in SEZs and Other Designated Areas
- Program 6: Income Tax Refund where Profits Re-invested in SEZs and other Designated Areas
- Program 7: Preferential Tax Policies for Enterprises with Foreign Investment (FIEs) Established in Special Economic Zones (excluding Shanghai Pudong Area)
- Program 8: Preferential Tax Policies for FIEs Established in the Coastal Economic Open Areas and in the Economic and Technological Development Zones

- Program 9: Tariff and Value-added Tax (VAT) Exemptions on Imported Materials and Equipment in SEZs and other Designated Areas
- Program 10: Tax concessions for Central and Western regions
- Program 11: Local Income Tax Exemption and/or Reduction in SEZs and other Designated Areas
- Program 12: Preferential Costs of Services and/or Goods Provided by Government or State-owned Enterprises (SOEs) in SEZs and Other Designated Areas
- Program 13: VAT Exemptions for the Central Region

II. Preferential Loans and Loan Guarantees

- Program 14: Loan from Local Finance Bureau
- Program 15: Loans and Interest Subsidies provided under the Northeast Revitalization Program
- Program 16: Policy Lending to Particular Industries
- Program 17: Preferential Loans Characterized as a Lease Transaction
- Program 18: Preferential Loans for SOEs
- Program 19: Debt Forgiveness

III. Grants and Grant Equivalents

- Program 20: Export Seller's Credit for High- and New-Technology Products by China EMIX Bank
- Program 21: Changzhou Qishuyan District Environmental Protection Fund (Jiangsu)
- Program 22: Changzhou Technology Plan (Jiangsu)
- Program 23: Enterprise Innovation Award of Qishuyan District (Jiangsu)
- Program 24: Enterprise Technology Centers (e.g. Tianjin City and Jinnan District)
- Program 25: Environment Protection Award (Jiangsu)
- Program 26: Grant - Jiangsu Province Finance Supporting Fund
- Program 27: "Large and Excellent" Enterprises Grant
- Program 28: "Two New" Product Special Funds of Guangdong Province
- Program 29: Advanced Science/Technology Enterprise Grant
- Program 30: Allowance to Pay Loan Interest (Zhongshan City, Guangdong)
- Program 31: Assistance for Optimizing the Structure of Import/Export of High-Tech Products
- Program 32: Assistance for Technology Innovation - R&D Project
- Program 33: Award for Good Performance in Paying Taxes
- Program 34: Awards for the Contributions to Local Economy and Industry Development
- Program 35: Awards to Enterprises Whose Products Qualify for "Well-Known Trademarks of China" or "Famous Brands of China"
- Program 36: Business Bureau 2012 Market Monitoring System of Subsidies
- Program 37: Business Development Overseas Support Fund (Foshan)

- Program 38: Circular on Issuance of Management Methods for Foreign Trade Development Support Fund (Support Fund)
- Program 39: Emission Reduction and Energy-saving Award
- Program 40: Energy Saving Grant 2008
- Program 41: Energy-saving Technology Renovation Fund
- Program 42: Export Assistance Grant
- Program 43: Export Brand Development Fund
- Program 44: Export Credit Subsidy Programs: Export Buyer's Credits
- Program 45: Export Grant 2006, 2007, 2008
- Program 46: Financial Subsidy
- Program 47: Five Points, One Line Strategy in Liaoning Province
- Program 48: Foreign Trade Grant 2008
- Program 49: Fund for SME Bank-Enterprise Cooperation Projects
- Program 50: Funds for Outward Expansion of Industries in Guangdong Province
- Program 51: Funds of Guangdong Province to Support the Adoption of E-Commerce by Foreign Trade Enterprises
- Program 52: Foreign Trade Development Fund Program - Grants
- Program 53: Government Export Subsidy and Product Innovation Subsidy
- Program 54: Government of Shijiazhuang City Export Award
- Program 55: Grant - Financial Subsidies from Wei Hai City GaoCun Town Government
- Program 56: Grant - Large Taxpayer Award
- Program 57: Grant - Patent Application Assistance
- Program 58: Grant - Policy on Value-added Tax for Recyclable Resources
- Program 59: Grant - Provincial Foreign Economy and Trade Development Special Fund
- Program 60: Grant - Provisional Industry Promotion Special Fund
- Program 61: Grant - Resources Conservation and Environment Protection Grant
- Program 62: Grant - Special Fund for Fostering Stable Growth of Foreign Trade in 2009
- Program 63: Grant - State Service Industry Development Fund
- Program 64: Grant - Water Pollution Control Special Fund for Taihu Lake
- Program 65: Grant for key enterprises in equipment manufacturing industry of Zhongshan
- Program 66: Grants for Encouraging the Establishment of Headquarters and Regional Headquarters with Foreign Investment
- Program 67: Grants for International Certification
- Program 68: Grants to Privately-Owned Export Enterprises
- Program 69: Grants Under Regulations for Export Product Research and Development Fund Management
- Program 70: Grants under the Science and Technology programme of Hebei Province
- Program 71: Grants under the Science and technology programme of Jiangsu Province
- Program 72: Guangdong - Hong Kong Technology Cooperation Funding Scheme
- Program 73: Guangdong Supporting Fund

- Program 74: Guaranteed Growth Fund
- Program 75: Hangzhou City Government Grants Under the Hangzhou Excellent New Products/Technology Award
- Program 76: Implementing Measures on the Supporting Fund for Foreign Trade & Economic Development of Jiangxi Province (Implementing Measures)
- Program 77: Important Structural Adjustment Program of Jiangsu Province
- Program 78: Initial Public Offering (IPO) Grants from the Hangzhou Prefecture and the City of Fuyang
- Program 79: Innovative Experimental Enterprise Grant
- Program 80: Innovative Small and Medium-Sized Enterprise Grants
- Program 81: Interim Measures of Fund Management of Allowance for Zhongshan Enterprises to Attend Domestic and Overseas Fair (Zhongshan)
- Program 82: International Market Fund for Small- and Medium-sized Export Companies) [Matching Funds for International Market Development for SMEs]
- Program 83: Jiangxi Provincial Bulk Cement Special Fund: Transformation of Bulk Cement Facilities and Equipment
- Program 84: Jiangxi Provincial Environmental Protection Special Fund
- Program 85: Jiangxi Provincial Wall Material Renovation Special Fund: Special Subsidies for New Wall Materials
- Program 86: Liaoning High-Tech Products & Equipment Export Interest Assistance
- Program 87: Local and Provincial Government Reimbursement Grants on Export Credit Insurance Fees
- Program 88: Miscellaneous Grants
- Program 89: Modern Service Grant
- Program 90: Municipal Government - Exhibition Grant
- Program 91: Municipal Government - Export Grant
- Program 92: Municipal Government - Insurance Fee Grant
- Program 93: National Environmental Protection and Resources Saving Program: Grants for the Optimization of Energy Systems
- Program 94: National Innovation Fund for Technology Based Firms
- Program 95: Outstanding Growth Private Enterprise and Small and Medium-sized Enterprises Development in Jiangyin Fund
- Program 96: Patent award in Guangdong province;
- Program 97: Pension Fund Grants
- Program 98: Product Quality Grant
- Program 99: Provincial Fund for Fiscal and Technological Innovation
- Program 100: Provincial Government - Equipment Grant
- Program 101: Provincial Loan Discount Special Fund for SMEs
- Program 102: Provincial Scientific Development Plan Fund
- Program 103: Refund from Government for Participating in Trade Fair (Foshan)

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

- Program 139: Supporting Fund for the "Working Capital" Loan Interest
Program 140: Supporting Fund for the Development from Guangzhou Local Governments
Program 141: Foreign Trade Development Fund Program - VAT Refunds

IV. Preferential Tax Programs

- Program 142: Corporate Income Tax Reduction for New High-Technology Enterprises
Program 143: Deed Tax Exemptions For Land Transferred through Merger or Restructuring
Program 144: Income tax concessions for the enterprises engaged in the comprehensive resource utilisation ('special raw materials')
- Program 145: Income Tax Exemption for Investors in Designated Geographical Regions Within Liaoning
- Program 146: Income Tax Refund for Re-investment of FIE Profits by Foreign Investors
Program 147: Local income tax exemption and reduction programmes for the productive FIEs
Program 148: Municipal Government - Preferential Tax Program
Program 149: PGOG Tax Offset for R&D
Program 150: Preferential income tax policies for particular regions
Program 151: Preferential Tax Policies for Domestic Enterprises Purchasing Domestically Produced Equipment for Technology Upgrading Purpose
Program 152: Preferential Tax Policies for FIEs and Foreign Enterprises Which Have Establishments or Places in China and are Engaged in Production or Business Operations Purchasing Domestically Produced Equipment
Program 153: Preferential Tax Policies for FIEs which are Technology Intensive and Knowledge Intensive
Program 154: Preferential Tax Policies for Foreign Invested Export Enterprises
Program 155: Preferential Tax Policies for the Research and Development of FIEs
Program 156: Preferential Tax Policies in the Western Regions
Program 157: Preferential Tax Programs for Encouraged Industries or Projects
Program 158: Accelerated Depreciation on Fixed Assets
Program 159: City maintenance and Construction Taxes and education surcharges for Foreign Invested Enterprises
Program 160: Various local tax discounts (Shandong Province, Chongqing City, Guangxi Region Zhuang, Tax privileges to develop central and western regions)
Program 161: VAT and Income Tax Exemption/Reduction for Enterprises Adopting Debt-to-Equity Swaps
Program 162: Tax policies for the deduction of research and development expenses
Program 163: Tax Preference Available to Companies that Operate at a Small Profit
Program 164: Two free, three half tax exemptions for the productive FIEs

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

Program 165: Exemption of Tariff and Import VAT for the Imported Technologies and Equipment

Program 166: Relief from Duties and Taxes on Imported Material and Other Manufacturing Inputs

Program 167: VAT rebates on domestically produced equipment

Program 168: VAT refunds to FIEs purchasing domestically produced equipment

Program 169: VAT deduction on fixed assets in the Central region

Program 170: Income tax credit for the purchase of domestically manufactured production equipment

Program 171: Import tariff and VAT exemptions for FIEs and certain domestic enterprises using imported equipment in encouraged industries

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

Program 172: Acquisition of Government Assets at Less than Fair Market Value

Program 173: Export Restrictions on raw materials (e.g. Coke)

Program 174: Input Materials Provided by Government at Less than Fair Market Value

Program 175: Utilities Provided by Government at Less than Fair Market Value

VII. Equity Programs

Program 176: Debt-to-Equity Swaps

Program 177: Dividend exemption between qualified resident enterprises

Program 178: Equity Infusions

Program 179: Unpaid Dividends

Potentially Actionable Subsidy Programs Used By The Responding Exporter

The CBSA has used the best information available to describe the potentially actionable subsidy programs used by the responding exporter in the current investigation. This includes using information obtained from CBSA research on potential subsidy programs in China, information provided by the responding exporter and descriptions of programs that the CBSA has previously publicly published in recent *Statements of Reasons* relating to subsidy investigations involving China. Since the GOC did not submit a response to the Subsidy RFI, the information available to identify the actual legal instruments for providing the specific amounts of subsidy is limited.

I. Preferential Loans and Loan Guarantees

Program 19: Debt Forgiveness

On the basis of the CBSA's preliminary analysis, Shiheng Special Steel received benefits under this program. The exporter and GOC provided no information with respect to the program.

This program relates to the provision of preferential loans from state-owned banks. Information on this program was obtained from the CBSA Preliminary Determinations Statement of Reasons for certain Copper Tube.²³ When exporters or producers of subject goods receive preferential loans at preferential interest rates from SOEs and those SOEs are considered to be possessing, exercising, or vested with governmental authority, a subsidy may be found to exist.

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

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

In terms of the first concept, the CBSA requested information from the exporter regarding information on its loans, banking information, interest rates, and maturity dates. Based on the information in its submission, the responding exporter received loans from several state-owned banks.

In terms of the second concept, the following analysis considers whether these banks could be regarded as "government" for the purpose of subsection 2(1) of SIMA. SOEs may be considered to constitute "government" if they possess, exercise or are vested with government authority, which may be indicated by the following factors:

- where a statute or other legal instrument expressly vests government authority in the entity concerned;
- evidence that an entity is, in fact, exercising governmental functions; or
- evidence that a government exercises meaningful control over an entity.

²³ CBSA Preliminary Determinations Statement of Reasons, Certain Copper Tube, Pages 43 & 44, September 4, 2013.

The Export-Import Bank of China (EXIM Bank) was one of the providers of preferential loans to the exporter. According to its Web site, “the Export-Import Bank of China is a state bank solely owned by the GOC and under the direct leadership of the State Council.” Furthermore, the mission of EXIM Bank “is to facilitate the export and import of mechanical and electronic products in China, complete sets of equipment and new-and high-tech products, assist companies in China with comparative advantages in their offshore project contracting and outbound investment, and promote international economic cooperation and trade.”²⁴ The above evidence clearly indicates that the EXIM Bank is considered to constitute “government” for the purpose of subsection 2(1) of SIMA.

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

Having determined that there is a financial contribution, as defined in paragraph 2(1.6)(c) of SIMA,²⁵ the CBSA estimated whether the financial contribution conferred a benefit to the exporter/producer. This estimate involved the comparison of the interest rates at which the loans were provided by the government with the market interest rates of the loans in China. The CBSA determined that the loan benchmark interest rate issued by the People’s Bank of China for RMB denominated loans is an appropriate benchmark interest rate for this purpose.

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

III. Grants and Grant Equivalents

Program 46: Financial Subsidy

On the basis of the CBSA’s preliminary analysis, Shiheng Special Steel received benefits under this program. The exporter and GOC provided no information with respect to the program.

Based on information from the exporter’s financial statements, it appears that this program was administered by the municipality in which the company is located. The CBSA will request more information on the granting authority of this program during the final phases of the investigation.

²⁴ The Export-Import Bank of China. Website available at: http://english.eximbank.gov.cn/tm/en-TCN/index_617.html

²⁵ The government provides goods or services, other than general infrastructure, or purchases goods.

IV. *Preferential Tax Programs*

Program 162: Tax policies for the deduction of research and development expenses

On the basis of the CBSA's preliminary analysis, the CBSA believes that Shiheng Special Steel received benefits under this program. The exporter and GOC provided no information with respect to this program.

This program was established in Article 30(1) of the *Enterprise Income Tax Law* and Article 95 of the *Release of Regulations on the Implementation of Enterprise Income Tax Law* of the People's Republic of China by the State Council (Decree 512 of the State Council, 2007). Information on this program was obtained from the CBSA Preliminary Determinations Statement of Reasons for certain Copper Tube.²⁶

Preliminary Determinations of Subsidy and Specificity

Information gathered during the preliminary phase of the investigation indicates that the program identified under *Grants and Grant Equivalents* is potentially actionable as financial contributions pursuant to paragraph 2(1.6)(a) of SIMA from the government that involve a direct transfer of funds. This grant confers a direct benefit to the recipient in the form of a grant, and the benefit is equal to the amount of the grant provided.

Preferential Loans and Loan Guarantees are potentially actionable as financial contributions pursuant to paragraph 2(1.6)(c) of SIMA as they involve the provision of goods or services, other than general governmental infrastructure.

Preferential Tax Programs are potentially actionable as financial contributions pursuant to paragraph 2(1.6)(b) of SIMA, in that amounts that would otherwise be owing and due to the government are reduced and/or exempted, and would confer a benefit to the recipient equal to the amount of the reduction/exemption.

Due to the lack of a response by the GOC and the lack of details provided by the exporter, there is not sufficient information on the record to determine whether *Preferential Loans and Loan Guarantees; Grants and Grant Equivalents; and Preferential Tax Programs* are specific pursuant to sub-section 2(7.2) or subsection 2(7.3) of SIMA. On the basis of the available information, these programs do not appear to be generally available to all enterprises in China and thus appear to be specific.

²⁶ CBSA Preliminary Determinations Statement of Reasons, Certain Copper Tube – Page 50, September 4, 2013.

APPENDIX 5 - Summary of Preliminary Findings for Named Subsidy Programs – The Republic of Korea

This appendix consists of a revised listing of 31 potentially actionable subsidy programs that were reviewed by the CBSA in the current subsidy investigation. A list of subsidies that the CBSA believes are prohibited subsidies is also provided. This is followed by descriptions of the programs used by the responding exporters in the current investigation. Summaries of the legislative basis on which the programs are considered potentially actionable or non-actionable is also provided below.

Potentially Actionable Subsidy Programs Identified by the CBSA

I. National Excellence in Steel Products Strategy

- Program 1: Focused R&D for 30 Steel Products
- Program 2: Green Steel Industry
- Program 3: Specialization through Strengthening the Relationship with the Consumers of Steel Products
- Program 4: Support for Obtaining Stable Raw Material

II. Government Owned Banks Providing Subsidies through Various Preferential Export-Contingent Assistance

- Program 5: Korea Export-Import Bank Short-Term Export Credit
- Program 6: Korea Export-Import Bank Export Factoring
- Program 7: Korea Export-Import Bank Export Loan Guarantees
- Program 8: Korea Export-Import Bank Trade Bill Rediscounting Program
- Program 9: Korea Development Bank and Industrial Bank of Korea Short-Term Discounted Loans for Export Receivables

III. Subsidy Programs Administered by the Korea Trade Insurance Corporation

- Program 10: Short-Term Export Insurance; and
- Program 11: Export Credit Guarantees.

IV. Targeted Tax Exemptions, Deductions, and Credits

- Program 12: Research and Development Expense Tax Deductions for “New Growth Engines” Under RSTA Article 10(1)(1)
- Program 13: Research and Development Expense Tax Deductions for “Original Technologies” Under RSTA Article 10(1)(2)
- Program 14: Research or Human Resource Development Expense Tax Deductions Under RSTA Article 10(1)(3)

- Program 15: Corporation Tax Exemption on Dividend Income from Investment in Overseas Resource Development
- Program 16: Tax Credit for Investment in Energy-Saving Facilities Under RSTA Article 25-2
- Program 17: RSTA Article 26

V. Government of Korea Subsidies to Dongbu Steel's Plants in Asan Bay

- Program 18: Discounted Land to Dongbu Steel for Establishing its Plants in Asan Bay
- Program 19: Grants Disguised as Interest Payments to Dongbu Steel for Establishing its Plants in Asan Bay
- Program 20: Excessive Exemption of Asan Bay Harbor Fee to Dongbu Steel

VI. Other Preferential Loans and Financing Assistance

- Program 21: Loans Under the Industrial Base Fund
- Program 22: Targeted Facilities Subsidies through Korea Finance Corporation, Korea Development Bank and Industrial Bank of Korea "New Growth Engine Industry Fund"
- Program 23: Corporate Bond Stabilization Policy

VII. Other Korean Subsidies

- Program 24: Subsidies to Korean Rebar Producers Located within Industrial Complexes
- Program 25: Green Fund Subsidies
- Program 26: Promotion of Specialized Enterprises for Parts and Materials
- Program 27: Root Industry Promotion Plan
- Program 28: Sale of Assets of Hanbo Steel to Hyundai Steel
- Program 29: Global Top 10 Logistics Companies Promotion Plan
- Program 30: Provision of Electricity at Less Than Fair Market Value
- Program 31: Industrial Technology Innovation Promotion Program

Prohibited Subsidies

The CBSA believes that the following programs are prohibited subsidies, by virtue of being export subsidies. The CBSA will continue to investigate these subsidies to determine whether they constitute prohibited subsidies during the final phases of the investigation.

- Program 5: Korea Export-Import Bank Short-Term Export Credit
- Program 6: Korea Export-Import Bank Export Factoring
- Program 7: Korea Export-Import Bank Export Loan Guarantees
- Program 8: Korea Export-Import Bank Trade Bill Rediscounting Program
- Program 9: Korea Development Bank and Industrial Bank of Korea Short-Term Discounted Loans for Export Receivables
- Program 10: Short-Term Export Insurance
- Program 11: Export Credit Guarantees

Potentially Actionable Subsidy Programs Used by the Responding Exporters

The CBSA's review of the responses provided by the GOK and by the responding exporters has indicated that sufficient information was provided to make a preliminary determination that the programs used by the responding exporters constituted potentially actionable subsidies, and to estimate the amount of subsidy on a program basis.

IV. Targeted Tax Exemptions, Deductions, and Credits

Program 14: Research or Human Resource Development Expense Tax Deductions Under RSTA Article 10(1)(3)

This program was first introduced in 2010 through an amendment to the *Restriction of Special Taxation Act* (RSTA) for the purpose of facilitating companies' investments in their research and development activities relating to fundamental technologies. Pursuant to Article 10(1)(1) of the RSTA, a tax deduction is provided to companies that made investments in R&D and human resources development. The tax deduction is 20% of the expenses incurred in a taxation year for large enterprises and 30% for small and medium enterprises.

Program 16: Tax Credit for Investment in Energy-Saving Facilities Under RSTA Article 25-2

This program was introduced in 1978 in the Act which the RSTA replaced, in order to facilitate Korean corporations' investments in the energy utilization facilities. As per Article 25-2 of the RSTA, a national company that makes an investment in the energy-saving facilities prescribed by the Enforcement Decree may apply for a tax deduction by filling out the required forms at the time they file their tax return.

The types of facilities that are eligible for the application for this program are listed under the Enforcement Decree of the RSTA, which has been amended as necessary. Under this provision, 10% of the eligible investment may be deducted from the taxes payable by a corporation or an individual taxpayer.

VI. *Other Preferential Loans and Financing Assistance*

Program 22: Targeted Facilities Subsidies through Korea Finance Corporation, Korea Development Bank and Industrial Bank of Korea “New Growth Engine Industry Fund”

This program was established in January 2001 by the Korea Development Bank (KDB), and in October 2009 by the Korea Finance Corporation (KOFK). The purpose of this program is to lend money to companies in need of investments in their facilities and business operations in the “New Growth Engine Industry”, which are chosen by each financial institution that operates this program. The KOFK itself was established through the adoption of the *Korean Financing Corporation Act*.

The program is offered as an operational function of both the KOFK and KDB, but not under any specific legislation. The *Korean Financing Corporation Act* and *Korea Development Bank Act* serve as the legal basis for administering this program. The KOFK and KDB provide loans under this program to the clients who are in need of money to make investments in facilities and for business operations. These loans are believed to be issued at preferred interest rates.

VII. *Other Korean Subsidies*

Program 24: Subsidies to Korean Rebar Producers Located within Industrial Complexes

The official name of the program is “Developing Industrial Complexes and Maximizing its Utilization”. Its purpose is to promote the development of the under-developed areas in the Republic of Korea and pursue the innovation within the industries through the provision of industrial sites and appropriate allocation of the industries nationwide.

This program was established in January 1990. However, the GOK indicated that it began providing benefits under this program only after April 2007. The Program is administered under Article 45 of the *Industrial Sites and Development Act*, as well as Article 78 of the *Restriction of Special Local Taxation Act* (RSLTA) and its Enforcement Decree.

Pursuant to the RSLTA, acquisition tax and property tax are exempted or reduced for entities listed in the Appendix 2 of the RSLTA, which includes steel companies. Companies may also receive reductions in development gains charged under the restitution of the *Development Gains Act*.

Program 31: Industrial Technology Innovation Promotion Program

This program is administered by the Korea Evaluation Institute of Industrial Technology, which is supervised by the Ministry of Trade, Industry, and Energy, and its legislative authority is the “*Industrial Technology Innovation Promotion Act*”. The program was announced in February 2010. This program offers companies grants for their R&D efforts. Depending on the specific project characteristics, the financial support provided to the companies span three to five years or three to seven years. However, if the project for which a company receives a grant under this program is considered successful, the company must repay a portion of the funds they received in the form of a “royalty” payment. The percentage depends on the size of the company.

Preliminary Determinations of Subsidy and Specificity

Information received during the preliminary phase of the investigation indicates that the programs identified under: *National Excellence in Steel Products Strategy* and *Other Korean Subsidies*, are potentially actionable as financial contributions pursuant to paragraph 2(1.6)(a) of SIMA, whereby the practices of the government involve the direct transfer of funds or liabilities or the contingent transfer of funds or liabilities.

Information received during the preliminary phase of the investigation indicates that the programs identified under: *Targeted Tax Exemptions, Deductions, and Credits; Government of the Republic of Korea Subsidies to Dongbu Steel’s Plants in Asan Bay*; and *Other Korean Subsidies*, are potentially actionable as financial contributions pursuant to paragraph 2(1.6)(b) of SIMA, in that amounts that would otherwise be owing and due to the government are reduced and/or exempted, and would confer a benefit to the recipient equal to the amount of the reduction/exemption.

Information received during the preliminary phase of the investigation indicates that the programs identified under: *National Excellence in Steel Products Strategy; Government Owned Banks Providing Subsidies through Various Preferential Export-Contingent Assistance; Subsidy Programs Administered by the Korea Trade Insurance Corporation; and Other Preferential Loans and Financing Assistance*, are potentially actionable as financial contributions pursuant to paragraph 2(1.6)(c) of SIMA as they involve the provision of goods or services, other than general governmental infrastructure.

The results of the preliminary phase of the investigation indicate that subsidies listed in the Prohibited Subsidies section above could be considered specific subsidies under paragraph 2(7.2)(b) of SIMA as available information indicates that they may be contingent upon export performance and may therefore be prohibited subsidies as defined in subsection 2(1) of SIMA.

As well, all subsidy programs listed under: *National Excellence in Steel Products Strategy; Targeted Tax Exemptions, Deductions, and Credits; Government of the Republic of Korea Subsidies to Dongbu Steel’s Plants in Asan Bay; Other Preferential Loans and Financing Assistance* and *Other Korean Subsidies*, could potentially be considered specific pursuant to paragraph 2(7.3)(d) of SIMA in that the manner in which discretion is exercised by the granting authority indicates that the subsidy may not be generally available.

APPENDIX 6 - Summary of Preliminary Findings for Named Subsidy Programs - Turkey

This appendix consists of a revised listing of 37 potentially actionable subsidy programs, along with the six programs that were eliminated, which were reviewed by the CBSA in the current subsidy investigation. A list of subsidies that the CBSA believes are prohibited subsidies is also provided. This is followed by descriptions of the five programs used by the responding exporter in the current investigation. Summaries of the legislative basis on which the programs are considered potentially actionable or non-actionable is also provided below.

Potentially Actionable Subsidy Programs Identified by the CBSA

I. Investment Encouragement Program (IEP)

- Program 1: Investment Encouragement Program – Exemption of customs duties on imported machinery and equipment
- Program 2: Investment Encouragement Program – Exemption of value-added tax on domestic and imported machinery and equipment
- Program 3: Investment Encouragement Program – Interest support
- Program 4: Investment Encouragement Program – Social security premium support
- Program 5: Investment Encouragement Program – Corporate or income tax reduction
- Program 6: Investment Encouragement Program – Land allocation

II. Turk Eximbank Programs

- Program 7: Turk Eximbank – Pre-shipment export credit program
Including sub-programs:
 - a. Priority development areas export credit program
 - b. Free trade zone pre-shipment foreign currency export credit program
- Program 8: Turk Eximbank – Foreign trade companies short-term export credit program
- Program 9: Turk Eximbank – Pre-export credit program
Including sub-program:
 - a. Free trade zone pre-export foreign currency export credit program
- Program 10: Turk Eximbank – Pre-export credit program for small and medium scale enterprises
- Program 11: Turk Eximbank – Short-term export credit discount program
- Program 12: Turk Eximbank – Short-term pre-shipment rediscount program
- Program 13: Turk Eximbank – Ship-building finance and guarantee program
- Program 14: Turk Eximbank – Specific export credit program
- Program 15: Turk Eximbank – International transportation marketing credit program
- Program 16: Turk Eximbank – Credit program for participating in overseas trade fairs
- Program 17: Turk Eximbank – International Islamic Trade Finance Corporation backed production finance credit program
- Program 18: Turk Eximbank – Export finance intermediation loan agreement
- Program 19: Turk Eximbank – The European Investment Bank credit program
- Program 20: Turk Eximbank – Buyers’ credit and guarantee program
- Program 21: Turk Eximbank – Short-term export credit insurance program

III. Regional-based, Organized Industrial Zone (OIZ), and Free Zone Programs

- Program 26: OIZ – Exemption from property tax, and other exemptions
- Program 27: OIZ –Waste water charges
- Program 30: OIZ – Exemption from building and construction charges
- Program 31: OIZ – Exemption from amalgamation and allotment transaction charges
- Program 32: *Free Zones Law* – Provision of buildings and land use rights for less than adequate remuneration
- Program 33: *Free Zones Law* – Corporate income tax exemption
- Program 34: *Free Zones Law* – Stamp duties and fees exemptions
- Program 35: *Free Zones Law* – Customs duties exemptions
- Program 36: *Free Zones Law* – Value-added tax exemptions

IV. Goods/Services provided by the Government of Turkey (GOT) at Less Than Fair Market Value

- Program 37: Provision of natural gas at less than fair market value
- Program 38: Provision of coal at less than fair market value

V. Research and Development Programs

- Program 39: Research and Development – Tax breaks and other assistance
- Program 40: Research and Development – Product development support – UFT

VI. Other Programs

- Program 41: Social Security Grant Program
- Program 42: Deduction from taxable income for export revenue
- Program 43: Inward processing certificate exemption

Subsidy Programs Which Will No Longer Be Investigated

The information provided on the investigated subsidies was reviewed and it was determined that the following programs are no longer in effect, and were not in effect during the POI, as such, these programs will no longer be investigated by the CBSA:

- Program 22: Energy support program
- Program 23: Law 5084 – Withholding of Income Tax on Wages and Salaries
- Program 24: Law 5084 – Incentive for Employers’ Share in Insurance Premiums
- Program 25: Law 5084 – Allocation of free land
- Program 28: OIZ – Exemptions from customs duties, value-added tax, and payments for Public Housing Fund
- Program 29: OIZ – Credits for research and development investments, environmental investments, certain technology investments

Prohibited Subsidies

The CBSA believes that the following programs are prohibited subsidies, by virtue of being export subsidies. The CBSA will continue to investigate these subsidies to determine whether they constitute prohibited subsidies during the final phases of the investigation.

- Program 7: Turk Eximbank – Pre-shipment export credit program including sub-programs: Priority development areas export credit program, Free trade zone pre-shipment foreign currency export credit program
- Program 8: Turk Eximbank – Foreign trade companies short-term export credit program
- Program 9: Turk Eximbank – Pre-export credit program including sub-program: Free trade zone pre-export foreign currency export credit program
- Program 10: Turk Eximbank – Pre-export credit program for small and medium scale enterprises
- Program 11: Turk Eximbank – Short-term export credit discount program
- Program 12: Turk Eximbank – Short-term pre-shipment rediscount program
- Program 13: Turk Eximbank – Ship-building finance and guarantee program
- Program 14: Turk Eximbank – Specific export credit program
- Program 15: Turk Eximbank – International transportation marketing credit program
- Program 16: Turk Eximbank – Credit program for participating in overseas trade fairs
- Program 17: Turk Eximbank – International Islamic Trade Finance Corporation backed production finance credit program
- Program 18: Turk Eximbank – Export finance intermediation loan agreement
- Program 19: Turk Eximbank – The European Investment Bank credit program
- Program 20: Turk Eximbank – Buyers’ credit and guarantee program
- Program 21: Turk Eximbank – Short-term export credit insurance program
- Program 42: Deduction from taxable income for export revenue

Potentially Actionable Subsidy Programs Used by the Responding Exporter

The CBSA's review of the responses provided by the GOT and by the responding exporter has indicated that sufficient information was provided to make a preliminary determination that the programs used by the responding exporter constituted potentially actionable subsidies, and to estimate the amount of subsidy on a program basis.

IV. Goods/Services provided by the Government of Turkey (GOT) at Less Than Fair Market Value

Program 37: Provision of natural gas at less than fair market value

This program was introduced April 18, 2001 as part of *Law No. 4646 – Law on the Natural Gas Market and Amending the Law on the Electricity Market*. The objective of this program is to provide natural gas in Turkey through a state owned company, BOTAS Petroleum Pipeline Corporation (BOTAS).

The information provided in the GOT's response to the RFI indicates that the GOT exercises meaningful control over BOTAS. Therefore, BOTAS can be considered government pursuant to subsection 2(1) of SIMA.

Under this program, companies can apply to have natural gas supplied from BOTAS. BOTAS has the authority to decide whether or not to accept these applications.

The CBSA estimated whether the financial contribution conferred a benefit to the exporter/producer. This estimate involved the comparison of the price natural gas was sold by BOTAS to an average of publicly available market prices of natural gas within Europe and from Russia to Germany during the POI²⁷. The CBSA determined the average of these two market prices to be an appropriate benchmark for this purpose.

The CBSA estimated the amount of benefit received by the exporter by comparing the benchmark prices to the price at which BOTAS sells the natural gas.

²⁷ Subsidy Exhibit 79 (PRO) – Documents 8, 9, 12

V. *Research and Development Programs*

Program 39: Research and Development – Tax breaks and other assistance

This program, which is administered by the Ministry of Finance, was established on June 21, 2006 as *Law No. 5520 Article 10.1.a*, with an intention to compose an economic environment which enables production of technological information, creation of innovation and thus provides new technical information which will ensure the development of science and technology; or to produce new materials, products and tools with the existing information.

100% of the amount of the R&D expenditures which are incurred for new technology and information is deducted from the corporate income and this deduction is shown on Corporate Income Tax Declaration Form.

The Ministry of Finance and the Scientific and Technological Research Council of Turkey must approve the application companies submit which outlines the technology or project that the expenses are being incurred to develop.

VI. *Other Programs*

Program 41: Social Security Grant Program

This program was introduced October 1, 2008 under *Law 5510 – Deductions for social security payments*. The objective of the program is to increase employment level throughout Turkey without discrimination on sectors and regions by reducing costs of insurance premiums to the employers and intends to reduce the unregistered employment. The program is administered by the Social Security Institution.

Under the program, if certain criteria are met companies can be exempted from 5% of the employer's share of the standard social security premium.

Program 42: Deduction from taxable income for export revenue

According to Article 40, Clause 1 of *Income Tax Law No. 193* dated January 6, 1961, which was amended by *Law No. 4108* dated June 2, 1995, all taxpayers may have an additional deduction of a lump sum amount from their gross income resulting from exports, construction, maintenance, assembly and transportation activities abroad. This amount may not exceed 0.5 % of the proceeds they earned in foreign exchange from such activities. This deduction is presumed to cover the expenditures without documentation but incurred from exports, construction, maintenance, assembly and transportation activities abroad.

Program 43: Inward processing certificate exemption

This program was established on December 31, 1995, under *Resolution No. 2005/8391*. The objective of the program is to give the Turkish industry the access to raw materials at world market prices and the chance to compete in the international markets. The program is administered by the Ministry of Economy.

The program allows manufacturers/exporters in Turkey to obtain raw materials and intermediate unfinished goods that are used in the production of the exported goods without paying customs duty including Value Added Tax and being subject to commercial policy measures.

The Ministry of Economy issues two types of certificates for this program, D1 and D3.

D1 Certificates allow manufacturer/exporters to obtain inputs that are used in the production of exported goods without paying any import duty and VAT. Inputs subject to relief could be either in the form of raw materials or intermediate unfinished final goods. Manufacturers/exporters apply for D1 Certificates to the Ministry of Economy. The decision whether to accept or reject the application is based on whether a set of legal conditions are met. The D1 Certificate allows companies to import goods stated on the certificate with the obligation to export the final goods within a certain time period.

D3 Certificates are similar to D1 Certificates except that there is no requirement to export the final goods.

Regulations 35 and 35.01 of the *Special Import Measures Regulations* pertain to the determination of the amount of subsidy when the subsidy takes the form of an exemption or remission of duties and taxes in excess of that permitted under SIMA. These provisions relate to the definition of “subsidy” found paragraph 2(1)(a) of SIMA. This provision provides that a subsidy does not include the amount of any duty or internal tax imposed on any goods by the government of the country of origin or export which is exempted or relieved because the goods have been exported.

A subsidy for this program arises when the exemption or relief is in an amount greater than the amount of duty or taxes that would be paid if the goods had been consumed domestically rather than being exported.

Preliminary Determinations of Subsidy and Specificity

Information received during the preliminary phase of the investigation indicates that the programs identified under: *Investment Encouragement Program (IEP); Turk Eximbank Programs; Regional-based, Organized Industrial Zone (OIZ), and Free Zone Programs; Research and Development Programs; and Other Programs*, are potentially actionable as financial contributions pursuant to paragraph 2(1.6)(b) of SIMA, in that amounts that would otherwise be owing and due to the government are reduced and/or exempted, and would confer a benefit to the recipient equal to the amount of the reduction/exemption.

Goods/Services provided by the Government of Turkey (GOT) at Less Than Fair Market Value are potentially actionable as financial contributions pursuant to paragraph 2(1.6)(c) of SIMA as they involve the provision of goods or services, other than general governmental infrastructure.

The results of the preliminary phase of the investigation indicate that subsidies listed in the Prohibited Subsidies section above could be considered specific subsidies under paragraph 2(7.2)(b) of SIMA as available information indicates that they may be contingent upon export performance and may therefore be prohibited subsidies as defined in subsection 2(1) of SIMA.

As well, all subsidies programs listed under: *Investment Encouragement Program IEPO; Regional-based, Organized Industrial Zone (OIZ), and Free Zone Programs; and Research and Development Programs; Goods/Services provided by the Government of Turkey (GOT) at Less Than Fair Market Value; and Other Programs*, could potentially be considered specific pursuant to paragraph 2(7.3)(d) of SIMA in that the manner in which discretion is exercised by the granting authority indicates that the subsidy may not be generally available.