



OTTAWA, December 2, 2008

4214-22 AD/1379  
4218-26 CV/124

## STATEMENT OF REASONS

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

**CERTAIN ALUMINUM EXTRUSIONS  
ORIGINATING IN OR EXPORTED FROM  
THE PEOPLE'S REPUBLIC OF CHINA**

## DECISION

Pursuant to subsection 38(1) of the *Special Import Measures Act*, the President of the Canada Border Services Agency made preliminary determinations of dumping and subsidizing on November 17, 2008, respecting the alleged injurious dumping and subsidizing of aluminum extrusions produced via an extrusion process, of alloys having metallic elements falling within the alloy designations published by *The Aluminum Association* commencing with 1, 2, 3, 5, 6 or 7 (or proprietary or other certifying body equivalents), with the finish being as extruded (mill), mechanical, anodized or painted or otherwise coated, whether or not worked, having a wall thickness greater than 0.5 mm, with a maximum weight per meter of 22 kilograms and a profile or cross-section which fits within a circle having a diameter of 254 mm, originating in or exported from the People's Republic of China.

---

Cet Énoncé des motifs est également disponible en français. Veuillez vous reporter à la section "Renseignements".  
This *Statement of Reasons* is also available in French. Please refer to the "Information" section.

## TABLE OF CONTENTS

<b>SUMMARY OF EVENTS .....</b>	<b>1</b>
<b>PERIOD OF INVESTIGATION .....</b>	<b>2</b>
<b>INTERESTED PARTIES .....</b>	<b>2</b>
Complainants .....	2
Exporters .....	3
Importers .....	4
Government of China .....	4
Surrogate Countries .....	5
<b>PRODUCT DEFINITION .....</b>	<b>5</b>
Additional Product Information .....	5
Production Process .....	6
Classification of Imports .....	7
<b>CANADIAN INDUSTRY .....</b>	<b>8</b>
<b>IMPORTS INTO CANADA .....</b>	<b>8</b>
<b>INVESTIGATION PROCESS .....</b>	<b>9</b>
<b>DUMPING INVESTIGATION .....</b>	<b>9</b>
Section 20 Inquiry .....	9
Normal Value .....	17
Export Price .....	18
Summary of Preliminary Results of Dumping Investigation .....	18
Preliminary Dumping Results by Exporter .....	19
Non-Cooperative Exporters - Margin of Dumping .....	22
<b>SUMMARY OF RESULTS – DUMPING .....</b>	<b>22</b>
<b>SUBSIDY INVESTIGATION .....</b>	<b>22</b>
Preliminary Phase of the Subsidy Investigation .....	24
Summary of Results - Subsidy .....	25
<b>SUMMARY OF RESULTS – SUBSIDY .....</b>	<b>27</b>
<b>DECISION .....</b>	<b>27</b>
<b>PROVISIONAL DUTY .....</b>	<b>27</b>
<b>FUTURE ACTION .....</b>	<b>28</b>
The Canada Border Services Agency .....	28
The Canadian International Trade Tribunal .....	28
<b>RETROACTIVE DUTY ON MASSIVE IMPORTATIONS .....</b>	<b>29</b>
<b>UNDERTAKINGS .....</b>	<b>29</b>
<b>PUBLICATION .....</b>	<b>30</b>
<b>INFORMATION .....</b>	<b>30</b>
<b>APPENDIX 1 – SUMMARY OF ESTIMATED MARGINS OF DUMPING, ESTIMATED AMOUNTS OF SUBSIDY, AND PROVISIONAL DUTIES PAYABLE .....</b>	<b>31</b>
<b>APPENDIX 2 - SUMMARY OF PRELIMINARY FINDINGS FOR NAMED SUBSIDY PROGRAMS .....</b>	<b>32</b>

## SUMMARY OF EVENTS

[1] On July 4, 2008, the Canada Border Services Agency (CBSA) received a complaint from Almag Aluminum Inc. of Brampton, Ontario, Apel Extrusions Limited of Calgary, Alberta, Can Art Aluminum Extrusion Inc. of Brampton, Ontario, Metra Aluminum Inc. of Laval, Quebec, Signature Aluminum Canada Inc. (formerly Bon L Canada Inc.) of Richmond Hill, Ontario, Spectra Aluminum Products Ltd. of Bradford, Ontario and Spectra Anodizing Inc. of Woodbridge, Ontario (the "Complainants") alleging that imports of certain aluminum extrusions originating in or exported from the People's Republic of China (China) are being dumped and subsidized and causing injury to the Canadian industry.

[2] On July 18, 2008, pursuant to subsection 32(1) of the *Special Import Measures Act* (SIMA), the CBSA informed the Complainants that the complaint was properly documented. The CBSA also notified the government of China (GOC) that a properly documented complaint had been received and provided the GOC with the non-confidential version of the subsidy complaint.

[3] The Complainants provided evidence to support the allegations that aluminum extrusions from China have been dumped and subsidized. The evidence also discloses a reasonable indication that the dumping and subsidizing has caused injury or is threatening to cause injury to the Canadian industry producing these goods.

[4] On August 13, 2008, the CBSA received written preliminary comments from the GOC concerning the evidence presented in the non-confidential version of the subsidy complaint and comments concerning the CBSA's practices in previous subsidy investigations involving China. The GOC claimed that the complaint lacks sufficient evidence to initiate a subsidy investigation on aluminum extrusions. The GOC also claimed that the complaint fails to provide supporting evidence to show that subsidies applied to the aluminum extrusions sector in China. The CBSA considered the representations made by the GOC in its analysis of whether there was sufficient evidence of subsidizing to warrant an investigation.

[5] On August 14, 2008 consultations were held with the GOC pursuant to Article 13.1 of the Agreement on Subsidies and Countervailing Measures. During these consultations, China made representations with respect to its views on the evidence presented in the non-confidential version of the subsidy complaint.

[6] On August 18, 2008, pursuant to subsection 31(1) of SIMA, the President of the CBSA (President) initiated investigations respecting the dumping and subsidizing of aluminum extrusions from China. On the basis of the available information, the CBSA concluded that there was sufficient evidence to initiate a section 20 inquiry concurrently with the dumping and subsidy investigations to examine the degree of GOC involvement in the aluminum extrusions sector and the related impact on pricing.

[7] Upon receiving notice of the initiation of the investigations, the Canadian International Trade Tribunal (Tribunal) started a preliminary injury inquiry into whether the evidence discloses a reasonable indication that the alleged dumping and subsidizing of certain aluminum extrusions from China have caused injury or retardation or are threatening to cause injury to the

Canadian industry producing the goods. On October 17, 2008, the Tribunal determined that there is evidence that discloses a reasonable indication that the dumping and subsidizing of aluminum extrusions have caused injury.

[8] On November 17, 2008, as a result of the CBSA's preliminary investigations and pursuant to subsection 38(1) of the *Special Import Measures Act* (SIMA), the President made preliminary determinations of dumping and subsidizing with respect to certain aluminum extrusions originating in or exported from China.

#### **PERIOD OF INVESTIGATION**

[9] The period of investigation, with respect to dumping (Dumping POI), covered all subject goods released into Canada from July 1, 2007 to June 30, 2008.

[10] The period of investigation, with respect to subsidizing (Subsidy POI), covered all subject goods released into Canada from January 1, 2007 to June 30, 2008.

#### **INTERESTED PARTIES**

##### **Complainants**

[11] The Complainants are major producers of aluminum extrusions in Canada, accounting for a major proportion of the domestic industry for like goods.

The name and address of the Complainants are:

Almag Aluminum Inc.  
22 Finley Road  
Brampton, ON  
L6T 1A9

Apel Extrusions Limited  
7929-30 Street S.E.  
Calgary, AB  
T4C 1H7

Can Art Aluminum Extrusion Inc.  
85 Parkshore Drive  
Brampton, ON  
L6T 5M1

Metra Aluminum Inc.  
2000 Fortin Boulevard  
Laval, QC  
H7S 1P3

Signature Aluminum Canada Inc.  
500 Edward Avenue  
Richmond Hill, ON  
L4C 4Y9

Spectra Aluminum Products Ltd.  
95 Reagens Industrial Parkway  
Bradford, ON  
L3Z 2A4

Spectra Anodizing Inc.  
201 Hanlan Rd  
Woodbridge, ON  
L4L 3R7

[12] Three other producers of the like goods, Extrudex Aluminum, Daymond Aluminum and Kaiser Aluminum Canada Ltd provided letters supporting the complaint.

#### **Exporters**

[13] At the initiation of the investigations, the CBSA had identified 261 potential exporters of subject goods from customs import documentation and from the complaint.

[14] The CBSA sent a Dumping Request for Information (RFI) and Subsidy RFI to each of the identified potential exporters of the goods.

[15] As part of the CBSA's section 20 inquiry, the CBSA also sent section 20 RFIs to each of the identified potential exporters and producers of the goods located in China.

[16] While many of the export sales from China appear to involve international vendors and trading companies, in most instances the goods are shipped directly to Canada from China and the Chinese manufacturer is considered to be the exporter of the goods. However, some goods originating from China may be shipped to an intermediary country (such as the United States) and subsequently exported to Canada. In these situations, the exporter of the goods is generally located in the intermediary country.

[17] Complete and timely responses to the CBSA's dumping RFI were received from seven exporters, including six exporters located in China as well as one exporter located in the U.S. which is exporting goods originating from China to Canada. The six exporters located in China also provided complete and timely responses to the section 20 inquiry RFI and the subsidy RFI.

[18] The six Chinese exporters which provided complete and timely replies to the dumping, section 20 and subsidy RFI, represent approximately 43% of total exports, by volume, of Chinese goods during the period July 1, 2007 to June 30, 2008. In addition, these six exporters include three of the four largest Chinese exporters of the goods to Canada.

[19] The names of the six Chinese exporters which provided timely and complete dumping, section 20 and subsidy replies, as well as the names of the U.S. exporter exporting Chinese origin goods to Canada, are:

- Taishan City Kam Kiu Aluminum Extrusion Co., Ltd (China)
- Press Metal International Ltd. (China)
- PanAsia Aluminum Limited (China)
- Pingguo Asia Aluminum Co., Ltd (China)
- Guangdong Weiye Aluminum Factory Co., Ltd (China)
- Guangdong Jianmei Aluminum Profile Factory Co., Ltd. (China)
- Hunter Douglas Designer Shades (USA)
- Hunter Douglas Window Fashions (USA)

[20] In addition, several other exporters and trading companies provided incomplete or late responses to the CBSA's dumping, subsidy, or section 20 RFIs, which were not taken into consideration for purposes of the preliminary determinations.

### **Importers**

[21] At the initiation of the investigations, the CBSA identified 535 potential importers of subject goods based on a review of customs import documentation and information provided in the complaint.

[22] The CBSA sent an RFI to all potential importers of the goods. Response to the CBSA's importer RFI were received from 43 importers.

[23] There may be instances where the importer in Canada for SIMA purposes may be a different party than the importer of record. For certain transactions involving non-resident importers, the CBSA examined available information concerning the importations for purposes of identifying the importer in Canada.

### **Government of China**

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

[25] At the initiation of the investigations, the CBSA sent a subsidy and a section 20 RFI to the GOC. While the GOC provided a substantially complete response to the section 20 RFI, the GOC's subsidy response was found to be incomplete and was not used for the preliminary determination.

## Surrogate Countries

[26] As part of the CBSA's section 20 inquiry, an RFI was also sent to producers in India, Malaysia, Mexico and Chinese Taipei, which are not subject to the present dumping investigation. No responses to these RFIs were received.

## PRODUCT DEFINITION

[27] For the purpose of this investigation, the subject goods are defined as:

"Aluminum extrusions produced via an extrusion process, of alloys having metallic elements falling within the alloy designations published by *The Aluminum Association* commencing with 1, 2, 3, 5, 6 or 7 (or proprietary or other certifying body equivalents), with the finish being as extruded (mill), mechanical, anodized or painted or otherwise coated, whether or not worked, having a wall thickness greater than 0.5 mm., with a maximum weight per meter of 22 kilograms and a profile or cross-section which fits within a circle having a diameter of 254 mm, originating in or exported from the People's Republic of China."

## Additional Product Information<sup>1</sup>

[28] Extrusion is the process of shaping heated material by forcing it through a shaped opening in a die with the material emerging as an elongated piece with the same profile as the die cavity. For greater clarity, the subject goods do not include goods made by the process of impact extrusion or cold extrusion. Impact (or cold) extrusion is commonly used to make collapsible tubes such as toothpaste tubes or cans usually using soft materials such as aluminum, lead and tin. Usually a small shot of solid material is placed in the die and is impacted by a ram, which causes cold flow in the material. Impact (or cold) extrusion is not performed by the same machinery or using the same inputs as the extrusion operations of the Complainants.

[29] Alloys are metals composed of more than one metallic element. Alloys used in aluminum extrusions contain small amounts (usually less than five percent) of elements such as copper, manganese, silicon, magnesium, or zinc which enable characteristics such as corrosion resistance, increased strength or improved formability to be imparted to the major metallic element, aluminum. Aluminum alloys are produced to specifications in "International Alloy Designations and Chemical Composition Limits for Wrought Aluminum and Wrought Aluminum Alloys" published by *The Aluminum Association*. These specifications have equivalent designations issued by other certifying bodies such as the International Standards Organization (ISO).

[30] All aluminum extrusions are produced as either hollow or solid profiles. Hollow profile extrusions generally cost more to produce and obtain higher prices than solid profile extrusions. Extrusions are often produced in standard shapes such as bars, rods, pipes and tubes, angles, channels and tees but they are also produced in customized shapes.

<sup>1</sup> This section is based on the complaint. CBSA Dumping Exhibit# 2, non-confidential version of the complaint, pages 6-8.

[31] In addition to 'as extruded' or mill finish, extrusions can be finished mechanically by polishing, buffing or tumbling. Extrusions can have anodized finishes applied by means of an electro-chemical process that forms a durable, porous oxide film on the surface of the aluminum. Also, they can be finished with liquid or powder paint coatings utilizing an electrostatic application process.

[32] The ability to produce the full range of profiles is determined by the extrusion and ancillary equipment. The Complainants cannot produce extrusions having a wall thickness less than 0.5 mm or a weight greater than 22 kg. per meter or a cross-section larger than would be enclosed within a 254 mm diameter circle.

[33] Working or fabricating extrusions includes any operation performed other than mechanical, anodized, painted or other finishing, prior to utilization of the extrusion in a finished product. These can include precision cutting, machining, punching and drilling.

[34] Aluminum extrusions are widely used in many end-use applications that span numerous market sectors. The main end-use sectors for aluminum extrusions are building and construction, transportation, and engineered products. Uses for aluminum extrusions in the building and construction industry cover a wide range of products, including windows, doors, railings, bridges, light poles, high-rise curtainwalls, framing members, and other various structures. Uses for aluminum extrusions in the transportation industry include parts for automobiles, buses, trucks, trailers, rail cars, mass transit vehicles, recreational vehicles, aircraft, and aerospace. Aluminum extrusions are also used in many consumer and commercial products, including, air conditioners, appliances, furniture, lighting, sports equipment, electrical power units, heat sinks, machinery and equipment, food displays, refrigeration, medical equipment, and laboratory equipment.<sup>2</sup>

### **Production Process<sup>3</sup>**

[35] While details may vary from producer to producer, the process by which extrusions are produced is essentially the same for all.

[36] The intended use of the product in which the aluminum extrusion will be applied determines the specifications for the extrusion. Machinability, finish and environment of use will determine the alloy to be extruded. The function of the profile will determine its design and that of the die that shapes it.

[37] The extrusion process begins with an aluminum billet. The billet must be softened by heat prior to extrusion. The heated billet is placed into the extrusion press, a powerful hydraulic device wherein a ram pushes a dummy block that forces the softened metal through a precision opening known as a die, to produce the desired shape. This simplified description of the process is known as direct extrusion, which is the most common method in use today. Indirect extrusion is a similar process. In the direct extrusion process, the die is stationary and the ram forces the

<sup>2</sup> Aluminum Extruders Council ([www.aec.org](http://www.aec.org)).

<sup>3</sup> This section is based on the complaint. CBSA Dumping Exhibit# 2, non-confidential version of the complaint, pages 9-11.



alloy through the opening in the die. In the indirect process, the die is contained within the hollow ram, which moves into the stationary billet from one end, forcing the metal to flow into the ram, acquiring the shape of the die as it does so.

[38] The aluminum billet may be a solid or hollow form, commonly cylindrical, and is the length charged into the extrusion press container. It is usually a cast product but may be a wrought product or powder compact. Often it is cut from a longer length of alloyed aluminum known as a log.

[39] The billet and extrusion tools are preheated (softened) in a heating furnace. The melting point of aluminum varies with the purity of the metal but is approximately 1,220° Fahrenheit (660° Centigrade). Extrusion operations typically take place with billet heated to temperatures in excess of 700° F (375° C), and depending upon the alloy being extruded, as high as 930° F (500° C).

[40] The actual extrusion process begins when the ram starts applying pressure to the billet within the container. Various hydraulic press designs are capable of exerting anywhere from 100 tons to 15,000 tons of pressure. This pressure capacity of a press determines how large an extrusion it can produce. The extrusion size is measured by its largest cross-sectional dimension, sometimes referred to as its fit within a circumscribing circle diameter.

[41] As pressure is first applied, the billet is crushed against the die, becoming shorter and wider until its expansion is restricted by full contact with the container walls. Then, as the pressure increases, the soft (but still solid) metal has no place else to go and begins to squeeze through the shaped orifice of the die to emerge on the other side as a fully formed extrusion or profile.

[42] About 10 percent of the billet, including its outer skin, is left behind in the container. The completed extrusion is cut off at the die and the remainder of the metal is removed to be recycled. After it leaves the die, the still-hot extrusion may be quenched, mechanically treated and aged.

### **Classification of Imports**

[43] The aluminum extrusions subject to this complaint are normally imported into Canada under the following 34 Harmonized System (HS) classification numbers:

7604.10.11.10	7604.10.20.29	7604.29.12.29
7604.10.11.90	7604.10.20.30	7604.29.20.11
7604.10.12.11	7604.21.00.10	7604.29.20.19
7604.10.12.19	7604.21.00.20	7604.29.20.21
7604.10.12.21	7604.29.11.10	7604.29.20.29
7604.10.12.22	7604.29.11.90	7604.29.20.30
7604.10.12.23	7604.29.12.11	7608.10.00.10
7604.10.12.24	7604.29.12.19	7608.10.00.90

7604.10.12.29	7604.29.12.21	7608.20.00.10
7604.10.20.11	7604.29.12.22	7608.20.00.90
7604.10.20.19	7604.29.12.23	
7604.10.20.21	7604.29.12.24	

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

### **CANADIAN INDUSTRY**

[45] The Canadian industry for aluminum extrusions is comprised of the following companies:

Almag Aluminum Inc. of Brampton, Ontario,  
 Apel Extrusions Limited of Calgary, Alberta,  
 Can Art Aluminum Extrusion Inc. of Brampton, Ontario,  
 Daymond Aluminum of Chatham, Ontario,  
 Extrudex Aluminum of Woodbridge, Ontario,  
 Indalex Aluminum Solutions Group of Mississauga, Ontario,  
 Kaiser Aluminum Canada Ltd of London, Ontario,  
 Kawneer Company Canada Ltd of Scarborough, Ontario,  
 Kromet International Inc. of Cambridge, Ontario.  
 Metra Aluminum Inc. of Laval, Quebec,  
 Signature Aluminum Canada Inc. (formerly Bon L Canada Inc.) of Richmond Hill, Ontario,  
 Spectra Aluminum Products Ltd. of Bradford, Ontario,  
 Spectra Anodizing Inc. of Woodbridge, Ontario.

### **IMPORTS INTO CANADA**

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

[47] The following table presents the CBSA's estimates of imports of certain aluminum extrusions for purposes of the preliminary determinations:

#### ***Imports of Certain Aluminum Extrusions (July 1, 2007 - June 30, 2008)***

<b>Imports into Canada</b>	<b>% of Total Imports</b>
China	44%
U.S.A.	48%
All Other Countries	8%
<b>Total Imports</b>	<b>100%</b>

## INVESTIGATION PROCESS

[48] Regarding the dumping investigation, information was requested from known and possible exporters, vendors and importers, concerning shipments of aluminum extrusions released into Canada during the Dumping POI of July 1, 2007 to June 30, 2008. Information related to potential actionable subsidies was requested from known and possible exporters and the GOC concerning financial contributions made to exporters of aluminum extrusions of Chinese origin imported into Canada during the Subsidy POI of January 1, 2007 to June 30, 2008.

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

[50] Aside from the aforementioned six Chinese and one U.S. exporter which provided timely and complete RFI replies, several exporters and trading companies provided incomplete, deficient or late RFI replies. Information from these companies has not been taken into consideration for purposes of the preliminary determinations.

[51] The GOC provided a substantially complete response to the section 20 RFI by the extended due date. The CBSA determined that the GOC's response to the subsidy RFI was incomplete and it was not used for the purposes of the investigation. The GOC was informed accordingly.

[52] As of the preliminary determination date, no additional information was provided by the GOC concerning its subsidy RFI response.

## DUMPING INVESTIGATION

### **Section 20 Inquiry**

[53] 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<sup>4</sup>, it is applied where, in the opinion of the President, domestic prices are substantially determined by the government of that country and there is sufficient reason to believe that they are not substantially the same as they would be if they were determined in a competitive market. Where section 20 is applicable, the normal value of goods is not determined based on a comparison with domestic prices or costs in that country.

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

---

<sup>4</sup> China is a prescribed country under Special Import Measures Regulation Section 17.1

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

[56] 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 aluminum extrusions sector in China.

[57] At the initiation of the investigation, the CBSA had sufficient evidence, supplied by the Complainants, and from its own research, to support the initiation of a section 20 inquiry. The information indicated that the prices of aluminum extrusions in China have been substantially determined, indirectly, by various GOC industrial policies regarding the aluminum industry and by export restrictions and tax changes for aluminum and aluminum extrusions.

[58] Accordingly, the CBSA, at the initiation of the dumping investigation, sent section 20 RFIs to all 160 known exporters of aluminum extrusions in China, as well as to the GOC requesting detailed information related to the aluminum extrusions sector. In response to the section 20 inquiry and the relevant questionnaires, the CBSA received substantially complete and timely responses from six Chinese exporters and from the GOC.

[59] In addition, the CBSA has obtained information from secondary sources such as previous CBSA reports, market intelligence reports, public industry reports, newspaper and internet articles as well as other government documents.

[60] Out of the 160 potential Chinese exporters that were contacted and requested to provide information to the CBSA, six exporters participated in a complete and timely fashion. The cooperative exporters represent approximately 43% of the total exports to Canada of subject goods, by volume during the Dumping POI. These companies represent a far smaller proportion of the Chinese domestic aluminum extrusions industry, which the GOC has indicated is comprised of over 460 producers.<sup>5</sup> A section 20 inquiry assesses the domestic industry for subject goods as a whole. As such, the review of the aluminum extrusions sector is not limited to an examination of the information provided by the cooperative exporters.

### **Government of China Response**

[61] The GOC submitted a substantially complete response to the section 20 RFI. The GOC also submitted a substantially complete response to a supplemental request for information regarding the section 20 inquiry. In addition to answering most of the CBSA's questions, the GOC made several general representations about the nature of the aluminum extrusions sector in China and on the level of government involvement within the industry.

---

<sup>5</sup> CBSA Dumping Exhibit# 266. GOC Response to the Government's Request for Information (section 20).

[62] The GOC noted that there is no industry-specific administration with regards to the aluminum extrusions sector in China, and that no government department, bureau or agency in China is specifically responsible for the regulation or administration of the aluminum extrusions sector.<sup>6</sup> The GOC indicated that no government entities interfere with the day-to-day commercial affairs of the aluminum extrusions producers in China.

[63] Further the GOC submitted that they do not set any guidance prices for aluminum extrusions and that there is no GOC organization that interferes in the normal price-setting functions of the market for aluminum extrusions in China.<sup>7</sup> They note that in the aluminum extrusions market in China, prices are driven by the market and are influenced by world market conditions.

[64] Regarding the GOC policy documents that the GOC did provide that relate to the aluminum industry, the GOC notes that these regulations have no impact on the price of aluminum extrusions in China, or for export, and that the function of these policies is not to manipulate or control prices or production capacity.<sup>8</sup> The GOC submits that these regulations are for “purposes such as controlling pollution, protecting the environment and of the conservation of energy and natural resources, with no intention to thwart, undermine or manipulate the normal market operations of the aluminum extrusions sector”.<sup>9</sup>

[65] In summary, the GOC’s position is that the GOC does not determine the prices of aluminum extrusions in China.

### **Preliminary Results of the Section 20 Inquiry**

[66] The CBSA’s preliminary analysis for the section 20 inquiry addresses the GOC’s representations by examining the cumulative effect that the GOC’s measures have exerted on the Chinese aluminum extrusions sector.

### **Industry Structure**

[67] In terms of industry composition and structure, the Chinese primary aluminum industry is substantially composed of state-owned enterprises, with the SOE Aluminum Corporation of China (Chinalco) and its subsidiaries accounting for almost 50% of aluminum production in 2007. However, the downstream producers of aluminum extrusion products appear to have little direct state ownership and the industry is very fragmented. The GOC’s section 20 RFI response indicated there are 460 aluminum extruders in China that each produce and sell at least 5 million

<sup>6</sup> CBSA Dumping Exhibit# 266. GOC Response to the Government's Request for Information (section 20), page 11.

<sup>7</sup> CBSA Dumping Exhibit# 266. GOC Response to the Government's Request for Information (section 20), page 14.

<sup>8</sup> CBSA Dumping Exhibit# 266. GOC Response to the Government's Request for Information (Section 20), page 11.

<sup>9</sup> CBSA Dumping Exhibit# 266. GOC Response to the Government's Request for Information (Section 20), page 27.

RMB annually. Of these 460 companies, the GOC indicated that only 12 are wholly or partially state-owned.<sup>10</sup>

### Government Industrial Policies

[68] Aluminum has been identified by the GOC as an industry with “production capacity redundancy” that requires GOC mandated structural adjustment. The government industrial policies include several broader documents that discuss policies and approaches to multiple industries (such as steel, cement, non-ferrous metals, etc.). The GOC’s industrial policies also include several documents that are specifically authored regarding the aluminum industry, including the mining of bauxite, production of alumina, production of primary aluminum, and the further processing of aluminum (including aluminum extrusions).

[69] In past section 20 inquiries regarding steel products, the CBSA has relied upon the GOC’s *China Iron and Steel Industry Development Policy* as the main authoritative document outlining the GOC’s policies and plans that are specific to the steel industry. The CBSA, through its own research, is aware of documents that were authored around the same time as the *China Iron and Steel Industry Development Policy*, and that may contain similar GOC policies and plans related to the aluminum industry. These documents are *The Industrial Development Policy for the Aluminum Industry* (Industrial Development Policy and *The Special Development Plan for the Aluminum Industry Development* (Special Development Plan).

[70] The CBSA requested these documents in the section 20 RFI to the GOC. In response, the GOC noted that the Industrial Development Policy and the Special Development Plan had been “formulated in 2005” but that they had not “come into effect” and had not “been circulated to the local governments for implementation”.<sup>11</sup> However, the GOC provided two other official government documents that referenced the Industrial Development Policy and the Special Development Plan. In these other government documents, the Industrial Development Policy is referenced by its official title in italics in the same manner as other officially approved government documents the GOC has provided. Additionally, the Industrial Development Policy is referenced as being “approved by State Council” and local governments are instructed to implement it.

[71] In a supplemental section 20 RFI, the CBSA reiterated its request to the GOC to provide the Industrial Development Policy and the Special Development Plan. In their response the GOC noted that for these two documents “the required legislative procedure has never been completed and, therefore, they are not in force”.<sup>12</sup> The GOC again did not provide the documents to the CBSA.

[72] The GOC did provide numerous documents that cover their general industrial policies and investment guidance, as well as several documents more specific to the production of alumina, aluminum and aluminum products. These policies show a significant degree of GOC

<sup>10</sup> CBSA Dumping Exhibit# 266. GOC Response to the Government's Request for Information (Section 20), page 35.

<sup>11</sup> CBSA Dumping Exhibit# 266. GOC Response to the Government's Request for Information (section 20), page 27.

<sup>12</sup> CBSA Dumping Exhibit# 332. GOC Response to the supplemental section 20 RFI, page 4.

control, influence and oversight over the aluminum industry and the aluminum extrusions sector in China.

[73] To summarize, the GOC has laws and policies relating to the aluminum industry that dictate:

- restrictions on any new investment, both foreign and domestic, in the primary aluminum industry;
- the type of aluminum smelting processing technology that is permitted and bans on certain types of technology used in aluminum production;
- minimum annual production capacity for new primary aluminum producers;
- minimum annual production capacity for new bauxite mines and alumina projects;
- minimum capital investment requirements for new aluminum projects;
- minimum efficiency standards for new and existing aluminum projects (in terms of electricity and coal usage per MT produced);
- minimum amounts of raw materials the alumina or aluminum producer is required to have access to in order to be granted project approval.

[74] Furthermore, the GOC has laws and policies relating specifically to the aluminum extrusions sector that dictate:

- minimum annual production capacity for new aluminum fabricators (including a minimum 50,000 MT capacity for new aluminum extruders);
- minimum efficiency standards for new and existing aluminum extrusion facilities (in terms of electricity usage and raw material consumption per output).

[75] The extent of GOC oversight and control within the industry is quite significant. The GOC's involvement is extensive enough to significantly effect companies within the industry. The policies also show that over time the GOC's restrictions in the aluminum industry in China have progressed further downstream. Earlier policies sought to restrict further aluminum production, but encouraged the further processing of aluminum products, including aluminum extrusions. However, the most recent GOC policies now also place restrictions directed towards aluminum processors, including aluminum extrusions producers.

### **Import and Export Tax Changes**

[76] An important tool the GOC uses in implementing their industrial policy objectives is their tax regime regarding import tariffs, value-added tax rebate rates and export taxes. In general terms, China's value-added tax (VAT) system is similar to a consumption tax, with the ultimate burden borne by the consumer. A manufacturer in China pays 17% VAT on its purchases of raw materials, processes the goods, and then sells the end-products, collecting 17% VAT in the process. The manufacturer then remits the difference between the VAT collected and the VAT paid on the purchases of the raw materials. In this manner, a manufacturer does not incur any VAT related costs on his production materials. However, VAT on export sales is treated differently.

[77] With exports, the exporter still pays the same 17% VAT on their purchases of raw materials, however, when they export the goods, they only receive a VAT tax refund (VAT rebate) of a fixed percentage, which is established by the GOC. In addition, the VAT rebate cannot exceed the VAT paid on raw materials. Consequently, the VAT rebate on exports would offset the VAT paid on the raw materials.

[78] Over the previous three years, the GOC has made substantial changes to the import tariffs, VAT rebates for exports, and export duties on aluminum raw materials, aluminum, and finished aluminum products. These changes are summarized in the table below.<sup>13</sup>

January 2004	Lowered VAT rebate on aluminum from 15% to 8%
January 2005	Fully removed VAT rebate and imposed a 5% export tax on aluminum
September 2006	Lowered VAT rebates on various aluminum products from 13% to 5-11% (11% for aluminum extrusions, except aluminum pipe and tube which remains at 13%)
November 2006	Increased the export tax on aluminum to 15%
July 2007	Fully removed VAT rebates on alloy and non-alloy aluminum bar, wire and profiles
August 2007	<ul style="list-style-type: none"> <li>– Removed 5% import tariff on aluminum</li> <li>– Imposed a 15% export tax on non-alloy aluminum rod and bar</li> </ul>
January 2008	<ul style="list-style-type: none"> <li>– Removed 3% import tariff on alumina</li> <li>– Imposed 15% export tax on alloy aluminum rod, bar and some solid aluminum profiles</li> </ul>

[79] One effect of these tax changes is that it increases the cost of exports, which impacts not only the export market but also the domestic market. In the export market, the producers will be required to increase their export selling prices, if possible, in order to recover their increased costs. The increase in export selling prices could lead to lost export sales and this production would now be offered for sale in the domestic market, increasing domestic supply. If the demand for the product remains stable then, other things being equal, the excess supply will force down domestic prices.

[80] While the GOC has stated that many of these policies are intended to address environmental and resource efficiency issues, these measures are changing the demand and supply balance in the domestic market. Information on the record, from a Metal Bulletin

<sup>13</sup> CBSA Dumping Exhibit# 266. GOC Response to the Government's RFI (Section 20), pages 47, 48, and 577.  
CBSA Dumping Exhibit# 332. GOC Response to the Supplemental Section 20 RFI, pages 7 and 8.  
WTO, Trade Policy Review Body. "Trade Policy Review, Report by the Secretariat, China", WT/TPR/S/199, April 16, 2008, page 75.  
CBSA Dumping Exhibit# 372. Interfax-China. "New Aluminium Product Export Tax Policy to Hasten Industry Reform", June 25, 2006. Online at: <http://www.chinamining.org/Policies/2007-06-25/1182738229d5773.html>.  
CBSA Dumping Exhibit# 372. Chinamining.org. "China Adjusts Tariff on Aluminum Products to Cut Energy Consumption, Pollution", July 20, 2007. Online at: <http://www.chinamining.org/Policies/2007-07-20/1184893800d6266.html>.  
CBSA Dumping Exhibit# 372. Interfax-China. "China to Cancel Aluminium Import Tax, Impose Export Tax", July 19, 2007. Online at: <http://resourceinvestor.com/pebble.asp?relid=34031&t=60>  
CBSA Dumping Exhibit# 372. Resource Investor, Ida Chen. "China to Remove Import Tax on Alumina and refined Copper", December 26, 2007. Online at: <http://www.resourceinvestor.com/pebble.asp?relid=39029&t=60>



Research (MBR) publication for aluminum extrusions, shows a significant reduction in the volume of Chinese exports of aluminum extrusions beginning in July 2007 when the GOC cancelled VAT rebates for aluminum extrusions.<sup>14</sup>

[81] The information available to the CBSA shows a strong level of GOC involvement in the aluminum industry through import tariffs, VAT rebate levels and export taxes. The use of such measures by the GOC can significantly change the demand and supply balance in the domestic market and could materially alter the domestic prices of the aluminum products affected.

### **Domestic Chinese Price of Aluminum**

[82] One indicator of the domestic price of aluminum in China is the price of aluminum futures traded on the Shanghai Futures Exchange (SHFE). It is important to note that SHFE prices are quoted Chinese VAT inclusive.<sup>15</sup> As previously explained, Chinese aluminum extruders would be eligible to be reimbursed for the amount of VAT they pay on raw materials. The quoted SHFE prices are therefore 17% higher than the effective cost that SHFE aluminum would represent to Chinese aluminum extruders.

[83] The CBSA compared the price of aluminum available on the London Metal Exchange (LME) and SHFE. The LME is the largest futures and contract market for various metals including aluminum and is a global reference pricing source for purchases and sales of such goods. This comparison shows that the price of aluminum in China is not always reflective of the international price. The CBSA's review of aluminum prices shows that the SHFE price of aluminum traded at the world price of aluminum in 2003, but began to trade at a lower price from the rest of the world in 2004, coinciding with the timing of the GOC's first adjustment to the VAT rebates available for primary aluminum.<sup>16</sup> This divergence in pricing continued to increase during 2005 and 2006, which coincides with the timing of the GOC's full removal of VAT rebates (January 2005) and imposition of export taxes (5% in January 2005, and 15% in November 2006) on primary aluminum and primary aluminum products.

[84] The cost of aluminum, as a raw material input, is the largest cost component of producing aluminum extrusions. A review of the cooperative exporters' cost of production information for the period of investigation reveals that the raw material cost of aluminum accounts for more than 75% of their total cost of production for aluminum extrusions. Given this high cost proportion, the availability of low priced aluminum in China would clearly impact the domestic prices of aluminum extrusions in China.

### **Prices of Aluminum Extrusions in China**

[85] The information available to the CBSA indicates that prices of aluminum extrusions in China are being significantly determined indirectly, by GOC industrial policies and export restrictions.

<sup>14</sup> CBSA Dumping Exhibit# 270. Metal Bulletin Research, *Aluminum Extrusions Monthly*, Issue 121, August 2008, page 10.

<sup>15</sup> CBSA Dumping Exhibit# 266, GOC response to the section 20 RFI, page 2007.

<sup>16</sup> CBSA Dumping Exhibit# 42, CBSA Case Analysis.

[86] The CBSA's understanding of pricing practices in the aluminum extrusions industry is that extrusions are priced by producers based on the current price of aluminum plus a conversion factor. The Chinese aluminum extrusions industry follows this pricing practice. Many of the cooperative exporters explained that they base their domestic prices on the SHFE or published local spot market rate, plus their own conversion factor. Therefore, the below world market price of aluminum inputs available to aluminum extruders in China would impact their domestic selling prices for aluminum extrusions, which can be shown to be lower than other markets in the world.

[87] The CBSA has information that substantiates this difference based on aluminum extrusions pricing information in some European and North American markets from a MBR publication for aluminum extrusions. This pricing information shows that prices for aluminum extrusion in other countries are higher than the average domestic prices of aluminum extrusions sold in China by the cooperative exporters during the POI.

[88] During the POI, prices in China ranged from 17% to 30% lower than the published prices shown in the MBR publication. The CBSA considers this difference to be substantial. It is also worth noting that while the prices in the MBR publication are for more developed markets, they are "regional prices for standard extruded shapes", which should represent a conservative comparison to the full product mix, including some higher value-added products, that the cooperative exporters sold in the domestic market during the POI.

[89] Also relevant is a comparison of the cooperative exporters' domestic selling prices with the LME price of aluminum. In early 2008, the world price of aluminum was almost equivalent to the cooperative exporters' domestic selling prices for aluminum extrusions in China. Clearly, if the cooperative exporters had purchased aluminum at the world price during this period, their domestic selling prices would have been significantly higher.

### **Preliminary Results of the Section 20 Inquiry Summary**

[90] The President considered the cumulative effect that the GOC's measures have exerted on the aluminum extrusions sector in China. The information indicates that the wide range and material nature of the GOC measures have resulted in significant influences on the aluminum industry, including the aluminum extrusions sector, through means other than market forces. For purposes of the preliminary determination, the President has formed the opinion that domestic prices in the aluminum extrusions sector are substantially determined by the GOC and there is sufficient reason to believe that the domestic prices are not substantially the same as they would be in a competitive market.

[91] During the final stage of the dumping investigation, the CBSA will be continuing its section 20 inquiry and further verify and analyse relevant information. The President will reaffirm or revise his opinion as to whether the conditions of section 20 exist in the aluminum extrusions sector as part of the final phase of the investigation.

## Normal Value

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

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

[94] Where section 20 conditions exist, the CBSA normally determines normal values using the selling price, or the total cost and profit, of like goods sold by producers in a surrogate country designated by the President pursuant to paragraph 20(1)(c) of SIMA. However, no surrogate country producers provided the necessary domestic pricing and costing information relating to the goods under investigation.

[95] Accordingly, the CBSA has used an alternate method to estimate normal values for purposes of the preliminary determination on the basis of the best information available. This alternate method is considered to be a representative and reasonable approach.

[96] In the complaint, the Complainants submitted that India is an appropriate surrogate country to be used for the calculation of normal values, since it is a major producer of aluminum extrusions and has comparable wage rates. Additionally, the cost of the aluminum raw material input to extruders in India should reflect international, market economy prices.

[97] The CBSA finds that the Complainant's selection of India as a surrogate country is reasonable, since both India and China are developing countries and the President of the CBSA has designated India as the surrogate country for China previously.

[98] As the cost of aluminum accounts for such a significant portion of the costs of producing aluminum extrusions, the CBSA's starting point for estimating normal values is based on the monthly average settlement price of aluminum as reported on the LME. The LME is the largest futures and contract market for various metals including aluminum and is a global reference pricing source for purchases and sales of such goods.

[99] Amounts have been added to the LME prices for the estimated cost to convert the aluminum into a finished aluminum extrusion product, using surrogate cost data from India as estimated by the Complainants. Separate conversion costs have been estimated to account for cost differences relating to product that is "mill finished" and product that undergoes additional finishing, such as anodizing or painting. An amount for administrative, selling and all other costs has also been estimated and added using information provided by the complainants based on this same surrogate source.

[100] Lastly, an estimated amount for profit has been added to these costs based on the profit earned by the complainants on domestic and export sales of the like goods for the 2007 calendar year in order to estimate normal values.

## Export Price

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

[102] For purposes of the preliminary determination, export prices were estimated using reported export pricing data provided by the exporters of the goods. For non-cooperative exporters, import pricing information available from Canada customs' internal information systems was used for purposes of estimating export price.

## Summary of Preliminary Results of Dumping Investigation

[103] The CBSA estimated margins of dumping for each of the cooperative exporters by comparing its estimates of the normal values with the estimated export prices. When the export price is less than the normal value, the difference is the margin of dumping.

[104] For the exporters that did not respond to the RFI, or provided an incomplete or late submission, the normal values and related margins of dumping were estimated using the highest transaction margin of dumping (102%), expressed as a percentage of export price, as determined for cooperative exporters.

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

[106] In calculating the weighted average estimated margin of dumping, the overall estimated margins of dumping found in respect of each exporter were weighted according to each exporter's volume of aluminum extrusions exported to Canada during the Dumping POI.

[107] Based on the preceding, 99% of the aluminum extrusions from China were dumped by an estimated weighted average margin of dumping of 77%, as a percentage of export price.

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

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

### **Preliminary Dumping Results by Exporter**

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

#### **Taishan City Kam Kiu Aluminum Extrusion Co., Ltd (China)**

[111] Taishan City Kam Kiu Aluminium Extrusion Co. Ltd. (Kam Kiu) is a 100% foreign owned, limited liability company incorporated in Hong Kong. Kam Kiu uses primary aluminum to cast its own billets and the special tooled precision dies are made by Kam Kiu to produce aluminum extrusions according to customer requirements.

[112] Exports to Canada are sold via Kam Kiu's trading arm located in Malaysia and are shipped from China to customers in Canada. Export selling price data, including applicable export price adjustments, provided by Kam Kiu in its RFI submission was used as the basis for estimating export price for purposes of the preliminary determination.

#### Margin of Dumping

[113] The total normal value was compared with the total export price for all subject aluminum extrusions imported into Canada during the Dumping POI. It was found that the goods exported by Kam Kiu were dumped by an estimated weighted average margin of dumping of 41%, expressed as a percentage of export price.

#### **Press Metal International Ltd. (China)**

[114] Press Metal International Ltd. (PMI) is a 100% foreign owned company with the parent company located in Malaysia. PMI is an aluminum extruder and has a related raw material supplier of aluminum ingots.

[115] Exports to Canada are sold and shipped directly to several unrelated importers in Canada. Export selling price data, including applicable export price adjustments, provided by PMI in its RFI submission was used as the basis for estimating export price for purposes of the preliminary determination.

#### Margin of Dumping

[116] The total normal value was compared with the total export price for all subject aluminum extrusions imported into Canada during the Dumping POI. It was found that the goods exported by PMI were dumped by an estimated weighted average margin of dumping of 36%, expressed as a percentage of export price.

**PanAsia Aluminum Ltd. (China)**

[117] PanAsia Aluminum Limited (PanAsia) is a Foreign-Invested Enterprise and manufacturer of the subject goods exported to Canada. It produces aluminum extrusions for the domestic and various export markets at its production facility located in Zengcheng City in the Chinese province of Guangdong.

[118] Exports to Canada are sold through an affiliated trading company located in Macau and are shipped directly to related subsidiaries and unrelated companies in Canada. Export selling price data, including applicable export price adjustments, provided by PanAsia in its RFI submission was used as the basis for estimating export price for purposes of the preliminary determination. As some of the goods were sold to a related importer in Canada, importations will be further analyzed prior to the final determination to establish whether export prices should be determined in accordance with section 25 of SIMA, based on the importer's resale prices in Canada less all costs incurred in importing and selling the goods, plus an amount for profit.

Margin of dumping

[119] The total normal value was compared with the total export price for all subject aluminum extrusions imported into Canada during the Dumping POI. It was found that the goods exported by PanAsia were dumped by an estimated weighted average margin of dumping of 37%, expressed as a percentage of export price.

**Pingguo Asia Aluminum Co., Ltd. (China)**

[120] Pingguo Asia Aluminum Co., Ltd (Pingguo) is a privately held, foreign equity joint venture. Pingguo manufactures its own aluminum billets and produces aluminum extrusions according to customer requirements

[121] Exports to Canada are sold by Pingguo to Canadian customers and are shipped directly to Canada. Export selling price data, including applicable export price adjustments, provided by Pingguo in its RFI submission was used as the basis for estimating export price for purposes of the preliminary determination.

Margin of dumping

[122] The total normal value was compared with the total export price for all subject aluminum extrusions imported into Canada during the Dumping POI. It was found that the goods exported by Pingguo were dumped by an estimated weighted average margin of dumping of 40%, expressed as a percentage of export price.

**Guangdong Weiye Aluminum Factory Co., Ltd. (China)**

[123] Guangdong Weiye Aluminum Factory Co., Ltd. (Weiye) is a privately owned company and is a manufacturer of aluminum extrusions and stainless steel products. Weiye develops and manufactures a wide range of aluminum extrusions for various industries (such as construction,

electronic, IT, sporting goods). The company purchases 100% of its raw materials from several domestic suppliers.

[124] Exports to Canada are sold and are shipped directly to multiple unrelated companies in Canada. Export selling price data, including applicable export price adjustments, provided by Weiye in its RFI submission was used as the basis for estimating export price for purposes of the preliminary determination.

#### Margin of dumping

[125] The total normal value was compared with the total export price for all subject aluminum extrusions imported into Canada during the Dumping POI. It was found that the goods exported by Weiye were dumped by an estimated weighted average margin of dumping of 39%, expressed as a percentage of export price.

#### **Guangdong Jianmei Aluminum Profile Factory Co., Ltd. (China)**

[126] Guangdong Jianmei Aluminium Profile Factory Co., Ltd. (Jianmei) is a privately-owned limited liability company. Jianmei has two production plants that produce different types of aluminum profiles, including thermal break series, curtain wall series, doors and windows series and other profiles. Jianmei purchases aluminum ingots and melts them into aluminum billets.

[127] Exports to Canada are sold by JMA (Hong Kong) Company Limited, an associated trading company, and are shipped directly to multiple unrelated companies in Canada. Export selling price data, including applicable export price adjustments, provided by Jianmei in its RFI submission was used as the basis for estimating export price for purposes of the preliminary determination.

#### Margin of dumping

[128] The total normal value was compared with the total export price for all subject aluminum extrusions imported into Canada during the Dumping POI. It was found that the goods exported by Jianmei were dumped by an estimated weighted average margin of dumping of 43%, expressed as a percentage of export price.

#### **Hunter Douglas (United States)**

[129] The Hunter Douglas group of companies is privately owned, and part of a wider corporate group, Hunter Douglas NV, located in the Netherlands.

[130] The Hunter Douglas group includes three U.S. subsidiaries, two of which are distributors and exporters of Chinese origin aluminum extrusions to Canada - Hunter Douglas Window Fashions (HDWF) and Hunter Douglas Designer Shades (HDDS).

[131] Hunter Douglas Window Coverings Inc (HDWC), the third party in this Hunter Douglas group, sources subject goods from Chinese manufacturers and paints them. Both HDWF and HDDS then purchase the painted subject goods from HDWC and sell them to U.S. and Canadian

fabricators. The fabricators then use the subject goods in the manufacture of window shades and treatments based on the specifications of their dealer customers.

[132] Both HDDS and HDWF make export sales directly from the U.S. to two related Canadian importers. Export selling price data, including applicable export price adjustments, provided by HDDS and HDWF in its RFI submissions was used as the basis for estimating export price for purposes of the preliminary determination. As the goods were sold to related importers in Canada, importations will be further analyzed prior to the final determination to establish whether export prices should be determined in accordance with section 25 of SIMA, based on the importer's resale prices in Canada less all costs incurred in importing and selling the goods, plus an amount for profit.

#### Margin of dumping

[133] The total normal value was compared with the total export price for all subject aluminum extrusions imported into Canada during the Dumping POI. Overall, the subject goods exported by HDDS or HDWF were found not to be dumped.

#### **Non-Cooperative Exporters - Margin of Dumping**

[134] For non-cooperative exporters, import pricing information available from Canada customs' internal information systems was used for purposes of estimating export price. The normal value and related margin of dumping was estimated using the highest transaction margin of dumping (102%), expressed as a percentage of export price, as determined for cooperative exporters.

#### SUMMARY OF RESULTS – DUMPING

##### **Period of Investigation – July 1, 2007 to June 30, 2008**

<b>Country</b>	<b>Estimated Dumped Goods as Percentage of Country Imports</b>	<b>Estimated Weighted Average Margin of Dumping as Percentage of Total Imports</b>	<b>Country Imports as Percentage of Total Imports</b>	<b>Estimated Dumped Goods as Percentage of Total Imports</b>
China	99%	77%	44%	44%

#### SUBSIDY INVESTIGATION

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



[136] 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.

[137] Where subsidies exist they may be subject to countervailing measures if they are specific in nature. A subsidy is considered to be specific when it is limited, in law, to a particular enterprise within the jurisdiction of the authority that is granting the subsidy; or is a prohibited subsidy. An “enterprise” is defined under SIMA as also including a group of enterprises, an industry and a group of industries. A “prohibited subsidy” includes a subsidy which is contingent, in whole or in part, on export performance or a subsidy or portion of a subsidy that is contingent, in whole or in part, on the use of goods that are produced or that originate in the country of export.

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

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

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

[140] Prior to the initiation of the investigation, the complainant submitted documents alleging that the producers and exporters of aluminum extrusions in China benefited from actionable subsidies provided by the GOC.

[141] Financial contributions provided by state-owned enterprises operating under the direct or indirect control or influence of the GOC may also be considered to be provided by the GOC for purposes of this investigation.

[142] At initiation, the CBSA identified 54 potential subsidy programs in the following eight categories:

1. Special Economic Zones (SEZ) and other Designated Areas Incentives;
2. Grants;
3. Equity Infusions/Debt-to-Equity Swaps;
4. Preferential Loans;
5. Preferential Income Tax Programs;
6. Relief from Duties and Taxes on Materials and Machinery;
7. Reduction in Land Use Fees; and
8. Purchase of Goods/Services from State-owned Enterprises.

[143] Details regarding these potential subsidies were provided in the *Statement of Reasons* issued for the initiation of this investigation. This document is available through the CBSA website at the following address:

<http://www.cbsa-asfc.gc.ca/sima-lmsi/i-e/ad1379/ad1379-i08-de-eng.pdf>

### **Preliminary Phase of the Subsidy Investigation**

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

[145] The CBSA has received substantially complete and timely responses from the six cooperative exporters located in China. However, the GOC subsidy submission was incomplete. This included insufficient or incomplete responses to most questions and a failure to provide many of the documents requested. Most noteworthy, the GOC did not provide information for all of the Chinese exporters identified by the CBSA. Rather, it identified 12 “responding companies” and indicated that it would limit its subsidy response to these 12 companies. Even for these 12 identified “responding companies”, the GOC did not provide complete information to many of the RFI questions. In summary, the majority of the information requested by the CBSA was not provided by the GOC.

[146] On October 15, 2008, the GOC was contacted and advised that its subsidy response had been reviewed, was found to be incomplete and would not be used for purposes of the investigation. At the same time, the GOC was informed that if it subsequently submitted a complete response to the RFI, the CBSA would endeavor to use this information for the investigation provided that it was provided in sufficient time for the CBSA to analyze and verify before the closing of the record on December 31, 2008.

[147] On October 21, 2008, counsel for the GOC responded to the preceding letter from the CBSA indicating that they disagree with the position taken by the CBSA that their client’s

response is incomplete. Notwithstanding this, they did note that the additional material will be provided, and requested that the CBSA reconsider its position in light of this forthcoming information and the points raised in their letter. On October 30, the GOC sent another letter to the CBSA re-iterating its disagreement with the position that the CBSA has taken to date regarding its response.

[148] On November 4, 2008, the CBSA responded to the GOC's letter dated October 21. The CBSA explained again why the GOC's response was considered incomplete and was not used for purposes of the investigation. The CBSA also confirmed that, if the GOC submits a complete response to the subsidy RFI, the CBSA will endeavor to use this information for the investigation, provided that it is provided in sufficient time for the CBSA to analyze and verify before the closing of the record on December 31, 2008.

[149] The CBSA has not yet received any additional information from the GOC and will assess such information if and when received, together with that incomplete information already provided, to determine whether the submission by the GOC will be used for this investigation.

[150] Notwithstanding the incomplete GOC response, an amount of subsidy has been estimated for the preliminary determination for the six cooperative exporters in China based on the information provided by the cooperative exporters.

[151] A summary of the preliminary findings for the named subsidy programs can be found in Appendix 2. It should be noted that while 54 programs were identified at initiation, the analysis of the cooperative exporter responses has resulted in identification of two additional programs not previously identified, resulting in a total of 56 programs currently under investigation.

[152] Any other potential subsidy programs that are subsequently identified will also be examined during the final stage of the investigation. This includes potential subsidy programs relating to the prices of major manufacturing inputs (such as aluminum inputs) purchased from GOC sources including State-Owned Enterprises.

### **Summary of Results - Subsidy**

[153] The CBSA estimated specific subsidy amounts for each of the six cooperative exporters. For the purposes of the preliminary determination, the CBSA estimated the amount of subsidies for each exporter on the basis of the program(s) that the exporter had reported that it had utilized in the Subsidy POI. The resultant estimated amounts of subsidy for each of these exporters are provided in Appendix 1.

[154] The information received from the cooperative exporters indicates that they received benefits under one or more of the following 14 programs:

- Preferential Tax Policies for Enterprises with Foreign Investment Established in the Coastal Economic Open Areas and in Economic and Technological Development Zones
- Corporate Income Tax Exemption and/or Reduction in SEZ's and other Designated Areas
- Research & Development (R&D) Assistance Grant
- Superstar Enterprise Grant

- Matching Funds for International Market Development for SMEs
- State Fund with Interest Discount
- One-time Awards to Enterprises Whose Products Qualify for "Well-Known Trademarks of China" or "Famous Brands of China"
- Export Brand Development Fund
- Preferential Tax Policies for Foreign Invested Enterprises
- Preferential Tax Policies for Foreign-Invested Export Enterprises
- Local Income Tax Exemption and/or Reduction
- Exemption of Tariff and Import VAT for the Imported Technologies and Equipment
- Patent Award of Guangdong Province<sup>17</sup>
- Training Program for Rural Surplus Labor Force Transfer Employment<sup>18</sup>

[155] Details regarding the estimated amounts of subsidy for each of the six cooperative exporters are provided in Appendix 1. The CBSA's estimated amounts of subsidy for the cooperative exporters ranges from 0.09% to 2.43%, expressed as a percentage of export price.

[156] For the non-cooperative exporters, the amount of subsidy has been estimated based on:

- (i) the highest amount of subsidy (RMB per kg) estimated for each of the 14 programs for the six cooperative exporters located in China; plus
- (ii) the simple average of these highest subsidy amounts in (i) applied to each of the remaining 42 potentially actionable subsidy programs for which information is not available or has not been provided.

[157] As a result, the estimated amount of subsidy for all non-cooperative exporters is 17%, as a percentage of export price.

[158] The preliminary results indicate that 99% of the subject goods imported into Canada during the Subsidy POI were subsidized. The estimated overall weighted average amount of subsidy is equal to 11% of the export price.

[159] The respective estimated amounts of subsidy will be applied to the future exports made by each of the cooperative exporters that provided complete responses to the CBSA's RFI. The amount of subsidy calculated for non-cooperative exporters, estimated to be 17% of the export price, is applicable to those exporters that did not respond to the RFI, or provided a late or an incomplete submission.

[160] Under subsection 35(1) of SIMA, the CBSA is required to terminate an investigation prior to the preliminary determination if the amount of subsidy on the goods of a country is insignificant or if the volume of subsidized goods of a country is negligible. Section 41.2 of SIMA further requires the CBSA take into account the provisions of Article 27 of the WTO Subsidies Agreement when conducting subsidy investigations. These provisions stipulate that

<sup>17</sup> This program was not identified at initiation but was found to have been used following the analysis of the cooperative exporter responses to the Subsidy RFI.

<sup>18</sup> This program was not identified at initiation but was found to have been used following the analysis of the cooperative exporter responses to the Subsidy RFI.

any investigation involving a developing country must be terminated as soon as it is determined that the total amount of subsidy for a developing country does not exceed 2% of the value of the goods, or that the volume of the subsidized imports represents less than 4% of the total imports of the goods. For developed countries, less than 1% of the value of the goods is considered insignificant, whereas a volume of subsidized goods forming less than 3% of total imports is considered negligible.

[161] The CBSA normally makes reference to the Development Assistance Committee List of Official Development Assistance Recipients (DAC List of ODA Recipients), maintained by the Organization for Economic Cooperation and Development, to determine eligibility for the differential amounts for developing countries in subsidy investigations. According to this list, China is eligible for the higher insignificance and negligibility thresholds.

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

#### **SUMMARY OF RESULTS – SUBSIDY**

**Period of Investigation - January 1, 2007 to June 30, 2008**

<b>Country</b>	<b>Estimated Subsidized Goods as Percentage of Country Imports</b>	<b>Estimated Weighted Average Amount of Subsidy*</b>	<b>Country Imports as Percentage of Total Imports</b>	<b>Estimated Subsidized Goods as Percentage of Total Imports</b>
China	99%	11%	44%	44%

\*As percentage of the export price

#### **DECISION**

[163] Based on the preliminary results of the investigations, the CBSA, on November 17, 2008 made preliminary determinations of dumping and subsidizing respecting certain aluminum extrusions originating in or exported from the People's Republic of China, pursuant to subsection 38(1) of SIMA.

#### **PROVISIONAL DUTY**

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

[165] Provisional countervailing duty is based on the estimated amount of subsidy and is expressed as a percentage of export price of the goods. Provisional anti-dumping duty is based on the estimated margin of dumping, also expressed as a percentage of the export price of the

goods. Appendix 1 contains the estimated margins of dumping, estimated amounts of subsidy, and the rates of provisional duties, payable on subject goods released from the CBSA on and after November 17, 2008.

[166] Provisional duties are payable by the importer in Canada and apply until the day the Tribunal makes a finding on the question of injury or if the investigation is terminated by the CBSA.

[167] Importers are required to pay provisional duties in cash or by certified cheque. Alternatively, they may post security equal to the amount payable. Importers should contact their CBSA regional 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 customs 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**

[168] The CBSA will continue its investigations of the dumping and subsidizing and will make final decisions by February 16, 2009.

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

#### **The Canadian International Trade Tribunal**

[170] The Tribunal has begun its full inquiry into the question of injury to the Canadian industry. The Tribunal is expected to issue its final decision by March 17, 2009.

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

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

### **RETROACTIVE DUTY ON MASSIVE IMPORTATIONS**

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

[174] 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.

### **UNDERTAKINGS**

[175] 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.

[176] 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.

[177] In view of the time needed for consideration of undertakings, written undertaking proposals should be made as early as possible, and no later than 60 days after the preliminary determinations of dumping and subsidizing. Further details regarding undertakings can be found in the CBSA's Memorandum D14-1-9, available online at:

<http://www.cbsa-asfc.gc.ca/publications/dm-md/d14/d14-1-9-eng.html>

[178] 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 this investigation. A notice will be posted on the CBSA website when an undertaking proposal is received. Interested parties have nine days from the date the undertaking offer is received to make representations.

**PUBLICATION**

[179] 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**

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

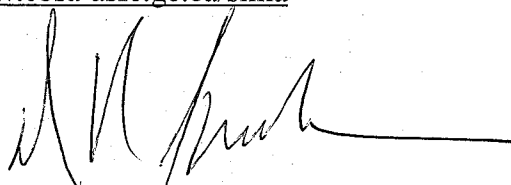
Mail                   SIMA Registry and Disclosure Unit  
Anti-dumping and Countervailing Program  
Trade Programs Directorate  
Canada Border Services Agency  
100 Metcalfe Street, 11th Floor  
Ottawa, Ontario K1A 0L8  
CANADA

Telephone       Rob Wright                   (613) 954-1643  
Matt Lerette               (613) 954-7398

Fax                   (613) 948-4844

Email               [SIMAREgistry@cbsa-asfc.gc.ca](mailto:SIMAREgistry@cbsa-asfc.gc.ca)

Website           <http://www.cbsa-asfc.gc.ca/sima>



M.R. Jordan  
Director/General  
Trade Programs Directorate

Attachments



**APPENDIX 1 – SUMMARY OF ESTIMATED MARGINS OF DUMPING, ESTIMATED AMOUNTS OF SUBSIDY, AND PROVISIONAL DUTIES PAYABLE**

<b>Exporter(Country)</b>	<b>Estimated Margin of Dumping*</b>	<b>Estimated Amount of Subsidy*</b>	<b>Total Provisional Duties Payable*</b>
Taishan City Kam Kiu Aluminum Extrusion Co., Ltd (China)	41%	2.43%	43.43%
Press Metal International Ltd. (China)	36%	1.84%	37.84%
Panasia Aluminum (China) Limited (China)	37%	0.09%	37.09%
Pingguo Asia Aluminum Co., Ltd (China)	40%	0.92%	40.92%
Guangdong Weiye Aluminum Factory Co., Ltd (China)	39%	0.19%	39.19%
Guangdong Jianmei Aluminum Profile Factory Co., Ltd. (China)	43%	0.00%	43%
Hunter Douglas Designer Shades (USA)	0%	N/A**	2.43% or 17%**
Hunter Douglas Window Fashions (USA)	0%	N/A**	2.43% or 17%**
All Other Exporters (All Countries)	102%	17%	119%

\* As percentage of the export price

\*\*No amount of subsidy was found for this U.S. exporter. However, provisional countervailing duties are applicable to this exporter, based on the estimated amount of subsidy found for the Chinese supplier of the goods that the U.S. exporter sold to Canada.

## **APPENDIX 2 - SUMMARY OF PRELIMINARY FINDINGS FOR NAMED SUBSIDY PROGRAMS**

As noted above, the GOC's response to the Subsidy RFI was reviewed by the CBSA, was considered to be incomplete and was not used for the preliminary determination. As a result, sufficient information has not been provided to determine if the programs that were used by the cooperative exporters constitute actionable subsidies, or to estimate the amount of subsidy on a program basis. This would normally prevent the CBSA from estimating amounts of subsidy for the cooperative exporters and the CBSA would have to resort to the use of other facts available. In recognition of the amount of cooperation and the volume of information that the cooperative exporters provided, the CBSA estimated an amount of subsidy for each cooperative exporter based on the information available, including the information provided in their responses to the Subsidy RFI.

This appendix consists of descriptions of the 14 potentially actionable subsidy programs used by cooperative exporters in the current investigation, followed by a listing of the other potentially actionable subsidy programs under investigation that were not reportedly used by the cooperative exporters.

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

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

#### **Program 1: Preferential Tax Policies for Enterprises with Foreign Investment Established in the Coastal Economic Open Areas and in the Economic and Technological Development Zones**

##### **General Information:**

This program was established in the *Income Tax Law of the People's Republic of China for Enterprises with Foreign Investment and Foreign Enterprise*, which was promulgated on April 9, 1991, and came into effect on July 1, 1991. This program was established in order to encourage foreign investment in Economic and Technical Development Zones (ETDZs) in open coastal cities and encourage some districts to take the lead in development. The granting authority responsible for this program is the State Administration of Taxation and the program is administered by local tax authorities.

Under this program, Foreign Invested Enterprises (FIEs) of a productive nature established in coastal economic open zones or in the old urban districts of cities where the SEZs or the ETDZs are located shall pay income tax at a reduced rate of 24%.

## **Program 2: Corporate Income Tax Exemption and/or Reduction in SEZs and other Designated Areas**

### General Information:

This program was established in the *Rules for the Implementation of the Income Tax Law of the People's Republic of China for Enterprises with Foreign Investment and Foreign Enterprises*, which was promulgated on June 30, 1991, and came into effect on July 1, 1991. The program was established to absorb investment in SEZs and designated areas to take the lead in their economic development. The granting authority responsible for this program is the State Administration of Taxation and the program is administered by local tax authorities.

Under this program, all eligible enterprises may receive a reduced corporate income tax rate of 15%.

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

### General Information:

This program appears to be established by governments at the local level and was established to encourage and support enterprises to develop new technologies and products, to promote energy savings, to enhance product quality, to improve export structure, and to cultivate and develop high-tech industry and new pillar industry. The granting authority responsible for the program for this investigation is the government of Jiangmen City, in accordance with the *Administrative Measures of Science & Technology Three Kinds of Funds of Jiangmen City*.<sup>19</sup>

## **Program 4: Superstar Enterprise Grant**

### General Information:

Under this program, enterprises located in certain cities and selected as "Superstar Enterprises" may receive grants from the local government. In order to qualify for a "Superstar Enterprise", total annual sales of the superstar enterprise have to reach a threshold. The granting authority responsible for this program appears to be the local municipal government.

## **Program 5: Matching Funds for International Market Development for SMEs**

### General Information:

This program appears to be established by governments at the local level. According to a document obtained through CBSA research, entitled *Investing in China: Incentives Offered by Local Governments*<sup>20</sup>, the municipality of Zhengzhou will provide one-to-one matching funds for the international market development funds of small and medium-sized export enterprises that are supervised at the provincial level.

<sup>19</sup> CBSA Subsidy Exhibit# 206, Non-confidential Response to the Exporter's Subsidy RFI for Taishan City Kam Kui Aluminium Extrusions Co., Ltd., page 25.

<sup>20</sup> Exhibit S43: Tab 4 - Information on Zhengzhou, *Investing in China: Incentives Offered By Local Governments*.

This program does not appear to be limited to the municipality of Zhengzhou as, in the current investigation, a cooperative exporter located in a different municipality received funding under this program.

#### **Program 6: State Fund with Interest Discount**

##### General Information:

This program appears to be established by governments at the State level and to be administered by the provincial authorities. According to a document obtained through CBSA research, entitled *Notions Concerning Accelerating The Growth of the Non-State-Owned Economy*<sup>21</sup>, published by the Yunnan provincial government, all competent authorities shall assist qualified NSOEs in applying for policy and financing support for a number of programs, including the State Fund with Interest Discount.

This program does not appear to be limited to the province of Yunnan as, in the current investigation, a cooperative exporter located in a different province received funding under this program.

#### **Program 7: One-time Awards to Enterprises Whose Products Qualify for “Well-Known Trademarks of China” or “Famous Brands of China”**

##### General Information:

This program appears to be established by the State level government and administered by both the provincial and local authorities. According to a document obtained through CBSA research, entitled *Notions Concerning Accelerating The Growth of the Non-State-Owned Economy*<sup>22</sup>, published by the Yunnan provincial government, the provincial government shall grant a one-time award to NSOEs whose products are qualified as “Well-known Trademarks of China” or “Famous Brands of China”, or are listed among the most famous export commodities identified by the state trading authority. In addition, should an enterprise qualify as a well-known trademark or famous brand of the province, one-time awards will be granted by local authorities.

This program does not appear to be limited to the province of Yunnan as, in the current investigation, cooperative exporters located in a different province received awards under this program.

<sup>21</sup> Exhibit S43: Tab 5 - Information on Yunnan, *Notions Concerning Accelerating The Growth of the Non-State-Owned Economy*, Yunnan Province, Article 4 paragraph 13.

<sup>22</sup> Exhibit S43: Tab 5 - Information on Yunnan, *Notions Concerning Accelerating The Growth of the Non-State-Owned Economy*, Yunnan Province, Article 6 paragraph 19.

## **Program 8: Export Brand Development Fund**

### General Information:

This program appears to be established by the State government and administered by the provincial authorities. According to a document obtained through CBSA research, entitled *Notice on Issuing the Directive on Supporting the Development of Name Brands for Export*<sup>23</sup>, within its Foreign Trade Development fund, the state shall arrange a special item under the heading “export brand development fund” to support enterprises in building up their independent brands and nurture and develop name brand exports.

## **Program 9: Preferential Tax Policies for Foreign Invested Enterprises - Reduced Tax Rate for Productive FIEs Scheduled to Operate for a Period not less than 10 Years**

### General Information:

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

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

If the FIE business license prescribes a scope that encompasses both business of a “productive” nature and of a “non-productive” nature, the FIE may only apply for and receive benefits under this program in the years where the income from productive business exceeds 50% of its total income. Should the scope of the FIE not include business of a “productive” nature in the scope prescribed by its business license, it may not receive benefits under this program under any circumstance, regardless if it has productive business income that exceeds 50% of total income.

## **Program 10: Preferential Tax Policies for Foreign Invested Export Enterprises**

### General Information:

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

<sup>23</sup> Exhibit S48: Tab 6 - Information on Brand Names in China, *Notice on Issuing the Directive on Supporting the Development of Name Brands for Export*, Section III.

Under this program, export oriented enterprises invested in and operated by foreign businesses may pay a reduced income tax rate of 15% if their annual output value of all export products amounts to 70% or more of the output value of the products of the enterprise for that year. Export oriented enterprises in the SEZs and ETDZs and other such enterprises subject to enterprise income tax at the tax rate of 15% that qualify under the abovementioned conditions, shall pay enterprise income tax at the tax rate of 10%.

### **Program 11: Local Income Tax Exemption and/or Reduction**

#### General Information:

This program was established in the *Income Tax Law of the People's Republic of China for Enterprises with Foreign Investment and Foreign Enterprises*, which was promulgated on April 9, 1991, and came into force on July 1, 1991. This program was established to provide preferential tax treatment to FIEs to accelerate the development of local economies. The granting authority responsible for this program is the State Administration of Taxation and the program is administered by local tax authorities.

Under this program, any FIE that operates in an industry or undertakes a project encouraged by the State may receive an exemption or reduction in local income taxes.

### **Program 12: Exemption of Tariff and Import VAT for Imported Technologies and Equipment**

#### General Information:

The exemptions of tariffs and import linked VAT is provided for and administered in accordance with the *Circular of the State Council Concerning the Adjustment in the Taxation Policy of Import Equipment*, which was established on December 29, 1997, and came into effect on January 1, 1998. This program was established to further expand foreign capital utilization, attract technologies and equipment from abroad, promote structural adjustments in industry and technological advancement and to maintain the sustained, rapid and healthy development of the national economy.

The granting authorities responsible for this program are the Ministry of Finance and the General Administration of Customs and the program is administered by local provincial and municipal customs branches.

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

### **Program 13: Patent Award of Guangdong Province**

#### General Information:

This program appears to be administered by municipal authorities. According to information submitted by one of the cooperative exporters<sup>24</sup>, the program is provided for in the *Administrative Measures of Patent Award of Guangdong Province* and is administered by the Intellectual Property Office of Guangdong Province and the Bureau of Personnel of Guangdong Province. The program was established to support improvement in technology innovation and to promote intellectual property. The grant is provided in the form of a one-time award or bonus and the enterprise is also issued a certificate.

### **Program 14: Training Program for Rural Surplus Labor Force Transfer Employment**

#### General Information:

This program appears to be administered by municipal authorities. According to information submitted by one of the cooperative exporters<sup>25</sup>, the program is provided for in the *Implemental Scheme of Training Program for Rural Surplus Labor Force Transfer Employment of Taishan City from the year of 2005 to 2009* and is administered by the Labour and Social Security Bureau of Taishan City. Enterprises meeting the qualification are entitled to receive funds from the local government for providing training to the rural surplus labor force which is aimed at supporting agriculture and villagers.

### **OTHER POTENTIALLY ACTIONABLE SUBSIDY PROGRAMS**

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

#### ***Special Economic Zone (SEZ) Incentives and Other Designated Areas***

Program 15. Preferential tax policies for enterprises with foreign investment established in special economic zones (excluding Shanghai Pudong area).

Program 16. Preferential tax policies for enterprises with foreign investment established in Pudong area of Shanghai.

Program 17. Preferential tax policies in the Western Regions.

<sup>24</sup> Exhibit S206 - Response to the Exporter's Request for Information (Subsidy) - TaiShan City Kam Kui Aluminium Extrusion Co., Ltd. (Non-Confidential).

<sup>25</sup> Exhibit S206 - Response to the Exporter's Request for Information (Subsidy) - TaiShan City Kam Kui Aluminium Extrusion Co., Ltd. (Non-Confidential).

- Program 18. Local Income Tax Exemption and/or Reduction for SEZs and Designated Areas.
- Program 19. Exemption/reduction of special land tax and land use fee.
- Program 20. Tariff and Value-added Tax (VAT) exemptions on imported materials and equipments.
- Program 21. Income Tax Refund where Profits Re-Invested.
- Program 22. Preferential costs of services or goods provided by government bodies or state-owned enterprises.

### ***Grants***

- Program 23. The State Key Technology Renovation Projects.
- Program 24. Reimbursement of Antidumping and/or Countervailing Legal Expenses by the Local Governments.
- Program 25. Grant for Key Enterprises in Equipment Manufacturing Industry.
- Program 26. Export Assistance Grant.
- Program 27. Innovative Experimental Enterprise Grant.
- Program 28. Inward Remittance of Export Earnings.
- Program 29. Interest Subsidies for Loans Secured by Tax Refund Accounts.
- Program 30. Special Support Fund for Non-State-Owned Enterprises (NSOEs).
- Program 31. State Fund for R&D Technology Projects.
- Program 32. Innovation Fund for Medium and Small Business.
- Program 33. Provincial Scientific Development Plan Fund.
- Program 34. Technical Renovation Loan Interest Discount Fund.
- Program 35. Special Project Support Fund.
- Program 36. Special Funds for Foreign Economic and Technical Cooperation.
- Program 37. Special Fund for Brand Development.
- Program 38. Key Export Enterprise Assistance Fund.
- Program 39. Support Fund for Key Commercial and Industrial Enterprises.
- Program 40. Venture Investment Fund of Hi-Tech Industry.
- Program 41. National Innovation Fund for Technology Based Firms.
- Program 42. Guangdong – Hong Kong Technology Cooperation Funding Scheme.
- Program 43. Grants for Encouraging the Establishment of Headquarters and Regional Headquarters with Foreign Investment.

### ***Equity Infusions/Debt-to-Equity Swaps***

- Program 44. Debt-to Equity Swaps.

### ***Preferential Loans***

- Program 45. Loans and Interest Subsidies provided under the Northeast Revitalization Program.
- Program 46. Loan Guarantee Fund for Small and Medium Enterprises.
- Program 47. Interest-Free Loans to High and New Technology Projects.



***Preferential Income Tax Programs***

- Program 48. Preferential tax policies for enterprises with foreign investment which are technology-intensive and knowledge-intensive.
- Program 49. Preferential tax policies for the research and development of foreign-invested enterprises.
- Program 50. Preferential tax policies for foreign invested enterprises and foreign enterprises which have establishments or place in China and are engaged in production or business operations purchasing domestically produced equipment.
- Program 51. Preferential tax policies for domestic enterprises purchasing domestically produced equipment for technology upgrading purpose.
- Program 52. Income Tax Refund for Re-investment of FIE Profits by Foreign Investors.
- Program 53. VAT and Income Tax Exemption/Reduction for Enterprises adopting Debt-to-Equity Swaps.

***Relief from Duties and Taxes on Materials and Machinery***

- Program 54. Relief from Duties and Taxes on Imported Materials and Other Manufacturing Inputs.

***Reduction in Land Use Fees***

- Program 55. Reduction in Land Use Fees.

***Purchase of Goods/Services from State-owned Enterprises***

- Program 56. Purchase of Goods/Services from State-owned Enterprise