



Canada Border  
Services Agency

Agence des services  
frontaliers du Canada

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CVD/130

OTTAWA, May 18, 2012

## STATEMENT OF REASONS

**Concerning the initiation of investigations into the dumping and subsidizing of**

**CERTAIN STEEL PILING PIPE ORIGINATING IN OR EXPORTED FROM  
THE PEOPLE'S REPUBLIC OF CHINA**

## DECISION

Pursuant to subsection 31(1) of the *Special Import Measures Act*, the President of the Canada Border Services Agency initiated investigations on May 4, 2012, respecting the alleged injurious dumping and subsidizing of carbon and alloy steel pipe piles, commonly identified as piling pipe, in outside diameter ranging from 3½ inches up to and including 16 inches (8.9 cm to 40.6 cm) inclusive, in commercial quality and in various forms and finishes, usually supplied to meet ASTM A252, ASTM A500, CSA G.40.21 or comparable specifications or standards, whether single, dual or multiple certified, originating in or exported from the People's Republic of China.

Cet énoncé des motifs est également disponible en français. Veuillez consulter la section «Information».  
This Statement of Reasons is also available in French. Please refer to the "Information" section.

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## **SUMMARY**

[1] On March 22, 2012, the Canada Border Services Agency (CBSA) received a written complaint from Atlas Tube Canada Inc. of Harrow, Ontario, a division of JMC Steel Group, (hereafter, "the Complainant") alleging that imports of certain steel piling pipe (piling pipe) 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 April 5, 2012, pursuant to subsection 32(1) of the *Special Import Measures Act* (SIMA), the CBSA informed the Complainant that the complaint was properly documented. The CBSA also notified the Government of China (GOC) that a properly documented complaint had been received and provided the GOC with the non-confidential version of the subsidy portion of the complaint.

[3] The Complainant provided evidence to support the allegations that certain steel piling pipe from China has been dumped and subsidized. The evidence disclosed a reasonable indication that the dumping and subsidizing have caused injury and are threatening to cause injury to the Canadian industry producing these goods.

[4] Although the GOC was entitled to consultations prior to the initiation of the investigations, pursuant to Article 13.1 of the *Agreement on Subsidies and Countervailing Measures*, the GOC did not request any such consultations.

[5] On May 4, 2012, pursuant to subsection 31(1) of SIMA, the President of the CBSA (President) initiated investigations respecting the dumping and subsidizing of certain steel piling pipe from China.

## **INTERESTED PARTIES**

### **Complainant**

[6] The Complainant accounts for a major proportion of the production of like goods in Canada. The Complainant's goods are produced at its manufacturing facilities in Harrow, Ontario.

[7] The name and address of the Complainant are:

Atlas Tube Canada Inc.  
200 Clark Street  
Harrow, ON  
N0R 1G0

[8] Other producers of like goods in Canada include DFI Corporation, Pipe & Piling Supplies Ltd., Spiralco Inc., and Nova Tube Inc. Both DFI Corporation and Nova Tube Inc. provided letters supporting the complaint.

## **Exporters**

[9] The CBSA identified 236 potential exporters and producers of the piling pipe from its own research, information provided by the Complainant and CBSA import documentation over the period of January 1, 2011 to March 31, 2012.

## **Importers**

[10] The CBSA identified 858 potential importers of the piling pipe over the period of January 1, 2011 to March 31, 2012 from information provided by the Complainant and CBSA import documentation. Of these potential importers, 425 imported over \$10,000 of piling pipe each during the 15-month period from January 1, 2011 to March 31, 2012, representing 99% of total imports of piling pipe.

## **Government of China**

[11] For the purpose of these investigations, “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, 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.

## **PRODUCT INFORMATION**

### **Definition**

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

Carbon and alloy steel pipe piles, commonly identified as piling pipe, in outside diameter ranging from 3½ inches up to and including 16 inches (8.9 cm to 40.6 cm) inclusive, in commercial quality and in various forms and finishes, usually supplied to meet ASTM<sup>1</sup> A252, ASTM A500, CSA<sup>2</sup> G.40.21 or comparable specifications or standards, whether single, dual or multiple certified, originating in or exported from the People’s Republic of China.

### **Additional Product Information**

[13] The most common grades of piling pipe are made to ASTM A500, ASTM A252 (including “modified” ASTM A252 with increased yield strength) or comparable internationally-recognized specifications. The vast percentage of piling pipe is made from carbon steel, although small amounts of piling pipe may be made with high-strength low-alloy (HSLA) steel or of other steel grades depending on project requirements.

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<sup>1</sup> The American Society for Testing and Materials (ASTM) is an international standards organization that develops and publishes voluntary consensus technical standards for a wide range of materials, products, systems, and services.

<sup>2</sup> The Canadian Standards Association (CSA) is a not-for-profit standards organization with the stated aim of developing standards for use in 57 different areas of specialization.

[14] Piling pipe is produced either through electrical-resistance welding (“ERW”) or seamless processes. ERW pipe production is either by longitudinal welding or by spiral (also called helical-butt or helical lap) welding. Regardless of the production process, welded and seamless piling pipe are identical in terms of physical, tensile and other properties. They are covered by the same ASTM or comparable specifications and are fully substitutable in terms of end-use applications.

[15] The most common North American specification for piling pipe is ASTM A500 and/or ASTM A252. Piling pipe can also be produced to higher standards which allows the goods to be dual-certified or multiple-certified for other applications, such as Oil Country Tubular Goods (casing), API-5L (line pipe) or A53 (standard pipe). Casing, line pipe and some types of standard pipe are produced to more stringent standards than piling pipe which allows them to be fully substituted in piling pipe applications.

[16] The goods are referred to as “piling pipe”. However, other names can be used interchangeably, including: pipe piles, driven piles, drilled shafts, caissons, mini caissons, micro piles, piers and casings.

#### **Production Process**

[17] Piling pipe is most typically produced through either ERW or spiral (helical) welding processes. In ERW production, hot-rolled coil is passed through a series of rollers to form a tubular shape and the edges of the strip are heated electrically and welded together under heat and pressure. Once the round is welded, the pipe passes through a series of cold-forming stands to size it to the appropriate dimension and then cut to length.

[18] In spiral/helical welding, pipe of different diameters can be made from a single coil of hot-rolled steel strip. Instead of slitting along its length as in ERW processes, the coil is unrolled and then re-coiled in spiral fashion on a coiler to the desired outside dimension prior to welding. The welding process is more complex and hence more expensive than the ERW welding process because of the spiral form of the steel coil. However, the end product is identical to ERW pipe in its inherent properties.

[19] Piling pipe is produced by the Complainant with plain ends and in standard, unpainted finish. After testing for quality control purposes, the pipe is stencilled, bundled and then loaded on trucks at the Complainant's factory-gate for shipping, either by road or by rail. The goods are normally sold in orders of pounds/tons and bundled in railcar quantities.

## **Classification of Imports**

[20] Prior to January 1, 2012, the subject goods were usually classified under the following Harmonized System (HS) classification codes:

7306.30.10.14	7306.30.90.14
7306.30.10.19	7306.30.90.19
7306.30.10.24	7306.30.90.24
7306.30.10.29	7306.30.90.29
7306.30.10.34	7306.30.90.34
7306.30.10.39	7306.30.90.39

[21] With the January 1, 2012 changes to the Canadian tariff, the equivalent HS codes are now:

7306.30.00.14	7306.30.00.29
7306.30.00.19	7306.30.00.34
7306.30.00.24	7306.30.00.39

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

## **LIKE GOODS**

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

[24] Piling pipe produced by the domestic industry competes directly with and have the same end uses as the piling pipe imported from China. The goods produced in Canada are completely substitutable with piling pipe produced in China. Therefore, the CBSA has concluded that piling pipe produced by the Canadian industry constitutes like goods to the piling pipe produced in China. Piling pipe can be considered as a single class of goods notwithstanding that the piling pipe from China may be further differentiated in terms of seamless or welded.

## **THE CANADIAN INDUSTRY**

[25] As previously stated, the Complainant accounts for a large proportion of known domestic production of like goods.

## **Standing**

[26] Under subsection 31(2) of SIMA no investigation may be initiated unless:

- the complaint is supported by domestic producers whose production represents more than fifty per cent of the total production of like goods by those domestic producers who express either support for or opposition to the complaint; and
- the production of the domestic producers who support the complaint represents twenty-five per cent or more of the total production of like goods by the domestic industry.

[27] Based on an analysis of information provided in the complaint and letters of support provided by other Canadian producers<sup>3</sup>, the CBSA is satisfied that the complaint is supported by domestic producers, who represent more than 50 percent of the total production by those domestic producers expressing an opinion, and who represent more than 25 percent of piling pipe production in Canada.

## **CANADIAN MARKET**

[28] The Complainant sells piling pipe to both distributors and end-users for consumption in Canada and for export.

[29] The Complainant estimated the import portion of the Canadian market (domestic production and imports) using the best information available to them, recognizing that there is no publicly available information regarding the piling pipe industry specifically.

[30] The Complainant's commercial intelligence indicated that China and the United States are the only countries that export commercially significant quantities of piling pipe to Canada.

[31] The Complainant provided estimates respecting the Canadian market for piling pipe. These figures are based on their own domestic sales reports and on publicly available import data.

[32] The CBSA conducted its own analysis of imports of goods based on actual import data from CBSA documentation.

[33] A review of CBSA import data demonstrated a similar pattern to that provided by the Complainant with respect to subject good imports.

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<sup>3</sup> Exhibit #7 and Exhibit #9 - Non-confidential DFI Corporation and Nova Tube Inc. letters of support

[34] Detailed information regarding the volume of subject imports and domestic production cannot be divulged for confidentiality reasons. The CBSA has, however, prepared the following table to show the estimated import share of certain steel piling pipe in Canada.

**CBSA Estimates of Import Share**  
**(By Volume)**

Country of Origin	2009	2010	2011
Imports – China	37%	22%	44%
Imports – USA	25%	33%	30%
Imports – Other Countries	38%	45%	26%
<b>Total Imports</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

**EVIDENCE OF DUMPING**

[35] The Complainant alleged that subject goods from China have been injuriously dumped into Canada. Dumping occurs when the normal value of the goods exceeds the export price to importers in Canada. The Complainant provided information to support the allegation that the carbon and alloy steel pipe sector in China may not be operating under competitive market conditions and as such, normal values should be determined under section 20 of SIMA. This included reference to the CBSA's previous section 20 determinations in *Certain Carbon Steel Welded Pipe (2008)*, *Certain Seamless Steel Casing (2008)*, *Certain Oil Country Tubular Goods (2009)*, and *Certain Pup Joints (2011)*.

[36] Normal values are generally based on the domestic selling price of like goods in the country of export where competitive market conditions exist, or on the full cost of the goods plus a reasonable amount for profit. If there is sufficient reason to believe that conditions described in section 20 of SIMA exist in the sector under investigation, normal values will be determined, where such information is available, on the basis of the domestic selling price or full cost plus a reasonable amount for profit of the like goods sold by producers in any country designated by the President or on the basis of the selling price in Canada adjusted for price comparability of like goods imported from any country designated by the President.

[37] The export price of goods sold to importers in Canada is generally the lesser of the exporter's selling price and the importer's purchase price, less all costs, charges, and expenses resulting from the exportation of the goods.

[38] Estimates of normal value and export price are discussed below.

**Normal Value**

[39] The Complainant provided information supporting a request that a section 20 inquiry be initiated in investigating their allegation of injurious dumping of the subject goods. Due to the lack of available information and because it believes that the conditions of section 20 exist, the Complainant did not provide any analysis regarding the domestic selling price of piling pipe in China.



[40] The Complainant proposed that the CBSA use India and South Korea as surrogate countries. Reference was made to the previous *Certain Carbon Steel Welded Pipe* investigation where the Complainant understood that normal values were determined under a methodology that used selling prices of carbon steel welded pipe (CSWP) in India. The complaint further referred to this previous investigation as its justification given the comparability between India and China as both producers and consumers of CSWP.

[41] Accordingly, the Complainant provided cost-based normal value estimates that considered hot-rolled steel and conversion costs in India and South Korea. The estimated full cost of the goods (including selling and administrative expenses) was then marked-up with a conservative estimate for profit, based on various sources.<sup>4</sup>

[42] The CBSA also estimated normal values using a similar methodology as described above.

[43] The CBSA used an adjusted conversion factor and 60 day average price for hot rolled steel sheet, as reported by the MEPS (International) Ltd. for India and World Steel Dynamics (WSD). This conversion factor was adjusted by removing a profit amount that was included, so as to be conservative. The resulting costs formed the basis for the CBSA's normal value estimates.

### **Export Price**

[44] The export price of imported goods is generally determined in accordance with section 24 of SIMA as being an amount equal to the lesser of the exporter's selling price for the goods and the price at which the importer has purchased or agreed to purchase the goods adjusted by deducting all costs, charges, and expenses, duties and taxes resulting from the exportation of the goods.

[45] The Complainant used DFAIT permit data for standard pipe as an estimate for export price.

[46] The Complainant also used a deductive methodology to estimate export prices, beginning with a price quote they were able to obtain from a third party. The Complainant provided evidence in their complaint to support these competing prices.<sup>5</sup>

[47] The Complainant calculated the estimated export prices by deducting amounts for inland freight, ocean freight, Canadian freight and brokerage fees to arrive at a FOB China mill price.

[48] The CBSA's estimate of export prices considered imports during the period January 1, 2011 to December 31, 2011. Actual import data was retrieved and refined through a review of CBSA customs entries and consequently, the information used by the CBSA for its estimate is more comprehensive than what was available to the Complainant.

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<sup>4</sup> Dumping Exhibit #1 (PRO) – Complaint Annex 2

<sup>5</sup> Dumping Exhibit #2 – Non-confidential Complaint Page 55-56, Paragraph 115-120.

### **Estimated Margins of Dumping**

[49] The CBSA estimated margins of dumping by comparing its estimates of normal values (based on the cost-plus methodology) with the estimated export prices obtained from actual CBSA import data.

[50] Based on this analysis, the subject goods from China were dumped by an estimated margin of dumping of 31%, expressed as a percentage of export price.

### **MARGIN OF DUMPING AND VOLUME OF DUMPED GOODS**

[51] Under section 35 of SIMA, if, at any time before the President makes a preliminary determination, the President is satisfied that the margin of dumping of the goods of a country is insignificant or the actual and potential volume of dumped goods of a country is negligible, the President must terminate the investigation with respect to that country.

[52] Pursuant to subsection 2 (1) of SIMA, a margin of dumping of less than 2% of the export price is defined as insignificant and a volume of dumped goods is considered negligible if it accounts for less than 3% of the total volume of goods that are of the same description as the dumped goods that are released into Canada from all countries.

[53] On the basis of the estimated margin of dumping and the import data for the period of January 1, 2011 to December 31, 2011, summarized in the table below, the estimated margin of dumping is not insignificant and the estimated volume of dumped goods is not negligible.

#### **Estimated Margin of Dumping and Imports of Subject Piling Pipe January 1, 2011 to December 31, 2011**

Country	Estimated share of Total Imports by Volume	Estimated Dumped Goods as % of Total Imports by Volume	Estimated Margin of Dumping as % of Export Price
China	44%	44%	31%
USA	30%	N/A*	N/A*
Other	26%	N/A*	N/A*
<b>Total Imports</b>	<b>100%</b>	<b>N/A*</b>	<b>N/A*</b>

\*N/A indicates Not Applicable.

## SECTION 20 INQUIRY

[54] Section 20 is a provision of SIMA that 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>6</sup> it is applied where, in the opinion of the President, the government of that country substantially determines domestic prices and there is sufficient reason to believe that the domestic prices are not substantially the same as they would be in a competitive market.

[55] The Complainant alleged that the conditions described in section 20 prevail in the carbon and alloy steel pipe sector, which includes piling pipe, in China. That is, the Complainant alleges that this industry sector in China does not operate under competitive market conditions and consequently, prices established in the Chinese domestic market for piling pipe are not reliable for determining normal values.

[56] The Complainant has relied heavily on the CBSA's final determinations on *Certain Seamless Steel Casing*, *Certain Oil Country Tubular Goods*, *Certain Carbon Steel Welded Pipe*, and *Certain Pup Joints* in support of this position. The Complainant has also cited more specific items such as the extensive state ownership in the Chinese steel industry and China's National Steel Policy (NSP).

[57] The information currently available to the CBSA indicates that there are numerous GOC industrial policies that have been implemented which influence the piling pipe sector in China. In previous section 20 inquiries, the GOC's National Steel Policy and the 2009 Steel Revitalization/Rescue Plan have been found to strongly influence the decisions of steel enterprises in China.

[58] The President of the CBSA has issued several recent decisions, forming the opinion that the conditions set forth in section 20 exist in the sectors covering the following steel products in China:

- *Certain Seamless Steel Casing* (2008);
- *Certain Carbon Steel Welded Pipe* (2008 & 2011);
- *Certain Oil Country Tubular Goods* (2010); and
- *Certain Pup Joints* (2011).

[59] With respect to the carbon and alloy steel pipe sector, the CBSA has information which demonstrates that the prices of carbon and alloy steel pipe products may be significantly affected by the GOC's policies and as a result, prices of piling pipe in China may not be substantially the same as they would be if they were determined in a competitive market.

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<sup>6</sup> China is a prescribed country under Section 17.1 of the *Special Import Measures Regulations*.

[60] Consequently, on May 4, 2012, the CBSA initiated a section 20 inquiry based on the information available in order to determine whether the conditions set forth in paragraph 20(1)(a) of SIMA prevail in the carbon and alloy steel pipe sector in China. A section 20 inquiry refers to the process whereby the CBSA collects information from various sources so that the President may, on the basis of this information, form an opinion regarding the presence of the conditions described under section 20 of SIMA, in the sector under investigation.

[61] As part of this section 20 inquiry, the CBSA sent section 20 questionnaires to all known exporters and producers of carbon and alloy steel pipe in China, as well as to the GOC requesting detailed information related to the carbon and alloy steel pipe sector in China.

[62] Stemming from this inquiry, the CBSA requested that producers in other countries (specifically India, the Republic of Korea, Thailand, and Chinese Taipei) provide domestic pricing and costing information concerning piling pipe.

[63] In the event that the President forms the opinion that domestic prices of piling pipe in China are substantially determined by the GOC and there is sufficient reason to believe that the domestic prices are not substantially the same as they would be if they were determined in a competitive market, the normal values of the goods under investigation will be determined, where such information is available, on the basis of the domestic selling price or full cost plus a reasonable amount for profit of the like goods sold by producers in any country designated by the President or on the basis of the selling price in Canada adjusted for price comparability of like goods imported from any country designated by the President.

#### **EVIDENCE OF SUBSIDIZING**

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

[65] Pursuant to subsection 2(1.6) of SIMA, a financial contribution exists 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 any thing referred to in any of paragraphs (a) to (c) above 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.

[66] If a subsidy is found to exist, it may be subject to countervailing measures if it is specific. A subsidy is considered to be specific when it is limited, in law or in fact, to a particular enterprise 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." Any subsidy which is contingent, in whole or in part, on export performance or on the use of goods that are produced or that originate in the country of export is considered to be a prohibited subsidy and is, therefore, automatically considered to be specific for the purposes of a subsidy investigation.

[67] A state-owned enterprise (SOE) may be considered to constitute "government" for the purposes of subsection 2(1.6) of SIMA if it possesses, exercises, or is vested with, governmental authority. Without limiting the generality of the foregoing, the CBSA may consider the following factors as indicative of whether the SOE meets this standard: 1) the SOE is granted or vested with authority by statute; 2) the SOE is performing a government function; 3) the SOE is meaningfully controlled by the government; or some combination thereof.

[68] In accordance with subsection 2(7.3) of SIMA, notwithstanding that a subsidy is not specific in law, a subsidy may also be considered specific in fact, 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.

[69] 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 countervailable.

[70] The Complainant alleged that the exporters of subject goods originating in China have benefited from actionable subsidies provided by various levels of the GOC, which may include the governments of the respective provinces in which the exporters are located and the governments of the respective municipalities in which the exporters are located. In support of its allegations, the Complainant relied primarily on the CBSA's Statement of Reasons for various investigations which involved subsidies to downstream production of steel products, with emphasis on *Certain Steel Grating*, *Certain Oil Country Tubular Goods*, *Certain Carbon Steel Welded Pipe*, *Certain Seamless Casing* and *Certain Carbon Steel Fasteners*, a United States countervailing duty investigation on Circular Welded Carbon Quality Steel Pipe and on Circular Welded Carbon Quality Steel Line Pipe, and other publically available information and reports.

[71] Due to the history and timeliness of the CBSA's countervailing investigations against Chinese steel products, the Complainant relied largely on the information available from these cases in identifying programs they believe may be actionable under SIMA.

[72] The Complainant alleges that this information confirms the existence and provision of subsidies to downstream producers of steel products in the following seven categories:

1. Input materials provided through government agencies and/or State-Owned Enterprises (SOEs) and State-Controlled Enterprises (SCEs) at less than fair market value;
2. Goods and services, such as electricity, provided by governments and/or government agencies at less than fair market value;
3. Preferential tax measures and various subsidies and policies for Foreign Invested Enterprises (FIEs) or for enterprises located in Special Economic Zones (SEZs), Economic and Technology Development Zones (ETDZs), Free-Trade Zones (FEZs) and Coastal Economic Open Zones (COEZs), industrial zones and various other specially-designated area;
4. Exemption from import duties and Value Added Tax (VAT);
5. Grants, grant-type programs and awards for export performance, technological innovation and other programs;
6. Accelerated depreciation for fixed assets; and
7. Numerous regional and local subsidies.

#### **Programs Being Investigated**

[73] In reviewing the information provided by the Complainant and obtained by the CBSA through its own research, the CBSA has developed the following categories of programs and incentives that may be provided to manufacturers of the subject goods in China:

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

[74] A full listing of all programs to be investigated by the CBSA may be found in **Appendix 1**. As explained in more detail therein, there is sufficient reason to believe that these programs provided by the GOC may constitute actionable subsidies and that the exporters and producers of the subject goods benefit from these programs. In fact, all of these programs were identified and/or have been investigated by the CBSA in past countervailing investigations.

[75] In the case of programs where an enterprise's eligibility or degree of benefit is contingent upon export performance or the use of goods that are produced or originate in the country of export, such programs may constitute prohibited subsidies under SIMA.

[76] For the programs where incentives are provided to enterprises operating in specified areas such as Special Economic Zones, the CBSA considers that these may constitute actionable subsidies for the reason that eligibility is limited to enterprises operating in such regions.

[77] As well, the CBSA is satisfied that there is sufficient evidence indicating that the exporters of subject goods may receive subsidies in the form of grants, preferential loans, relief from duties or taxes, and provision of goods and services, which provide a benefit and that are not generally granted to all companies in China.

[78] The CBSA will investigate whether exporters of subject goods received benefits under these programs, and whether such programs constitute actionable subsidies.

### **Conclusion**

[79] Sufficient evidence is available to support the allegation that the subsidy programs outlined in **Appendix 1** are available to exporters and producers of the subject goods in China. In investigating these programs, the CBSA has requested information from the GOC, exporters and producers to determine whether the exporters and/or producers of subject goods received benefits under these programs, and whether these programs are “actionable subsidies” and, therefore, countervailable under SIMA.

### **Estimated Amount of Subsidy**

[80] The Complainant stated that it was unable to determine the exact actual amounts of subsidy received by the Chinese exporters under each program. The complaint suggested that the amount of subsidy had to be at least equal to the difference between the estimated export price and the estimated price of hot rolled steel in a surrogate country (i.e. India or South Korea).<sup>7</sup>

[81] The CBSA estimated the amount of subsidy conferred on producers of the subject goods by comparing the estimated weighted average export prices of subject goods for the year 2011 with the estimated average costs of production during that year in a market with competitive conditions. India was chosen for purposes of consistency in both the dumping and subsidy investigations. In this regard, it is assumed, for this purpose, that the Chinese floor prices for subject goods are at least equal to their full costs (i.e. in China), and thus, it can be deduced that their full costs are at least equal to the weighted average export prices. Under this theory, the difference between the estimated full costs in China (i.e. the weighted average export price) and the estimated full costs in India reflects the amount of subsidy on the subject goods from China.

[82] The CBSA’s analysis of the information indicates that subject goods imported into Canada during the period of January 1, 2011, to December 31, 2011, were subsidized and that the estimated amount of subsidy is 32% of the export price of the subject goods.

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<sup>7</sup> Dumping Exhibit #2 – Non-confidential Complaint Page 65.

## AMOUNT OF SUBSIDY AND VOLUME OF SUBSIDIZED GOODS

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

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

[85] SIMA does not define or provide any guidance regarding the determination of a “developing country” for purposes of Article 27.10 of the *WTO Agreement on Subsidies and Countervailing Measures*. As an administrative alternative, the CBSA refers to the *Development Assistance Committee List of Official Development Assistance Recipients* (DAC List of ODA Recipients) for guidance.<sup>8</sup> As China is included in the listing, the CBSA extends developing country status to China for purposes of this investigation.

[86] The CBSA used actual import data for all countries for the period of January 1, 2011, to December 31, 2011. On the basis of this information, the volume of subsidized goods as a percentage of the volume of total imports is estimated as follows:

### Estimated Amount of Subsidy January 1, 2011 to December 31, 2011

Country	Percentage of Total Imports	Estimated Subsidized Goods as % of Total Imports	Estimated Amount of Subsidy as % of Export Price
China	44%	44%	32%

The volume of subsidized goods, estimated to be 44% of total imports from all countries, is greater than the threshold of 4% and is therefore not negligible. The amount of subsidy, estimated to be 32% of the export price, is greater than the threshold of 2% and is therefore not insignificant.

<sup>8</sup> The Organization for Economic Co-operation and Development, DAC List of ODA Recipients as at January 1, 2012, the document is available at [http://www.oecd.org/document/45/0,3746,en\\_2649\\_34447\\_2093101\\_1\\_1\\_1\\_1,00.html](http://www.oecd.org/document/45/0,3746,en_2649_34447_2093101_1_1_1_1,00.html).



## **EVIDENCE OF INJURY**

[87] SIMA refers to material injury caused to the domestic producers of like goods in Canada. The CBSA has accepted that the piling pipe produced by the Complainant are like goods compared to those imported from China. The CBSA's analysis primarily included information on the Complainant's domestic sales, with a focus on the impact of the allegedly dumped and subsidized goods on their production and sale of like goods in Canada.

[88] The Complainant alleged that the subject goods have been dumped and subsidized and that such dumping and subsidizing has caused and is threatening to cause material injury to the piling pipe industry in Canada. In support of its allegations, the Complainant provided evidence of lost sales, price erosion, price suppression, reduced profitability, loss of market share, and underutilization of capacity.

### **Lost Sales**

[89] The Complainant submitted documentation in its complaint in respect of specific instances where sales to Canadian customers were lost to alleged dumped and subsidized imports of subject goods.

[90] The Complainant identified lost sales on a customer-by-customer basis. There were numerous examples of lost sales as a result of competition from the subject goods.<sup>9</sup>

[91] The Complainant also included internal correspondence related to sales negotiations that document its inability to compete against low-priced imports, which are alleged to be of Chinese origin.<sup>10</sup>

[92] As a result of a significant number of lost sales, detailed through documentation provided in the complaint, the Complainant alleges significant lost revenues.

[93] The Complainant maintains that these high volume and low-priced imports have been the direct cause of the Complainant's suppressed sales volumes in Western Canada.

### **Price Erosion and Price Suppression**

[94] According to the Complainant's import data taken from the Department of Foreign Affairs and International Trade (DFAIT), piling pipe imports from China increased rapidly in 2011 and continue to enter Western Canada in increased volume in 2012.<sup>11</sup>

[95] The Complainant compared its ex-factory selling prices of larger sized piling pipe (over 6.625") in Eastern versus Western Canada from 2009-2012 in order to demonstrate the extent of material injury in terms of eroding prices and a suppressive effect on prices of like goods in Western Canada.

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<sup>9</sup> Dumping Exhibit #1 (PRO) – Complaint Appendix 2.

<sup>10</sup> Ibid.

<sup>11</sup> Dumping Exhibit #2 – Non-confidential Complaint Page 71.

[96] Reductions in prices were made to maintain the Complainant's relationships with customers.

[97] The Complainant maintains that these high volume and low-priced imports have been the direct cause of the Complainant's eroded and suppressed prices in Western Canada.

### **Reduced Profitability**

[98] The Complainant used a similar comparison of its relatively higher profitability in its Eastern Canadian piling pipe sales as evidence that dumped and subsidized Chinese piling pipe have reduced profitability of its total piling pipe sales.

[99] The Complainant's Eastern Canadian sales achieved a net profit in 2011 while Western Canadian sales showed a net loss, highlighting the impact of the subject goods on the Complainant's performance.

### **Loss of Market Share**

[100] There were no readily available statistics on the size of the Canadian piling pipe market. As a result the complainant estimated the Canadian piling pipe market based on DFAIT import permit data, its own production, and the estimated production of other Canadian producers.

[101] The Complainant's information shows a rise in imports from China from 2009 to 2011.<sup>12</sup>

[102] An examination of CBSA import data indicated comparable patterns to those provided by the Complainant in terms of the relationship of subject imports to the total share of imports and to the overall Canadian market.

[103] The CBSA's analysis of Chinese piling pipe imports in the period 2009-2011 supports the Complainant's position that subject goods are taking an increasing share of the Canadian market.

### **Underutilization of Capacity**

[104] The Complainant stated that it has the available capacity to meet considerably more Canadian demand were it not having to compete with dumped and subsidized Chinese piling pipe. The Complainant reported that capacity utilization may decline further in 2012.

### **THREAT OF INJURY**

[105] The Complainant stated and provided sufficient support for the allegation that there are many Chinese producers of piling pipe, with the sum of their disposable capacity able to dwarf the entire Canadian market.<sup>13</sup>

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<sup>12</sup> Dumping Exhibit #2 – Non-confidential Complaint Page 68.

<sup>13</sup> Dumping Exhibit #1 (PRO) – Complaint Annex Volume 2.

[106] With a recent injury finding in the US which included piling pipe, the Complainant expressed a concern that the products originally intended for the US will be diverted to Canada.

[107] The Complainant alleges that the Chinese producers are already soliciting Canadian customers to buy their steel piling pipe at dumped and/or subsidized prices.

[108] The Complainant alleges that there is a growing market for piling pipe in Canada. With the potential for increased influx of Chinese imports in a growing market, the Complainant asserts that absent an anti-dumping and/or countervailing finding the Canadian domestic industry will suffer further injury.

#### **CAUSAL LINK DUMPING/SUBSIDIZING AND INJURY**

[109] The CBSA finds that the Complainant provided sufficient evidence that there is a reasonable indication that it has suffered injury or threat of injury due to the alleged dumping and subsidizing of subject goods imported into Canada. There is a reasonable indication that the injury the Complainant has suffered, in terms of lost sales, price erosion, price suppression, reduced profitability, loss of market share, and underutilization of capacity, is related to the price advantage of the allegedly dumped and subsidized subject imports.

[110] In summary, the information provided in the complaint has established a reasonable indication that the apparent dumping and subsidizing has caused injury and is threatening to cause injury to the Canadian production of like goods.

#### **CONCLUSION**

[111] The information presented by the Complainant, together with supplementary data available to the CBSA in addition to CBSA import documentation, substantiates the Complainant's allegations that certain piling pipe from China has been dumped and subsidized. The information provided also discloses a reasonable indication that this alleged dumping and subsidizing has caused injury and is threatening to cause injury to the Canadian industry producing the like goods. As a result, based on the CBSA's examination of the evidence and its own analysis, dumping and subsidizing investigations were initiated on May 4, 2012.

#### **SCOPE OF THE INVESTIGATION**

[112] The CBSA is conducting investigations to determine whether the subject goods have been dumped and/or subsidized.

[113] The CBSA has requested information relating to the subject goods imported into Canada from China during the period of January 1, 2011 to March 31, 2012, the selected period of investigation for the dumping investigation. The information requested from identified exporters and importers will be used to determine normal values and export prices and ultimately to determine whether the subject goods have been dumped.

[114] The CBSA has also requested costing and sales information from producers of piling pipe in multiple countries. Where sufficiently available, this information may be used to determine normal values of the goods in the event that the President of the CBSA forms an opinion that the evidence in this investigation demonstrates that section 20 conditions apply in the carbon and alloy steel pipe sector in China.

[115] Information relating to shipments to Canada of the subject goods from January 1, 2011 to March 31, 2012, the selected period of investigation for the subsidy investigation, has been requested from the GOC and the identified exporters. The information requested will be used to determine whether the subject goods have been subsidized and to determine the amounts of subsidy.

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

### **FUTURE ACTION**

[117] The Canadian International Trade Tribunal (Tribunal) will conduct a preliminary inquiry to determine whether the evidence discloses a reasonable indication that the alleged dumping and subsidizing of the goods has caused or is threatening to cause injury to the Canadian industry. The Tribunal must make its decision on or before the 60<sup>th</sup> day after the date of the initiation of the investigations. If the Tribunal concludes that the evidence does not disclose a reasonable indication of injury to the Canadian industry, the investigations will be terminated.

[118] If the Tribunal finds that the evidence discloses a reasonable indication of injury to the Canadian industry and the ongoing CBSA investigations preliminarily reveal that the goods have been dumped and/or subsidized, the CBSA will make a preliminary determination of dumping and/or subsidizing within 90 days after the date of the initiation of the investigations, by August 2, 2012. Where circumstances warrant, this period may be extended to 135 days from the date of the initiation of the investigations.

[119] If the CBSA's investigations reveal that imports of the subject goods have not been dumped or subsidized, that the margin of dumping or amount of subsidy is insignificant or that the actual and potential volume of dumped or subsidized goods is negligible, the investigations will be terminated.

[120] Imports of subject goods released by the CBSA on and after the date of a preliminary determination of dumping and/or subsidizing may be subject to provisional duty in an amount not greater than the estimated margin of dumping or the amount of subsidy determined during the preliminary phase of the investigations.

[121] Should the CBSA make a preliminary determination of dumping and/or subsidizing, the investigations will be continued for the purpose of making a final decision within 90 days after the date of the preliminary determination.

[122] If a final determination of dumping and/or subsidizing is made, the Tribunal will continue its inquiry and hold public hearings into the question of material injury to the Canadian industry. The Tribunal is required to make a finding with respect to the goods to which the final determination of dumping and/or subsidizing applies, not later than 120 days after the CBSA's preliminary determination.

[123] In the event of an injury finding by the Tribunal, imports of subject goods released by the CBSA after that date will be subject to anti-dumping duty equal to the applicable margin of dumping and countervailing duty equal to the amount of any actionable subsidy on the imported goods. Should both anti-dumping and countervailing duties be applicable to subject goods, the amount of any anti-dumping duty may be reduced by the amount that is attributable to an export subsidy.

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

[124] When the Tribunal conducts an inquiry concerning 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 an investigation constitute massive importations over a relatively short period of time and have caused injury to the Canadian industry.

[125] Should the Tribunal issue such a finding, anti-dumping and countervailing duties may be imposed retroactively on subject goods imported into Canada and released by the CBSA during the period of 90 days preceding the day of the CBSA making a preliminary determination of dumping and/or subsidizing.

[126] In respect of importations of subsidized goods that have caused injury, however, this provision is only applicable where the CBSA has determined that the whole or any part of the subsidy on the goods is a prohibited subsidy, as explained in the previous section "Evidence of Subsidizing." In such a case, the amount of countervailing duty applied on a retroactive basis will be equal to the amount of subsidy on the goods that is a prohibited subsidy.

### **UNDERTAKINGS**

[127] After a preliminary determination of dumping by the CBSA, an exporter may submit a written undertaking to revise selling prices to Canada so that the margin of dumping or the injury caused by the dumping is eliminated. An acceptable undertaking must account for all or substantially all of the exports to Canada of the dumped goods.

[128] Similarly, after a preliminary determination of subsidizing by the CBSA, a foreign government may submit a written undertaking to eliminate the subsidy on the goods exported or to eliminate the injurious effect of the subsidy, by limiting the amount of the subsidy or the quantity of goods exported to Canada. Alternatively, exporters with the written consent of their government may undertake to revise their selling prices so that the amount of the subsidy or the injurious effect of the subsidy is eliminated.

[129] Interested parties may provide comments regarding the acceptability of undertakings within nine days of the receipt of an undertaking by the CBSA. The CBSA will maintain a list of parties who wish to be notified should an undertaking proposal be received. Those who are interested in being notified should provide their name, telephone and fax numbers, mailing address and e-mail address, if available, to one of the officers identified in the "Information" section of this document.

[130] If an undertaking were to be accepted, the investigations and the collection of provisional duty would be suspended. Notwithstanding the acceptance of an undertaking, an exporter may request that the CBSA's investigations be completed and that the Tribunal complete its injury inquiry.

### **PUBLICATION**

[131] Notice of the initiation of these investigations is being published in the Canada Gazette pursuant to subparagraph 34(1)(a)(ii) of SIMA.

### **INFORMATION**

[132] Interested parties are invited to file written submissions presenting facts, arguments, and evidence that they feel are relevant to the alleged dumping and subsidizing. Written submissions should be forwarded to the attention of one of the officers identified below.

[133] To be given consideration in this phase of these investigations, all information should be received by the CBSA by **June 11, 2012**.

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

[135] Confidential information submitted to the President will be disclosed on written request to independent counsel for parties to these proceedings, subject to conditions to protect the confidentiality of the information. Confidential information may also be released to the Tribunal, any court in Canada, or a WTO/NAFTA dispute settlement panel. Additional information respecting the Directorate's policy on the disclosure of information under SIMA may be obtained by contacting one of the officers identified below or by visiting the CBSA's Web site.

[136] The investigation schedules and a complete listing of all exhibits and information are available at <http://www.cbsa-asfc.gc.ca/sima-lmsi/i-e/menu-eng.html>. The exhibits listing will be updated as new exhibits and information are made available.

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

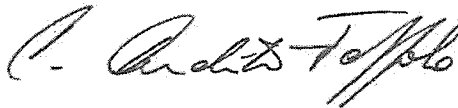
**Mail:** SIMA Registry and Disclosure Unit  
Anti-dumping and Countervailing Directorate  
Canada Border Services Agency  
100 Metcalfe Street, 11<sup>th</sup> floor  
Ottawa, ON K1A 0L8  
Canada

**Telephone:** Ian Gallant 613-954-7186  
Richard Pragnell 613-954-0032

**Fax:** 613-948-4844

**E-mail:** [simaregistry-depotlmsi@cbsa-asfc.gc.ca](mailto:simaregistry-depotlmsi@cbsa-asfc.gc.ca)

**Web site:** <http://www.cbsa-asfc.gc.ca/sima-lmsi/i-e/menu-eng.html>



Caterina Ardito-Toffolo  
A/Director General  
Anti-dumping and Countervailing Directorate

## **APPENDIX 1 - DESCRIPTION OF IDENTIFIED PROGRAMS AND INCENTIVES**

Evidence provided by the Complainant or otherwise available to the CBSA suggests that the Government of China may have provided support to manufacturers of subject goods in the following manner. For purposes of this investigation, "Government of China" (GOC) refers to all levels of government, i.e. federal, central, provincial/state, regional municipal, city, township, village, local, legislative, administrative or judicial. Benefits provided by state-owned enterprises, which possess, exercise or have been vested with governmental authority may also be considered to be provided by the GOC for purposes of this investigation.

### **I. Special Economic Zone (SEZ) and other Designated Areas Incentives**

- Program 1: Preferential Tax Policies for Enterprises with Foreign Investment (FIEs) Established in Special Economic Zones (excluding Shanghai Pudong Area)
- Program 2: Preferential Tax Policies for FIEs Established in the Coastal Economic Open Areas and in the Economic and Technological Development Zones
- Program 3: Preferential Tax Policies for FIEs Established in the Pudong Area of Shanghai
- Program 4: Preferential Tax Policies in the Western Regions
- Program 5: Corporate Income Tax Exemption and/or Reduction in SEZs and other Designated Areas
- Program 6: Local Income Tax Exemption and/or Reduction in SEZs and other Designated Areas
- Program 7: Exemption/Reduction of Special Land Tax and Land Use Fees in SEZs and Other Designated Areas
- Program 8: Tariff and Value-added Tax (VAT) Exemptions on Imported Materials and Equipment in SEZs and other Designated Areas
- Program 9: Income Tax Refund where Profits Re-invested in SEZs and other Designated Areas
- Program 10: Preferential Costs of Services and/or Goods Provided by Government or State-owned Enterprises (SOEs) in SEZs and Other Designated Areas
- Program 11: VAT Exemptions for the Central Region
- Program 12: Income Tax Refund for Enterprises Located in Tianjin Jinnan Economic Development Area

### **II. Grants and Grant-equivalents**

- Program 13: The State Key Technology Renovation Projects
- Program 14: Reimbursement of Anti-dumping and/or Countervailing Legal Expenses by the Local Governments
- Program 15: Repaying Foreign Currency Loan by Returned VAT
- Program 16: Government Export Subsidy and Product Innovation Subsidy
- Program 17: Export Assistance Grant
- Program 18: Research & Development (R&D) Assistance Grant
- Program 19: Innovative Experimental Enterprise Grant
- Program 20: Superstar Enterprise Grant
- Program 21: Awards to Enterprises Whose Products Qualify for "Well-Known Trademarks of China" or "Famous Brands of China"



- Program 22: Export Brand Development Fund
- Program 23: Provincial Scientific Development Plan Fund
- Program 24: Technical Renovation Loan Interest Discount Fund
- Program 25: Venture Investment Fund of Hi-Tech Industry
- Program 26: National Innovation Fund for Technology Based Firms
- Program 27: Guangdong – Hong Kong Technology Cooperation Funding Scheme
- Program 28: Grants for Encouraging the Establishment of Headquarters and Regional Headquarters with Foreign Investment
- Program 29: Innovative Small and Medium-Sized Enterprise Grants
- Program 30: Product Quality Grant
- Program 31: 2009 Energy-saving Fund
- Program 32: Energy-Saving Technique Special Fund
- Program 33: Grants to Privately-Owned Export Enterprises
- Program 34: Grants for Export Activities
- Program 35: Grants for International Certification
- Program 36: Emission Reduction and Energy-saving Award
- Program 37: Grant for Market Promotion and Trade Development
- Program 38: Refund of Land Transfer Fee
- Program 39: Grant – Assistance for Exhibition Booth Fees
- Program 40: Grant – Patent Application Assistance
- Program 41: Grant – State Service Industry Development Fund
- Program 42: Grant – Changzhou Five Major Industries Development Special Fund
- Program 43: Grant – Ecological Garden Enterprise Reward
- Program 44: Grant – Municipal Construction Reward
- Program 45: Grant – Cleaning-production Qualified Enterprise Reward
- Program 46: Grant – Provisional Industry Promotion Special Fund
- Program 47: Grant – Jiangsu Province Finance Supporting Fund
- Program 48: Grant - Water Pollution Control Special Fund for Taihu Lake
- Program 49: Grant – Provincial Foreign Economy and Trade Development Special Fund
- Program 50: Grant – Subsidy from Water Saving Office
- Program 51: Grant – Insurance Expense Compensation
- Program 52: Grant – Industrial Science and Technology Breakthrough Special Fund
- Program 53: Grant – Special Supporting Fund for Commercialization of Technological Innovation and Research Findings
- Program 54: Grant – Changzhou City Key Supporting Industry Upgrading Special Fund
- Program 55: Grant – Special Fund for Fostering Stable Growth of Foreign Trade in 2009
- Program 56: Grant – Financial Subsidies from Wei Hai City Gao Cun Town Government
- Program 57: Grant – Policy on Value-added Tax for Recyclable Resources
- Program 58: Grant – Large Taxpayer Award
- Program 59: Grant – Resources Conservation and Environment Protection Grant
- Program 60: Grant – Wendeng Government (Shandong)
- Program 61: Jiangdu City Industrial Economy Performance Award (Jiangsu)
- Program 62: Changzhou Qishuyan District Environmental Protection Fund (Jiangsu)
- Program 63: Changzhou Technology Plan (Jiangsu)
- Program 64: Supportive Fund Provided by the Government of Xuyi County, Jiangsu
- Program 65: Enterprise Innovation Award of Qishuyan District (Jiangsu)
- Program 66: Environment Protection Award (Jiangsu)
- Program 67: Enterprise Technology Centers (e.g. Tianjin City and Jinnan District)

- Program 68: Liaoning High-Tech Products & Equipment Export Interest Assistance
- Program 69: Five Points, One Line Strategy in Liaoning Province
- Program 70: Accelerated Depreciation on Fixed Assets in Binhai New Area of Tianjin
- Program 71: Allowance to Pay Loan Interest (Zhongshan City, Guangdong)
- Program 72: Supporting Fund for Non-refundable Export Tax Loss on Mechanical & Electrical Product and High-tech Product (Jiangmen City)
- Program 73: International Market Fund for Export Companies (Jiangmen City)
- Program 74: International Market Fund for Small- and Medium-sized Export Companies)
- Program 75: Business Development Overseas Support Fund (Foshan)
- Program 76: Refund from Government for Participating in Trade Fair (Foshan)
- Program 77: Interim Measures of Fund Management of Allowance for Zhongshan Enterprises to Attend Domestic and Overseas Fair (Zhongshan)
- Program 78: Reimbursement of Foreign Affairs Services Expenses (Foshan)
- Program 79: Award for Advanced Enterprises

### **III. Equity Programs**

- Program 80: Debt-to-Equity Swaps
- Program 81: Exemptions for SOEs from Distributing Dividends to the State

### **IV. Preferential Loan Programs**

- Program 82: Loans and Interest Subsidies provided under the Northeast Revitalization Program
- Program 83: Loan From Local Finance Bureau

### **V. Preferential Income Tax Programs**

- Program 84: Reduced Tax Rate for Productive FIEs Scheduled to Operate for a Period not Less Than 10 Years
- Program 85: Preferential Tax Policies for Foreign Invested Export Enterprises
- Program 86: Preferential Tax Policies for FIEs which are Technology Intensive and Knowledge Intensive
- Program 87: Preferential Tax Policies for the Research and Development of FIEs
- Program 88: Preferential Tax Policies for FIEs and Foreign Enterprises Which Have Establishments or Places in China and are Engaged in Production or Business Operations Purchasing Domestically Produced Equipment
- Program 89: Preferential Tax Policies for Domestic Enterprises Purchasing Domestically Produced Equipment for Technology Upgrading Purpose
- Program 90: Income Tax Refund for Re-investment of FIE Profits by Foreign Investors
- Program 91: VAT and Income Tax Exemption/Reduction for Enterprises Adopting Debt-to-Equity Swaps
- Program 92: Corporate Income Tax Reduction for New High-Technology Enterprises
- Program 93: Pre-tax Deduction of Enterprise R&D Expenses for Enterprises in the New and High Technology Fields

## **VI. Relief from Duties and Taxes on Materials and Machinery**

- Program 94: Exemption of Tariff and Import VAT for the Imported Technologies and Equipment  
Program 95: Relief from Duties and Taxes on Imported Material and Other Manufacturing Inputs

## **VII. Reduction in Land Use Fees**

- Program 96: Reduction in Land Use Fees, Land Rental Rates, and Land Purchase Prices  
Program 97: Deed Tax Exemptions For Land Transferred through Merger or Restructuring

## **VIII. Goods/Services Provided by Government at Less than Fair Market Value**

- Program 98: Input Materials Provided by Government at Less than Fair Market Value  
Program 99: Utilities Provided by Government at Less than Fair Market Value  
Program 100: Acquisition of Government Assets at Less than Fair Market Value

### **Determinations of Subsidy and Specificity**

Available information indicates that the programs identified under: *SEZ and Other Designated Areas Incentives*; *Preferential Loans*; *Preferential Income Tax Programs*; *Relief from Duties and Taxes on Materials and Machinery*; and *Reduction in Land Use Fees*, may constitute a financial contribution pursuant to paragraph 2(1.6)(b) of SIMA, in that amounts that would otherwise be owing and due to the government are reduced and/or exempted, and would confer a benefit to the recipient equal to the amount of the reduction/exemption.

*Grants and Equity Programs* may constitute a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA in that they involve the direct transfer of funds or liabilities or the contingent transfer of funds or liabilities; and pursuant to paragraph 2(1.6)(b) of SIMA as amounts owing and due to the government that are forgiven or not collected.

*Goods/Services Provided by Government at Less than Fair Market Value* may constitute a financial contribution pursuant to paragraph 2(1.6)(c) of SIMA as they involve the provision of goods or services, other than general governmental infrastructure.

Benefits provided to certain types of enterprises or limited to enterprises located in certain areas under program categories: *SEZ and Other Designated Areas Incentives*; *Preferential Loans*; *Preferential Income Tax Programs*; *Relief from Duties and Taxes on Materials and Machinery*; and *Reduction in Land Use Fees*, may be considered specific pursuant to paragraph 2(7.2)(a) of SIMA.

As well, *Grants, Equity Programs* and *Goods/Services Provided by Government at Less than Fair Market Value* may be considered specific pursuant to subsection 2(7.3) of SIMA in that the manner in which discretion is exercised by the granting authority indicates that the subsidy may not be generally available.