CC 2024 AC

OTTAWA, December 10, 2024

STATEMENT OF REASONS

Concerning the initiation of an investigation into the circumvention in respect of

CONTAINER CHASSIS

ORIGINATING IN OR EXPORTED FROM VIETNAM

DECISION

Pursuant to subsection 72(1) of the *Special Import Measures Act*, the Canada Border Services Agency initiated an investigation on November 25, 2024, respecting the alleged circumvention in respect of certain container chassis originating in or exported from Vietnam.

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

Canada

Table of Contents

SUMMARY

[1] On October 11, 2024, the Canada Border Services Agency (CBSA) received a written complaint from Max-Atlas International Inc. (Max-Atlas) (hereinafter, the complainant), alleging that imports of certain container chassis originating in or exported from the Socialist Republic of Vietnam (Vietnam) are circumventing the Canadian International Trade Tribunal's (CITT) finding issued on February 18, 2022 in Inquiry NQ-2021-005, respecting the dumping and subsidizing of container chassis originating in or exported from the People's Republic of China (China).

[2] The complainant alleged that circumvention is occurring through assembly or completion of like goods in Vietnam, by means of insignificant process, using parts or components originating in or exported from China.

[3] The complainant provided evidence to support the allegation that container chassis from Vietnam are circumventing the CITT's finding.

[4] On November 25, 2024, pursuant to subsection 72(1) of the Special Import Measures Act (SIMA), the CBSA initiated an anti-circumvention investigation respecting container chassis from Vietnam.

INTERESTED PARTIES

COMPLAINANT

[5] The contact information for the complainant is as follows:

Max-Atlas Equipment International Inc.
371 ch. du Grand Bernier N
Saint-Jean-sur-Richelieu, QC J3B 4S2

[6] Max-Atlas is a manufacturer of container chassis and subassemblies used in a wide variety of industries including, but not limited to, the transportation, waste management and mobile energy (generators) industries, as well as the oil and gas industry for the transportation of frac sand in fracking operations.[1]

OTHER PRODUCERS

[7] The other known manufacturers of like goods in Canada are:[2]

Raja Trailer
9108 River Road
Delta, BC, V4G 1B5

[1] Exhibit 2 (NC) – Container Chassis Anti-Circumvention Complaint – para. 13
[2] Exhibit 2 (NC) – Container Chassis Anti-Circumvention Complaint – paras. 45-49

Innovative Trailer Design
161 The West Mall
Toronto, ON, M9C 4V8

Di-Mond
195 Constellation Drive
Stoney Creek, ON, L8E 0J5

ASSOCIATIONS

[8] The complainant identified the Canadian Transportation Equipment Association (CTEA) as an association of Canadian producers, which the complainant is a member of.[3]

EXPORTERS

[9] The CBSA identified two potential exporters of the subject goods from CBSA import documentation and from information submitted in the complaint. All of the potential exporters were asked to respond to the CBSA's anti-circumvention Request for Information (RFI).

IMPORTERS

[10] The CBSA identified one potential importer of the subject goods from CBSA import documentation and from information submitted in the complaint. The potential importer was asked to respond to the CBSA's Importer RFI.

PRODUCT INFORMATION

PRODUCT DEFINITION[4]

[11] The goods that are the subject to the CITT's finding (subject goods) are defined as:

> *Container chassis and container chassis frames, whether finished or unfinished, assembled or unassembled, regardless of the number of axles, for the carriage of containers, or other payloads (including self-supporting payloads) for road, marine roll-on/roll-off and/or rail transport, and certain subassemblies of container chassis originating in or exported from the People's Republic of China.*

[3] Exhibit 2 (NC) – Container Chassis Anti-Circumvention Complaint – paras. 50-51
[4] Canadian International Trade Tribunal; Container Chassis Finding - Statement of Reasons (March 7, 2022), NQ-2021-005, para. 27

Excluding:

i. *dry van trailers, meaning trailers with a wholly enclosed cargo space comprised of fixed sides, nose, floor and roof, with articulated panels (doors) across the rear and occasionally at selected places on the sides, with the cargo space being permanently incorporated in the trailer itself*
ii. *refrigerated van trailers, meaning trailers with a wholly enclosed cargo space comprised of fixed sides, nose, floor and roof, with articulated panels (doors) across the rear and occasionally at selected places on the sides, with the cargo space being permanently incorporated in the trailer and being insulated, possessing specific thermal properties intended for use with self-contained refrigeration systems and*
iii. *flatbed or platform trailers, meaning trailers that consist of load-carrying main frames and a solid, flat or stepped loading deck or floor permanently incorporated with and supported by frame rails and cross members*

For greater certainty, the subject goods include the following complete or substantially complete major subassemblies, when imported, purchased or supplied with, or for assembly with, subject container chassis frames:

i. *running gear assemblies for connection to the container chassis frame, whether fixed in nature or capable of sliding fore and aft or lifting up and lowering down, which may include suspension(s), wheel end components, slack adjusters, axles, brake chambers, locking pins, tires and wheels*
ii. *landing gear assemblies, for connection to the container chassis frame, capable of supporting the container chassis when it is not engaged to a tractor and*
iii. *connection assemblies that connect to the container chassis frame or a section of the container chassis frame, such as B-trains and A-trains, capable of connecting a container chassis to a converter dolly or another container chassis.*

ADDITIONAL PRODUCT INFORMATION[5]

[12] Chassis are typically, but are not limited to, rectangular framed trailers with a suspension and axle system, wheels and tires, brakes, a lighting and electrical system, a coupling for towing behind a truck tractor, and a locking system or systems to secure the shipping container or containers to the chassis using twistlocks, slide pins or similar attachment devices to engage the corner fittings on the container or other payload.

[5] *Container Chassis*, Statement of Reasons – Final Determinations (18 August 2021), paras. 28-35

[13] These chassis are typically used in the transportation of intermodal cargo containers and are skeletal rectangular framed trailers.[6] The rectangular frame comprises steel with a suspension and axle system, wheels and tires, brakes, a lighting and electrical system, a coupling for towing behind a truck tractor, and a locking system or systems to secure the shipping container or containers attached to the chassis. Chassis are designed to carry containers of various sizes, usually ranging from 20' to 60' in Canada, including the typical container lengths of 20', 40', 45', 53' and 60'. Containers carried on chassis include marine containers which are sometimes referred to as "ISO containers", as they are manufactured to specifications set out by the International Organization for Standardization. Other containers carried by the subject goods include, but are not limited to, domestic containers designed to be carried exclusively over land and not via ocean transport, tank containers for the carriage of liquids or sand, flat racks which are containers without sides, generators for emergency systems and temporary power delivery and waste containers.

[14] Some chassis are built to a single container size and for holding a single container. Others are designed to be extendable chassis, meaning their sliding or adjustable suspension can be extended to allow for longer containers to be carried. Some longer chassis are designed to allow the operator to carry multiple smaller containers, allowing the operator the flexibility of carrying loads for multiple clients simultaneously.

[15] Chassis may be imported into Canada in a fully assembled form, or imported as an unassembled chassis, such as a chassis frame accompanied by the relevant subassemblies, with most or all of the integral items required to assemble a chassis into a finished form. For an unfinished or unassembled chassis to be considered subject goods, the parts for a single chassis do not have to enter Canada at the same time.

[16] The subject container chassis frames are steel skeletal frames forming the main frame of the trailer and typically include: coupler plate assemblies, bolsters consisting of transverse beams with locking or support mechanisms, gooseneck assemblies, drop assemblies, extension frame assemblies with locking mechanisms and/or rear impact guards. These container chassis frames are only used to manufacture a finished container chassis.

[17] For greater certainty, the subject goods include unfinished or unassembled container chassis or container chassis frames, for painting, coating or further assembly with components such as, but not limited to hub and drum assemblies, brake assemblies (either drum or disc), axles, brake chambers, suspensions and suspension components, wheel end components, landing gear legs, spoke or disc wheels, tires, brake control systems, electrical harnesses and lighting systems.

[6] "Intermodal" means the utilization of more than one transportation mode (e.g. ship, rail, road) to transport cargo shipments from one location to another

[18] The subject goods do not include the individual components of the container chassis or subassemblies when imported as individual components, meaning not as part of an unassembled or unfinished container chassis or as part of a substantially complete subassembly. Such non-subject individual components may include hub and drum assemblies, brake assemblies (either drum or disc), axles, brake chambers, suspensions and suspension components, wheel end components, landing gear legs, spoke or disc wheels, tires, brake control systems, electrical harnesses and lighting systems. Some of these components may also be used in the production of non-subject trailers such as flatbeds, tankers, dumpers, grain hoppers and others.

[19] The processing of the subject goods, such as trimming, cutting, grinding, notching, punching, drilling, painting, coating, staining, finishing, assembly, bolting, welding or any other processing in China or another country does not remove the product from the definition of subject goods. In addition, if unfinished chassis manufactured in China are merely assembled into a completed chassis in a third country, such as the United-States (U.S.) or Mexico, the chassis remains subject to the scope of these investigations. The inclusion of additional components not identified as comprising the finished or unfinished container chassis does not remove the chassis from the definition of subject goods.

LIKE GOODS

[20] The complainant stated that the like goods meet the same product definition of the subject goods, except that they originate in or are exported from Vietnam.

[21] The complainant alleges that like goods are assembled or completed in Vietnam by means of insignificant processes, using parts or components – that represent a major portion of the total cost of producing the like goods - originating in or exported from China.

MANUFACTURING PROCESS[7]

[22] The standard production process for chassis primarily involves the fabrication and assembly of welded steel parts.

[23] The chassis frame consists of welded steel parts in three basic subassemblies – the front, or forward beam and front cross-member, assembly, the middle assembly and the rear, or rear cross-member including the rear impact guard, assembly. The chassis frame subassemblies are composed of steel I-beams, fabricated beams from plates and flat bars, box beams, channels and angles that are cut and welded into the shape of the frame.

[24] The completed chassis also includes the running gear assembly, air brake system, and lighting and electrical systems.

[25] The running gear assembly comprises the tires, hub and drum assemblies, axles and suspensions, brake chambers and other components.

[7] *Container Chassis*, Statement of Reasons – Final Determinations (18 August 2021), paras. 36-40

[26] Chassis producers use metal inert gas (MIG) welders to weld the various steel components together. The middle, or drop frame assembly, consists of the main longitudinal beams (cross-members) and may include diagonal bracing. Once the steel parts are assembled and coated, the air brake system and electrical components are added to the assembly. The final assembly of the product prior to delivery can be described as follows:

i) The front/gooseneck assembly, in an orientation with the king pin facing upward, provides for access to attach the landing gear and cross-brace.

ii) The mainframe with the operational top surface being inverted for access to the lower portion of the structure provides access to install the axle/wheel/tire portion of the suspension. In the case of a slider-type suspension, this can be done in the upright orientation. Additional wheel/tire combinations are also added to the axles at this stage, although typically a single wheel/tire is installed to each axle spindle with the pairing shipped free.

iii) The front section and mainframes are then oriented upright and the connection just behind the landing gear is completed. This requires a support at the king pin area of the front section and a support near the forward location of the mainframe, in order to align for fastener placement.

iv) The rear section, which can be comprised of the rear bolster and the rear impact guard, is secured to the rear portion of the main beam, behind the suspension.

v) The axle alignment procedure is then performed.

vi) Air and electrical system connections are completed from section to section.

vii) A final inspection, including light check, air brake timing tests and roadworthiness inspection is performed.

CLASSIFICATION OF IMPORTS

[27] The subject goods and like goods are normally imported under the following tariff classification number: 8716.39.30.90.

[28] The goods may also be imported under the following tariff classification numbers:

8716.39.90.90	8716.90.99.90
8716.90.30.00	8716.39.30.20
8716.90.99.10	

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

EVIDENCE OF CIRCUMVENTION

[30] Circumvention is defined in section 71 of SIMA as a situation in which **all** of the following elements exist:

> a) a **change in the pattern of trade** has occurred after an order of the Governor in Council imposing countervailing duties was made under section 7 of SIMA, or after a dumping or subsidy investigation was initiated;
>
> b) a **prescribed activity is** occurring and imports of the goods to which that prescribed activity applies are **undermining the remedial effects** of an order in council or an order or finding; and
>
> c) the change in trade pattern is **caused** by the imposition of anti-dumping or countervailing duties

[31] A summary of the complainant's allegations with respect to each element is detailed below.

CHANGE IN PATTERN OF TRADE

[32] The complainant alleges that a change in the pattern of trade has occurred since the day on which the dumping and subsidy investigations with respect to container chassis from China were initiated pursuant to section 31 of SIMA. Specifically, the complainant alleges that imports of subject goods from China decreased significantly following the dumping and subsidy investigations, while imports of container chassis from Vietnam increased significantly.[8]

Complainant's Estimate of Imports

[33] To support its allegations, the complainant referred to import data for container chassis, including Statistics Canada data, and data supplied by the CBSA.

[34] The complainant referred to the import data from Statistics Canada, included in the table below, that demonstrates a significant increase in the value of imports from Vietnam in 2023, following the initiation of the CBSA's dumping and subsidy investigation in 2021.

[8] Exhibit 2 (NC) – Container Chassis Anti-Circumvention Complaint – paras. 56-80

Table 1: Complainant's Estimates of Container Chassis Imports from Vietnam (Value)[9]

Imports of Vietnamese Container Chassis (Value)						
HS Code	**2018**	**2019**	**2020**	**2021**	**2022**	**2023**
8716.39.30.90	-	$1,641	-	-	-	$34,864,208
8716.80.20.90	$1,184,774	$2,512,721	$ 3,543,768	$3,069,325	$ 2,204,378	$1,235,792
8716.90.99.90	$252,848	$147,310	$211,651	$212,159	$434,236	$173,812
8716.90.30.00	$1,235	$4,684	$1,792	$107,261	$371,760	$395,442
8716.40.00.00	$552	$175	$175	-	$23,963	-
8716.39.90.90	-	-	-	$4,603	-	$5,575
8716.90.99.10	$446	$150	-	$95	-	$4
8706.00.90.90	-	-	-	-	-	-
Grand Total	**$1,439,855**	**$2,666,681**	**$3,757,386**	**$3,393,443**	**$3,034,337**	**$36,674,833**

[35] The complainant also referred to FIRM data estimates provided by the CBSA for the period of January 1, 2021 to February 21, 2024. The complainant submitted that this data demonstrated the decrease in imports of subject goods and increase of imports from Vietnam.[10]

[36] The complainant also submitted information from the website of an importer, Ocean Trailer, that advertises chassis produced by the Vietnamese exporter/producer, THACO, to further support its claims that Vietnamese chassis are now being imported into Canada.[11] The complainant noted that Ocean Trailer previously imported container chassis from CIMC Vehicles (Group) Co., Ltd. (CIMC), an exporter/producer of subject goods in China. The complainant further noted that Ocean Trailer no longer advertises CIMC chassis on its website, and has instead switched to carrying THACO chassis.[12]

[37] Additionally, the complainant referred to THACO's website, where THACO has indicated that it has exported more than 1,300 semi-trailers to the Canadian market.[13]

[9] Exhibit 2 (NC) – Container Chassis Anti-Circumvention Complaint – para. 62; Table 4 Stats Can Imports of Vietnamese Container Chassis (Value)
[10] Exhibit 2 (NC) – Container Chassis Anti-Circumvention Complaint – para. 61
[11] Exhibit 2 (NC) – Container Chassis Anti-Circumvention Complaint – paras. 71-75
[12] Exhibit 2 (NC) – Container Chassis Anti-Circumvention Complaint – para. 77
[13] Exhibit 2 (NC) – Container Chassis Anti-Circumvention Complaint – para. 76; Appendix 03 – THACO Industries – General Information (PUBLIC), p. 18.

CBSA's Estimate of Imports

[38] The CBSA estimated the share of container chassis imports based on volume, from each China and Vietnam, as a percentage of total imports, using FIRM data, as shown in the table below.

Table 2: CBSA's Estimates of Container Chassis Imports

	2021	2022	2023	January-September 2024
China	49%	34%	3%	1%
Vietnam	0%	0%	34%	4%
Other	51%	66%	63%	95%
Total	100%	100%	100%	100%

[39] The CBSA's estimates support the complainant's allegations of a change in the pattern of trade. Based on the import data, imports of subject goods from China have decreased significantly since the initiation of the CBSA's dumping and subsidy investigation and the imposition of duties, while the imports of container chassis from Vietnam increased significantly, as shown in the table above. It should be noted that although the share of imports from other countries increased during the period of January to September 2024, the volumes remained consistent with previous years. The increased share is due to the decrease in volumes from both China and Vietnam.

[40] Although the share of imports of container chassis from Vietnam decreased from 2023 to 2024, the advertising of 2025 THACO products on Ocean Trailer's website indicates the potential of additional future imports.[14] Additionally, the importer's switch to THACO chassis from subject goods from CIMC in China demonstrates a clear change in the pattern of trade.

[41] As a result, CBSA is satisfied that the evidence available discloses a reasonable indication that the pattern of trade changed following the initiation of the CBSA's dumping and subsidy investigation respecting container chassis from China.

PRESCRIBED ACTIVITY IS UNDERMINING THE REMEDIAL EFFECTS OF THE FINDING

[42] The complainant alleges that circumvention of the CITT's finding is occurring through the assembly or completion of container chassis in Vietnam, by means of insignificant processes, using parts or components – that represent a major portion of the total cost of producing the like goods – originating in or exported from China, as referred to in the *Special Import Measures Regulations* (SIMR) paragraph 57.12(b).[15]

[14] Exhibit 2 (NC) – Container Chassis Anti-Circumvention Complaint – Appendix 1 – Ocean Trailer THACO Inventory and Images

[15] Exhibit 2 (NC) – Container Chassis Anti-Circumvention Complaint – para. 81

Major Proportion

[43] The complainant alleges that THACO produces container chassis in Vietnam using parts or components that are in "major portion" from China, including sub-assemblies and steel. The complainant provided THACO's specification sheets which identify brands and suppliers for parts which the complainant alleges are sourced from China.[16]

[44] The complainant noted several companies identified on the specification sheets that have production in China, including the following:[17]

- TOCA, a supplier of components such as the front bolster, front locking pin and center and rear twist lock;
- AXN, a supplier of landing gear subassemblies, axles, and hub and drum assemblies;
- Sunrise, a wheel supplier;
- Sailun, a tire supplier;
- Noroo, a coating supplier;
- Stemco, a supplier of seals;
- Haldex, a supplier of bearings and brake chambers; and
- JOST, a supplier of upper couplers.

[45] The complainant acknowledged that while some of these companies have production facilities in other countries in addition to China, it is likely that many of the components are sourced from China.[18]

[46] To further support their allegations, the complainant referred to the determination of evasion by the U.S. Customs and Border Protection (CBP), where the CBP determined that chassis produced by THACO were made of Chinese subassemblies and Chinese steel.[19]

[47] The complainant referred to the SIMA Handbook, which states that a major portion will be achieved when the parts and components constitute more than 60% of the total cost of producing the circumventing goods.[20] To demonstrate that this requirement is met, the complainant estimated the cost of materials sourced from China as a percentage of the total cost to produce container chassis in Vietnam.

[16] Exhibit 2 (NC) – Container Chassis Anti-Circumvention Complaint – para. 85; Appendix 12 – THACO Spec Sheets
[17] Exhibit 2 (NC) – Container Chassis Anti-Circumvention Complaint – paras. 85-86
[18] Exhibit 2 (NC) – Container Chassis Anti-Circumvention Complaint – paras. 85-86
[19] Exhibit 2 (NC) – Container Chassis Anti-Circumvention Complaint – para. 90; Appendix 10 – U.S. CBP – Evasion Proceedings Against THACO
[20] SIMA Handbook (December 14, 2023), p. 931.

[48] The complainant estimated the cost of the processes based on their own costs of production for two benchmark models, adjusted to reflect conditions in Vietnam, using:

- The complainant's direct material costs for the production of container chassis
- The complainant's direct labour costs for the production of container chassis, adjusted downward based on a ratio of comparable Canadian and Vietnamese wage rates in 2024, as reported by Statistics Canada and Trading Economics. Labour costs in Vietnam were estimated by the complainant to be 8.60% of Canadian labour costs.
- The complainant's factory overhead costs for the production of container chassis. [21]

[49] The complainant estimated the percentage of materials sourced from China, based on the suppliers indicated on the specification sheet, and compared to the adjusted cost of production. This resulted in an estimate of materials sourced from China representing 66-67% of the total estimated cost of production for the like goods. The complainant submits that this meets the requirement of a major portion.[22]

[50] The CBSA has reviewed the evidence provided concerning the suppliers of THACO's materials and components. Based on the information available, the CBSA is satisfied that the evidence available discloses a reasonable indication that container chassis produced in Vietnam are produced using materials or components sourced from China that represent a major portion of the total cost of producing the goods.

Insignificant Process

[51] The complainant submits that the assembly or completion of the chassis done by THACO in Vietnam is by means of insignificant process. To support this claim, the complainant provides information concerning the production of container chassis, as it relates to the factors identified in paragraphs 57.13 (a) to (g) of SIMR that may be considered in determining whether processes are insignificant.

(a) The nature of those processes

[52] The complainant described the production process of container chassis in general, including the time and resources required to complete the process. The complainant identified seven steps in the manufacturing of container chassis: (1) fabrication of parts, (2) sub-assembly welding, (3) frame welding, (4) running gear assembly, (5) painting, including adding a rust protection coating, (6) mechanical assembly and inspection and, finally, (7) shipping preparation.[23] The complainant further noted that it is believed that all seven of these steps occur in Vietnam. With respect to its own production, the complainant provided information concerning the time and resources required to complete each step.

[21] Exhibit 2 (NC) – Container Chassis Anti-Circumvention Complaint – para. 145
[22] Exhibit 2 (NC) – Container Chassis Anti-Circumvention Complaint – para. 110
[23] Exhibit 2 (NC) – Container Chassis Anti-Circumvention Complaint – para. 117

[53] The complainant stated that the U.S. CBP verification report indicates that THACO may be sourcing I-beams or H-beams from outside the facility, as opposed to producing the beams themselves. The complainant submitted that the steel beams are an important piece of the container chassis, and importation of these beams from China would further support the conclusion that the process completed by THACO is insignificant.[24]

[54] The complainant stated more specific information is not currently available concerning the nature of THACO's processes, and it is possible that it is comparable to the complainant's own process, however, in a manner that remains insignificant.[25]

[55] Additionally, the complainant submits that the evidence detailed in the complaint concerning the other insignificance factors are sufficient to provide a reasonable indication that the processes are insignificant.[26]

(b) The nature of the facilities used to carry out those processes; and
(c) The level of investment related to those processes and to those facilities

[56] With respect to the nature of the facilities, and the level of investment related to those processes and those facilities, the complainant submitted that THACO produces a wide range of goods in addition to container chassis, and as such, the complainant is unable to identify the facilities used specifically for container chassis, as opposed to other products.[27]

[57] The complainant referred to THACO's website, which states that its semi-trailer facility was established in 2016 and involved investment capital of between $22.4 and $50 million USD.[28] The complainant submitted that THACO's investment for a new facility is very low, which suggests that THACO is not engaging in significant processing.[29]

(d) The level of research and development related to those processes

[58] The complainant alleged that the level of research and development completed by THACO with respect to container chassis is likely insignificant. The complainant submitted that to their knowledge, THACO copies chassis models developed by third parties, as an example, noting that the extendible chassis advertised on THACO's website are effectively copies of the models designed and developed by the complainant themselves.[30]

[59] The complainant submits that evidence indicates THACO only produces based on customer plans, and likely does not engage in substantial research and development on their chassis.[31]

[24] Exhibit 2 (NC) – Container Chassis Anti-Circumvention Complaint – para. 131
[25] Exhibit 2 (NC) – Container Chassis Anti-Circumvention Complaint – para. 135-136
[26] Exhibit 2 (NC) – Container Chassis Anti-Circumvention Complaint – para. 135
[27] Exhibit 2 (NC) – Container Chassis Anti-Circumvention Complaint – para. 137
[28] Exhibit 2 (NC) – Container Chassis Anti-Circumvention Complaint – paras. 137-138
[29] Exhibit 2 (NC) – Container Chassis Anti-Circumvention Complaint – paras. 138-140
[30] Exhibit 2 (NC) – Container Chassis Anti-Circumvention Complaint – paras. 142
[31] Exhibit 2 (NC) – Container Chassis Anti-Circumvention Complaint – paras. 141-142

[60] The complainant also submitted that the low amount invested by THACO with respect to their manufacturing facility suggests limited research and development activities. The complainant further stated that THACO likely only produces based on customer plans, and compared it to their own activities, which includes consistently innovating and designing new models.[32]

(e) The costs of those processes

[61] The complainant referred to the estimated unit cost of production in Vietnam, submitting that the per unit labour and overhead costs demonstrate that the cost of completing a container chassis in Vietnam is insignificant.[33]

(f) The proportion of those costs in relation to the cost of production of the like goods

[62] With respect to the proportion of those costs, the complainant referred to the SIMA Handbook, which provides the following general guideline: "where the cost of the assembly or completion processes is greater than 10% of the cost of production of the like goods, then the process may not be deemed to be insignificant."[34] The complainant submits that the costs of assembly of the chassis in Vietnam is not greater than 10% of the total cost of production, referring to their estimates of labour and overhead. As such, the complainant indicates that this test is met, and the low proportion indicates that the process completed in Vietnam is insignificant.[35]

[63] The CBSA has reviewed the evidence pertaining to the factors discussed above, including the nature of the processes and facilities, investments, research and development and costs of production. Based on the information provided by the complainant, the CBSA is satisfied that the evidence provided in the complaint discloses a reasonable indication that the assembly or completion of container chassis in Vietnam is by means of insignificant processes.

Undermining the Remedial Effects

[64] The complainant submits that the alleged circumvention is undermining the remedial effect of the finding. To support this claim, the complainant provided information concerning the price and volume of the like goods relative to the subject goods, whether the circumventing goods are sold to the same consumers that otherwise may have bought subject goods, and whether the goods have the same end use as the subject goods.

[32] Exhibit 2 (NC) – Container Chassis Anti-Circumvention Complaint – para. 143
[33] Exhibit 2 (NC) – Container Chassis Anti-Circumvention Complaint – paras. 144-147
[34] SIMA Handbook (December 14, 2023), p. 935.
[35] Exhibit 2 (NC) – Container Chassis Anti-Circumvention Complaint – paras. 150-151

[65] With respect to pricing of the like goods, the complainant noted that price is often the most important factor in the purchase of container chassis. The complainant submitted that the importer's retail pricing for THACO chassis is very low, and lower than chassis supplied by the complainant.[36]

[66] The complainant also discussed the change in volumes of imports, reiterating the significant decrease in the volume of subject goods and the concurrent increase in the volume of container chassis from Vietnam.[37]

[67] Additionally, the complainant noted that customers purchasing the like goods are the same customers that previously purchased subject goods, identifying specific customers.[38]

[68] With respect to the end use of the goods, the complainant submitted that the end use of the like goods is exactly the same as the subject goods.[39] The complainant further identified specific THACO models offered by Ocean Trailer that were also previously sold by CIMC.[40]

[69] The complainant further noted that the distribution channels of subject goods and the like goods are similar, submitting that the importer of THACO chassis, Ocean Trailer, was one of CIMC's key distributors of subject goods. The complainant further noted that Ocean Trailer now has very few, if any, mentions of CIMC chassis on its website, and heavily advertises THACO trailers. Additionally, the complainant submits that Ocean Trailer's website indicates it has imported more than 950 chassis from THACO, based on inventory lists, manufacturing specification sheets, and pictures of THACO chassis.[41]

[70] The complainant submits that the factors discussed above demonstrate that the like goods are undermining the remedial effect of the finding.

[71] The CBSA has reviewed the arguments discussed above. Based on the information provided by the complainant, the CBSA is satisfied that the evidence provided in the complaint discloses a reasonable indication that the like goods are undermining the remedial effects of the finding.

[36] Exhibit 2 (NC) – Container Chassis Anti-Circumvention Complaint – paras. 164-171
[37] Exhibit 2 (NC) – Container Chassis Anti-Circumvention Complaint – paras. 172-173
[38] Exhibit 2 (NC) – Container Chassis Anti-Circumvention Complaint – para. 174
[39] Exhibit 2 (NC) – Container Chassis Anti-Circumvention Complaint – para. 175
[40] Exhibit 2 (NC) – Container Chassis Anti-Circumvention Complaint – para. 176
[41] Exhibit 2 (NC) – Container Chassis Anti-Circumvention Complaint – para. 177

CAUSATION

[72] To substantiate the claim that the change in pattern of trade was caused by the finding, the complainant first discussed the timing of the change. The complainant referred to Statistics Canada and FIRM import data to highlight the increase of Vietnamese imports and decrease in Chinese imports in 2023, following the imposition of SIMA duties in 2022. The complainant submitted that the change in volumes demonstrated a near perfect reversal for the two countries.[42] The complainant states that due to the timing, it is clear that the finding is the cause of the change in pattern of trade.[43]

[73] With respect to the difference in overall costs between subject goods and the like goods, the complainant submitted that the difference is minor, explaining that the majority of the cost to manufacture container chassis is material costs. Further, the complainant submitted that although labour rates in Vietnam are approximately 70% lower than those in China, this has a minimal impact on the overall manufacturing costs.[44] The complainant submitted that this demonstrates that sourcing from Vietnam as opposed to China does not create significant cost savings for Canadian importers, aside from removing liability for SIMA duties.[45]

[74] The complainant also noted that THACO's exports of container chassis to the U.S. is evidence of the exporter's pattern of entering markets with anti-dumping and countervailing duties in place on container chassis from China, and their awareness of the benefits of container chassis being classified as Vietnamese origin.[46] The complainant also highlighted the U.S. CBP's determination of evasion against container chassis from THACO, due to the failure to declare China as the country of origin.[47]

[75] The complainant also alleged that there is no due cause for the change in pattern of trade, and the CITT's finding was a material cause. The complainant submitted that there has been no change in consumer preferences or technology related to the production of container chassis that would amount to due cause to justify the change in the pattern of trade. The complainant further noted that the chassis imported from Vietnam have the same specifications, end-use, and ultimate customers as the domestically produced container chassis.[48]

[76] The complainant submitted that due to the factors described above, and the absence of any other due cause, it is evident that the change in the pattern of trade was caused by the finding and the imposition of SIMA duties.

[42] Exhibit 2 (NC) – Container Chassis Anti-Circumvention Complaint – paras. 182-183
[43] Exhibit 2 (NC) – Container Chassis Anti-Circumvention Complaint – para. 183
[44] Exhibit 2 (NC) – Container Chassis Anti-Circumvention Complaint – para. 184
[45] Exhibit 2 (NC) – Container Chassis Anti-Circumvention Complaint – para. 185
[46] Exhibit 2 (NC) – Container Chassis Anti-Circumvention Complaint – paras. 186-189
[47] Exhibit 2 (NC) – Container Chassis Anti-Circumvention Complaint – para. 188
[48] Exhibit 2 (NC) – Container Chassis Anti-Circumvention Complaint – para. 192

[77] The CBSA has reviewed the arguments summarized above. Based on the information provided in the complaint, the CBSA is satisfied that the evidence discloses a reasonable indication that the change in trade pattern was caused by the imposition of anti-dumping and countervailing duties.

CONCLUSION

[78] Based on information provided in the complaint, other available information, and the CBSA's import documentation, the CBSA is of the opinion that there is evidence that discloses a reasonable indication that container chassis from Vietnam are circumventing the CITT's finding respecting the dumping and subsidizing of certain container chassis originating in or exported from China. As a result, pursuant to subsection 72(1) of SIMA, an anti-circumvention investigation was initiated on November 25, 2024.

SCOPE OF THE INVESTIGATION

[79] The CBSA is conducting an investigation to determine whether the goods from Vietnam are circumventing the CITT's finding.

[80] The CBSA has requested information, during the period of October 1, 2020 to September 30, 2024, from all potential exporters and importers to determine whether or not like goods imported into Canada, circumvented the finding.

[81] All parties have been clearly advised of the CBSA's information requirements and the time frames for providing their responses.

FUTURE ACTION

[82] The CBSA must make a decision as to whether the importation of some or all of the goods under investigation constitutes circumvention within 180 days after the date of initiation. Where circumstances warrant, this period may be extended to 240 days from the date of the initiation of the investigation.

[83] The CBSA will publish a non-confidential Statement of Essential Facts on its website which will include the CBSA's preliminary assessment of whether the evidence discloses a reasonable indication of circumvention and a summary of the facts that the CBSA relied on in making that preliminary assessment. This will be published April 9, 2025.

[84] Under subsection 75(1) of SIMA, if, at any time before issuing the Statement of Essential Facts, the CBSA is satisfied that the goods are subject to an existing order or finding, the investigation will be terminated with respect to those goods.

[85] Where the CBSA makes a decision setting out a finding of circumvention, the CBSA will notify the CITT, who will in turn modify the original finding or order to include the circumventing goods and thereby extend SIMA duties to those goods. The CBSA may also make a partial finding of circumvention, that is, find that only some goods under investigation are circumventing the order or finding.

[86] Once the CITT modifies the order or finding, anti-dumping or countervailing duty is payable on all dumped or subsidized goods of the same description imported on or after the day the anti-circumvention investigation was initiated, and on all shipments of the goods released after the date of the Tribunal's order amending the order or finding. These duties are applicable until such time as the order or finding is amended or rescinded or it expires.

[87] If the CBSA makes a decision that the order or finding is not being circumvented in respect of some or all of the goods, SIMA duties will not be extended to those goods.

PUBLICATION

[88] Notice of the initiation of this investigation is being published in the Canada Gazette pursuant to subparagraph 73(1)(a)(ii) of SIMA.

INFORMATION

[89] Interested parties are invited to file written submissions presenting facts, arguments, and evidence that they feel are relevant to the alleged circumvention. Written submissions should be forwarded to the attention of the SIMA Registry and Disclosure Unit.

[90] To be given consideration in the investigation, all information should be received by the CBSA by March 14, 2025.

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

[92] Confidential information submitted to the CBSA will be disclosed on written request to independent counsel for parties to these proceedings, subject to conditions to protect the confidentiality of the information. Confidential information may also be released to the CITT, any court in Canada, or a WTO or Canada-United States-Mexico Agreement (CUSMA) dispute settlement panel. Additional information respecting the CBSA's policy on the disclosure of information under SIMA may be obtained by contacting one of the officers identified below or by visiting the CBSA's website.

[93] The schedule of the investigation and a complete listing of all exhibits and information are available at: www.cbsa-asfc.gc.ca/sima-lmsi/ac/menu-eng.html. The exhibit listing will be updated as new exhibits and information are made available.

[94] This *Statement of Reasons* is available through the CBSA's website 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: Serena Major 343-553-2004
Jordan Harris 343-573-3003

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

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

Sean Borg
Executive Director
Trade and Anti-dumping Programs Directorate