



Canada Border  
Services Agency

Agence des services  
frontaliers du Canada

OTTAWA, September 21, 2016

## STATEMENT OF REASONS

**Concerning the preliminary determination  
with respect to the dumping of**

**GYPSUM BOARD FROM THE UNITED STATES OF AMERICA,  
IMPORTED INTO CANADA FOR USE OR CONSUMPTION IN THE PROVINCES  
OF BRITISH COLUMBIA, ALBERTA, SASKATCHEWAN, AND MANITOBA, AS  
WELL AS THE YUKON AND NORTHWEST TERRITORIES**

## DECISION

Pursuant to subsection 38(1) of the *Special Import Measures Act*, on September 6, 2016, the Canada Border Services Agency made a preliminary determination respecting the dumping of certain gypsum board originating in or exported from the United States of America, imported into Canada for use or consumption in the provinces of British Columbia, Alberta, Saskatchewan, and Manitoba, as well as the Yukon and Northwest Territories.

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

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## SUMMARY OF EVENTS

[1] On April 18, 2016, CertainTeed Gypsum Canada Inc. (CertainTeed Canada), Mississauga, Ontario (the complainant) filed a complaint with the Canada Border Services Agency's (CBSA) Trade and Anti-dumping Programs Directorate alleging that imports of certain gypsum board originating in or exported from the United States of America (US), imported into Canada for use or consumption in the provinces of British Columbia, Alberta, Saskatchewan, and Manitoba, as well as the Yukon and Northwest Territories (Western Canada) are being dumped. The complainant alleges that the dumping has caused injury and is threatening to cause injury to the Western Canadian industry producing the like goods.

[2] On May 9, 2016, pursuant to paragraph 32(1)(a) 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 the US that a properly documented complaint had been received.

[3] The complainant provided evidence to support the allegations that certain gypsum board from the US imported into Canada for use or consumption in Western Canada has been dumped. The evidence also discloses a reasonable indication that the dumping has caused injury and is threatening to cause injury to the Western Canadian industry producing the like goods.

[4] On June 8, 2016, pursuant to subsection 31(1) of SIMA, the CBSA initiated an investigation respecting the dumping of certain gypsum board originating in or exported from the US, imported into Canada for use or consumption in Western Canada.

[5] Upon receiving notice of the initiation of the investigation, the Canadian International Trade Tribunal (CITT) commenced a preliminary injury inquiry, pursuant to subsection 34(2) of SIMA, into whether the evidence discloses a reasonable indication that the alleged dumping of certain gypsum board from the US has caused injury or retardation or is threatening to cause injury to the Western Canadian industry producing the like goods.

[6] On August 5, 2016, pursuant to subsection 37.1(1) of SIMA, the CITT made a preliminary determination that there is evidence that discloses a reasonable indication that the dumping of certain gypsum board from the US has caused injury or is threatening to cause injury to the domestic industry.

[7] On September 6, 2016, as a result of the CBSA's preliminary investigation and pursuant to subsection 38(1) of SIMA, the CBSA made a preliminary determination of dumping respecting certain gypsum board originating in or exported from the US.

[8] On September 6, 2016, pursuant to subsection 8(1) of SIMA, provisional duty was imposed on imports of goods that are of the same description as any goods to which the preliminary determination applies, and that are released during the period commencing on the day the preliminary determination was made and ending on the earlier of the day on which the CBSA causes the investigation to be terminated pursuant to subsection 41(1) of SIMA or the day the CITT makes an order or finding pursuant to subsection 43(1) of SIMA.

### **PERIOD OF INVESTIGATION**

[9] The Period of Investigation (POI) with respect to the investigation covers all subject goods released into Western Canada from January 1, 2015 to December 31, 2015.

### **PROFITABILITY ANALYSIS PERIOD**

[10] The Profitability Analysis Period covered domestic sales and costing information for goods sold from October 1, 2014 to December 31, 2015.

### **INTERESTED PARTIES**

#### **Complainant**

[11] The complainant, CertainTeed Canada, operates six gypsum board manufacturing facilities located throughout Canada and is the only producer of gypsum board located in Western Canada, with three manufacturing facilities located in Vancouver, British Columbia, Calgary, Alberta and Winnipeg, Manitoba. As such, the complainant accounts for all domestic production of like goods in Western Canada, as defined in subsection 2(1) of SIMA.

[12] The name and address of the complainant's head office is as follows:

CertainTeed Gypsum Canada Inc. (CertainTeed Canada)  
2424 Lakeshore Road West  
Mississauga, Ontario  
L5J 1K4

#### **Importers**

[13] At the initiation of the investigation, the CBSA identified 36 potential importers of the subject goods based on both information provided by the complainant and CBSA import entry documentation.

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

## Exporters

[15] At the initiation of the investigation, the CBSA identified 25 potential exporters of the subject goods from information provided by the complainant and CBSA import entry documentation. The CBSA sent exporter RFIs to each of the potential exporters in the US.

[16] The CBSA received three substantially complete responses to the exporter RFI from companies in the US.

## PRODUCT INFORMATION

### Product Definition

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

Gypsum board, sheet, or panel (“gypsum board”) originating in or exported from the United States of America, imported into Canada for use or consumption in the provinces of British Columbia, Alberta, Saskatchewan, and Manitoba, as well as the Yukon and Northwest Territories, composed primarily of a gypsum core and faced or reinforced with paper or paperboard, including gypsum board meeting or supplied to meet ASTM C 1396 or ASTM C 1396M or equivalent standards, regardless of end use, edge-finish, thickness, width, or length, excluding (a) gypsum board made to a width of 54 inches (1,371.6 mm); (b) gypsum board measuring 1 inch (25.4 mm) in thickness and 24 inches (609.6 mm) in width regardless of length (commonly referred to and used as “paper-faced shaft liner”); (c) gypsum board meeting ASTM C 1177 or ASTM C 1177M (commonly referred to and used primarily as “glass fiber re-enforced sheathing board” but also sometimes used for internal applications for high mold/moisture resistant applications); (d) double layered glued paper-faced gypsum board (commonly referred to and used as “acoustic board”); and (e) gypsum board meeting ISO16000-23 for sorption of formaldehyde. All dimensions are plus or minus allowable tolerances in applicable standards.

### Additional Product Information

[18] For greater certainty, the gypsum board considered to be subject goods includes but is not limited to:

- i. **Abuse-resistant gypsum board** offering greater resistance to surface indentation, abrasion and penetration than standard gypsum board.
- ii. **Eased edge gypsum board**, which has a tapered and slightly rounded or beveled factory edge. It may be used as an aid in custom finishing of joints.
- iii. **Gypsum base** for veneer plaster serves as a base for thin coats of hard, high strength gypsum veneer plaster.
- iv. **Impact-resistant gypsum board** offer greater resistance to the impact of solid objects from high traffic and vandalism than standard gypsum board.

- v. **Mold-resistant gypsum board or Mold and moisture resistant gypsum board** has a mold/moisture resistant gypsum core and paper facing that incorporates various methods of preventing the growth of mold and mildew on the board's surface.
- vi. **Regular gypsum board** (gypsum wallboard) is used as a surface layer on walls and ceilings.
- vii. **Sag-resistant gypsum board** is a ceiling board that offers greater resistance to sagging than regular gypsum products used for ceilings where framing is typically spaced 24 inches.
- viii. **Type C or Proprietary Type-X gypsum board** is available in 1/2 inch and 5/8 inch thicknesses and is required in some fire rated assemblies. Additional additives give this product improved fire resistive properties.
- ix. **Type X gypsum board** is available in 1/2 inch and 5/8 inch thicknesses and has an improved fire resistance made possible through the use of special core additives. Type X gypsum board is used in most fire rated assemblies.

[19] Gypsum board has long been used as a building material because of its fire-resistant properties. It provides a durable, economical, non-combustible and easily decorated surfacing material for construction use. Gypsum board is the most widely used material for ceilings and interior walls for residential, commercial, and institutional buildings in developed countries. Paper-covered gypsum board is well suited to the application for which it was designed, that is interior non-load bearing construction.

### **Production Process**

[20] The process of gypsum board production does not typically vary substantially between producers. To produce gypsum board (also known as "drywall"), the gypsum rock is subjected to a calcination process in which the rock is crushed and heated to approximately 150°C, drying out roughly 75% of the chemically combined water. Typically, roughly 45 kilograms of gypsum rock contains approximately 8.5 kilograms of water. The resultant calcined gypsum powder (commonly referred to as "plaster of Paris") is used to produce the core of the board. The core is formed by a slurry of calcined gypsum or "stucco", water, foam, pulp, starch and optional chemical components to enhance water and/or fire resistance. At this stage, the slurry is forced between two unwinding rolls of absorbent paper resulting in a continuous "sandwich" of wet board resting on a belt line.

[21] As the board moves down the belt line, the calcined gypsum rehydrates to its original crystalline structure while the paper sheets become firmly bonded to the rehydrated core. After moving down the line for approximately 4 to 5 minutes, the continuous "sandwich" is cut to length and moved through dryers to remove excess moisture. The cut boards are moved to an off-loading area where they are bundled, stacked and put into storage or shipped directly to customers.

### **Classification of Imports**

[22] The subject goods are normally classified under the following Harmonized System (HS) classification number:

6809.11.00.10

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

### **LIKE GOODS AND CLASSES OF GOODS**

[24] 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 the uses and other characteristics of which closely resemble those of the other goods.

[25] Certain gypsum board produced by the complainant has the same physical characteristics and end uses as the subject goods imported from the US. The goods produced in Canada and the US are fully interchangeable when manufactured to industry standards and specifications. Subject goods from the US compete directly with like goods produced by the complainant. After considering questions of use, physical characteristics and all other relevant factors, the CBSA is of the opinion that domestically produced gypsum board are like goods to the subject goods. Further, the CBSA is of the opinion that subject goods and like goods constitute only one class of goods.

[26] In its preliminary injury inquiry, the CITT also found that subject goods and like goods constitute only one class of goods.<sup>1</sup>

### **THE CANADIAN INDUSTRY**

[27] As previously stated, the complainant accounts for all domestic production of like goods in Western Canada.

[28] In addition to CertainTeed Canada, there are three other Canadian producers of gypsum board; CGC Inc. (CGC), Atlantic Wallboard Limited Partnership and Cabot Gypsum Company. Beside CertainTeed Canada, none of these companies have gypsum board manufacturing facilities located in Western Canada. The manufacturing facilities are located in the provinces of Ontario, Quebec, New Brunswick and Nova Scotia.

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<sup>1</sup> CITT Preliminary Injury Inquiry No. PI-2016-001.

## **IMPORTS INTO WESTERN CANADA**

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

[30] The following table presents the CBSA's analysis of imports of gypsum board into Western Canada for purposes of the preliminary determination:

**Import Volumes of Gypsum Board**

<b>Country</b>	<b>January 1, 2015 to December 31, 2015</b>
United States	99.99%
All Other Countries	0.01%
<b>Total Imports</b>	<b>100.0%</b>

## **INVESTIGATION PROCESS**

[31] Regarding the investigation, information was requested from all known and potential exporters, producers, vendors and importers, concerning shipments of gypsum board released into Western Canada during the POI.

[32] After reviewing the responses to the RFIs, supplemental RFIs were sent to responding parties to clarify information provided in the submissions and request any additional information considered necessary for the investigation.

[33] The preliminary determination is based on the information available to the CBSA at the time of the preliminary determination. During the final phase of the investigation, additional information may be obtained and selected responding exporters may be verified on-site, the results of which will be incorporated into the CBSA's final decision, which must be made by December 5, 2016.

## **DUMPING INVESTIGATION**

[34] The CBSA received substantially complete responses to the exporter RFI from three exporters of the subject goods located in the US.

[35] The three exporters in the US are: CertainTeed Gypsum and Ceilings Manufacturing, Inc. (CertainTeed US), Georgia-Pacific Gypsum LLC (GP US) and United States Gypsum Company (USG).

[36] All three US exporters have corresponding related importers in Canada which also provided substantially complete responses to the importer RFI. Those importers are CertainTeed Canada, Georgia-Pacific Canada LP (GP Canada) and CGC.



[37] Two other importers, namely, James Valley Colony Farms Ltd. and Sexton Group Ltd., provided limited responses to the importer RFI.

### **Normal Values**

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

### **Export Prices**

[39] The export price of the goods sold to the importers in Canada is generally estimated based on the lesser of the adjusted exporter's selling price 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.

[40] Where there are sales between associated persons and/or a compensatory arrangement exists, the export price is estimated based on the importer's resale price of the imported goods in Canada to unrelated purchasers, less deductions for all costs incurred in preparing, shipping and exporting the goods to Canada that are additional to those incurred on the sales of like goods for use in the country of export, all costs included in the resale price that are incurred in reselling the goods (including duties and taxes) or associated with the assembly of the goods in Canada and an amount representative of the average industry profit in Canada as provided for in paragraphs 25(1)(c) and 25(1)(d) of SIMA.

### **Margin of Dumping**

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

### **Preliminary Results of the Dumping Investigation**

[42] With respect to the three exporters in the US that provided substantially complete responses to the exporter RFI, to the extent possible, company-specific information was used for the preliminary determination in estimating normal values and export prices for goods shipped to Western Canada.

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

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

[45] The estimated margin of dumping details relating to each of the exporters that provided a response to the exporter RFI are presented in a summary table in **Appendix 1** while estimated margin of dumping details for the US can be found in a summary table at the end of this section.

### **Preliminary Results by Exporter**

#### **CertainTeed Gypsum and Ceilings Manufacturing, Inc.**

[46] CertainTeed US provided a substantially complete response to the CBSA's exporter RFI. Since the company had domestic sales of like goods during the Profitability Analysis Period (PAP) of October 1, 2014 to December 31, 2015, normal values were estimated under sections 15 and 16 of SIMA based on profitable domestic pricing.

[47] During the POI, CertainTeed US exported subject goods to Canada that were produced by one of its US manufacturing facilities to its related Canadian importer, CertainTeed Canada.

[48] Due to the relationship between CertainTeed US and CertainTeed Canada, a reliability test was performed to determine whether the section 24 export prices were reliable as envisaged by SIMA. This test was conducted by comparing the estimated section 24 export prices with the estimated section 25 export prices. The amount for profit used for the section 25 calculations was estimated in accordance with paragraph 22(c) of the *Special Import Measures Regulations* (SIMR), based on the profit information relating to vendors that operated at a profit during the POI in Western Canada. The test revealed that the export prices estimated in accordance with section 24 of SIMA were reliable and, therefore, export prices for sales to CertainTeed Canada were estimated in accordance with section 24 of SIMA.

[49] For the preliminary determination, the total estimated normal value compared with the total estimated export price results in an estimated margin of dumping of 125.0% for CertainTeed US, expressed as a percentage of export price. The CBSA will continue to collect and verify information from the exporter and the related importer during the final phase of the investigation.

## **Georgia-Pacific Gypsum LLC**

[50] GP US provided a substantially complete response to the CBSA's exporter RFI. Since the company had domestic sales of like goods during the PAP, normal values were estimated under sections 15 and 16 of SIMA based on profitable domestic pricing where possible. Normal values for goods that did not have profitable domestic sales were estimated using the methodology of paragraph 19(b) of SIMA, as the sum of cost of production, a reasonable amount for administrative, selling and all other costs, and a reasonable amount for profits. The profit amount was estimated under subparagraph 11(1)(b)(ii) of SIMR based on the weighted average profit made on GP US' domestic sales of goods that are of the same general category as the subject goods exported to Canada.

[51] During the POI, GP US exported subject goods to Western Canada that were produced by a limited number of its US manufacturing facilities to its related Canadian importer, GP Canada.

[52] Due to the relationship between GP US and GP Canada, a reliability test was performed to determine whether the section 24 export prices were reliable as envisaged by SIMA. This test was conducted by comparing the estimated section 24 export prices with the estimated section 25 export prices. The amount for profit used for the section 25 calculations was estimated in accordance with paragraph 22(c) of the SIMR, based on the profit information relating to vendors that operated at a profit during the POI in Western Canada. The test revealed that the export prices estimated in accordance with section 24 of SIMA were unreliable and, therefore, export prices for sales to GP Canada were estimated in accordance with section 25(1)(c) of SIMA.

[53] For the preliminary determination, the total estimated normal value when compared with the total estimated export price results in an estimated margin of dumping of 105.2% for GP US, expressed as a percentage of the estimated export price. The CBSA will continue to collect and verify information from the exporter and related importer during the final phase of the investigation.

## **United States Gypsum Company**

[54] USG provided a substantially complete response to the CBSA's exporter RFI. Since the company had domestic sales of like goods during the PAP, normal values were estimated under sections 15 and 16 of SIMA based on profitable domestic pricing where possible. Normal values for goods that did not have sufficient profitable domestic sales were estimated using the methodology of paragraph 19(b) of SIMA, as the sum of cost of production, a reasonable amount for administrative, selling and all other costs, and a reasonable amount for profits. The profit amount was estimated under subparagraph 11(1)(b)(ii) of SIMR based on the weighted average profit made on USG's domestic sales of goods that are of the same general category as the subject goods exported to Canada.

[55] For a small number of export transactions, the estimated normal value for all other US exporters was used as USG had not submitted required costing information to enable the CBSA to perform a profitability test concerning two particular models. As explained in the “All Other Exporters” section below, the normal value for all other exporters is based on the estimated export price, plus an amount equal to 276.5% of that estimated export price.

[56] During the POI, USG exported subject goods to Western Canada that were produced by a limited number of its US manufacturing facilities to its related Canadian importer, CGC.

[57] Due to the relationship between USG and CGC, a reliability test was performed to determine whether the section 24 export prices were reliable as envisaged by SIMA. This test was conducted by comparing the estimated section 24 export prices with the estimated section 25 export prices. The amount for profit used for the section 25 calculations was estimated in accordance with paragraph 22(c) of the SIMR, based on the profit information relating to vendors that operated at a profit during the POI in Western Canada. The tests revealed that the export prices estimated in accordance with section 24 of SIMA were reliable and, therefore, export prices for sales to CGC were estimated in accordance with section 24 of SIMA.

[58] For the preliminary determination, the total estimated normal value when compared with the total estimated export price results in an estimated margin of dumping of 143.6% for USG, expressed as a percentage of the estimated export price. The CBSA will continue to collect and verify information from the exporter and related importer during the final phase of the investigation.

### **All Other Exporters**

[59] At the initiation of the investigation, all known and potential exporters were sent an exporter RFI in order to solicit information required for purposes of determining normal values and export prices of subject goods in accordance with the provisions of SIMA. As such, all exporters were given the opportunity to participate in the investigation. In the exporter RFI, the exporters were notified that failure to submit all required information and documentation, including non-confidential versions, or failure to permit verification of any information, may result in the normal values of the subject goods exported by their company being based on the facts available. It was further stated that such a decision would be less favourable to their company than if complete and verifiable information were made available.

[60] For exporters who did not provide sufficient information in response to the exporter RFI, normal values and export prices were estimated on the basis of facts available. In establishing the methodologies for determining these estimates, the CBSA examined all information on the record, including information from the complaint, information provided by exporters, publically available information and customs documentation.

[61] The CBSA considered that the normal values and export prices estimated for the responding exporters, rather than the information provided in the complaint, was the best information on which to base the methodology for estimating normal values. The CBSA examined the difference between the estimated normal value and estimated export price of each individual transaction for the responding exporters in order to obtain an appropriate amount for the normal value methodology. The transactions were also examined to ensure that anomalies were not considered, however, no anomalies were identified.

[62] The CBSA considered that the highest amount by which the estimated normal value exceeded the estimated export price found on an individual transaction (expressed as a percentage of the export price) was an appropriate basis for estimating normal values. This method of estimating normal values was based on information on the record and limits the advantage that an exporter may gain from not providing necessary information requested in a dumping investigation as compared to an exporter that did provide the necessary information.

[63] Therefore, the normal values were estimated based on the estimated export price, plus an amount equal to 276.5% of that estimated export price.

[64] The CBSA considered that the information submitted on the CBSA customs entry documentation was the best information on which to estimate the export price of the goods as it reflects actual import data. This information is more comprehensive than what was available in the complaint.

[65] Based on the above methodology, the estimated margin of dumping for the subject goods exported to Western Canada by all other exporters is 276.5%, expressed as a percentage of the export price.

## **Representations**

[66] Counsel for the complainant provided comments to the CBSA concerning each of the RFI responses submitted by GP US, USG and their respective related importers.<sup>2</sup> The comments focussed on suggested deficiencies pertaining to the specific responses, as well as various areas of the RFI responses where further information could be sought by way of supplemental RFIs and possible on-site verifications.

[67] The CBSA will take these comments into consideration when developing any further supplemental RFIs and on-site verification questions during the final phase of the investigation.

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<sup>2</sup> CBSA Listing of Exhibits: 38(PRO), 39(NC), 40(PRO) and 41(NC).

## Summary of Preliminary Results

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

### **Summary of Results Period of Investigation (January 1, 2015 to December 31, 2015)**

<b>Country</b>	<b>Estimated Margin of Dumping*</b>	<b>Estimated Volume of Subject Goods as Percentage of Total Imports</b>
United States	139.7%	99.99%

\* Expressed as a percentage of the export price.

[69] Under section 35 of SIMA, if, at any time before making a preliminary determination the CBSA is satisfied that the actual and potential volume of goods of a country is negligible, the CBSA is required to terminate the investigation with respect to goods of that country.

[70] Pursuant to subsection 2(1) of SIMA, a volume of goods of a country is considered negligible if it accounts for less than 3% of the total volume of goods that are released into Canada from all countries that are of the same description as the goods.

[71] The volume of subject goods from the US is above 3% of the total volume of goods released into Western Canada from all countries. Based on the definition above, the volume of subject goods from the US is not negligible.

[72] If, in making a preliminary determination, the CBSA determines that the margin of dumping of the goods of a country is insignificant pursuant to section 38 of SIMA, the investigation will continue in respect of those goods but provisional duties will not be imposed on goods of the same description imported during the provisional period.

[73] Pursuant to subsection 2(1) of SIMA, a margin of dumping of less than 2% of the export price of the goods is defined as insignificant. In this case, the margin of dumping, estimated to be 139.7% of the export price, is greater than the threshold of 2% and is therefore not considered insignificant.

## DECISION

[74] On September 6, 2016, pursuant to subsection 38(1) of SIMA, the CBSA made a preliminary determination of dumping respecting certain gypsum board originating in or exported from the US imported into Canada for use or consumption in Western Canada.

## **PROVISIONAL DUTY**

[75] Pursuant to subsection 8(1) of SIMA, provisional duty payable by the importer in Canada will be applied to subject imports of gypsum board that are released during the period commencing on the day the preliminary determination is made and ending on the earlier of the day on which the CBSA causes the investigation to be terminated, in accordance with subsection 41(1), or the day on which the CITT makes an order or finding. The CBSA considers that the imposition of provisional duty is needed to prevent injury. As noted in the CITT's preliminary determination, there is evidence that discloses a reasonable indication that the alleged dumping of certain gypsum board has caused injury or is threatening to cause injury to the domestic industry.

[76] Provisional duty is based on the estimated margin of dumping, expressed as a percentage of the export price of the goods. **Appendix 1** contains the estimated margins of dumping and the rates of provisional duty payable on subject goods released from the CBSA on and after September 6, 2016.

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

## **FUTURE ACTION**

### **The Canada Border Services Agency**

[78] The CBSA will continue its dumping investigation and will make a final decision by December 5, 2016.

[79] If the CBSA is satisfied that the goods were dumped and that the margin of dumping is not insignificant, a final determination will be made. Otherwise, the CBSA will terminate the investigation and any provisional duty paid or security posted, will be refunded to the importers.

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

[80] The CITT has begun its inquiry into the question of injury to the Canadian industry. The CITT is expected to issue its finding by January 4, 2017.

[81] If the CITT finds that the dumping has not caused injury, retardation or is not threatening to cause injury, the proceeding will be terminated and all provisional duty collected or security posted will be refunded.

[82] If the CITT makes a finding that the dumping has caused injury, retardation or is threatening to cause injury, anti-dumping duty in an amount equal to the margin of dumping will be levied, collected and paid on imports of certain gypsum board imported for use or consumption in Western Canada.

[83] For purposes of the preliminary determination of dumping, the CBSA is responsible for determining whether the actual and potential volume of goods is negligible. After the preliminary determination of dumping, in accordance with subsection 42(4.1) of SIMA, the CITT is required to terminate its inquiry in respect of any goods if the CITT determines that the volume of dumped goods from a country is negligible.

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

[84] Under certain circumstances, anti-dumping duty can be imposed retroactively on subject goods imported into Canada. When the CITT conducts its inquiry on material injury to the Canadian industry, it may consider if dumped 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 CITT issue a finding that there were recent massive importations of dumped 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 duty.

### **UNDERTAKINGS**

[85] After a preliminary determination of dumping, other than a preliminary determination in which a determination was made that the margin of dumping is insignificant, 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.

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

[87] 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 determination. Further details regarding undertakings can be found in the CBSA's Memorandum D14-1-9, available online at:  
[www.cbsa-asfc.gc.ca/publications/dm-md/d14/d14-1-9-eng.html](http://www.cbsa-asfc.gc.ca/publications/dm-md/d14/d14-1-9-eng.html).

[88] 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 website 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**

[89] A notice of this preliminary determination of dumping will be published in the *Canada Gazette* pursuant to paragraph 38(3)(a) of SIMA.

## **INFORMATION**

[90] This *Statement of Reasons* has been provided to persons directly interested in this proceeding. 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  
Trade and Anti-dumping Programs Directorate  
Canada Border Services Agency  
100 Metcalfe Street, 11<sup>th</sup> floor  
Ottawa, Ontario K1A 0L8  
Canada

**Telephone:** Richard Pragnell: 613-954-0032  
Matthew Lerrette: 613-954-7398  
Marie-Josée Charette: 613-954-7399

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

**Website:** [www.cbsa-asfc.gc.ca/sima-lmsi](http://www.cbsa-asfc.gc.ca/sima-lmsi)



Brent McRoberts  
Director General  
Trade and Anti-dumping Programs Directorate

Attachment

**APPENDIX 1 – SUMMARY OF THE ESTIMATED MARGINS OF DUMPING AND PROVISIONAL DUTIES BY EXPORTER**

The following table lists the estimated margins of dumping and the provisional duty payable by exporter as a result of the decision mentioned above. Imports of subject goods released from the Canada Border Services Agency, on or after September 6, 2016, will be subject to provisional duties at the rates specified below:

<b>Exporter</b>	<b>Estimated Margin of Dumping/Provisional Duty Payable*</b>
CertainTeed Gypsum and Ceilings Manufacturing, Inc.	125.0%
Georgia-Pacific Gypsum LLC	105.2%
United States Gypsum Company	143.6%
All Other exporters	276.5%

\* As a percentage of export price.