



Canada Border
Services Agency

Agence des services
frontaliers du Canada

HPC 2024 IN

OTTAWA, August 6, 2024

STATEMENT OF REASONS

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

**CERTAIN PEA PROTEIN ORIGINATING IN OR EXPORTED FROM
THE PEOPLE'S REPUBLIC OF CHINA**

DECISION

Pursuant to subsection 38(1) of the *Special Import Measures Act*, the Canada Border Services Agency made preliminary determinations on July 22, 2024 respecting the dumping and subsidizing of certain pea protein originating in or exported from China.

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

Canada

TABLE OF CONTENTS

SUMMARY OF EVENTS	1
PERIOD OF INVESTIGATION.....	2
PROFITABILITY ANALYSIS PERIOD.....	2
INTERESTED PARTIES	2
PRODUCT INFORMATION	4
DEFINITION	4
ADDITIONAL PRODUCT INFORMATION	4
PRODUCTION PROCESS	5
CLASSIFICATION OF IMPORTS	6
LIKE GOODS AND CLASS OF GOODS.....	6
THE CANADIAN INDUSTRY	7
IMPORTS INTO CANADA	7
INVESTIGATIONS PROCESS	7
REPRESENTATIONS	8
DUMPING INVESTIGATION	9
PRELIMINARY RESULTS OF THE DUMPING INVESTIGATION	10
SHANDONG JIANYUAN BIOENGINEERING CO., LTD.	10
YANTAI SHUANGTA FOOD CO., LTD.....	11
YANTAI ORIENTAL PROTEIN TECH CO., LTD.....	12
YANTAI YIYUAN BIOLOGICAL ENGINEERING CO., LTD.....	12
YANTAI T.FULL BIOTECH CO., LTD.	13
ALL OTHER EXPORTERS – CHINA.....	14
SUMMARY OF PRELIMINARY RESULTS – DUMPING.....	15
SUBSIDY INVESTIGATION	16
PRELIMINARY RESULTS OF THE SUBSIDY INVESTIGATION.....	17
SHANDONG JIANYUAN BIOENGINEERING CO., LTD.	18
YANTAI SHUANGTA FOOD CO., LTD.....	19
YANTAI ORIENTAL PROTEIN TECH CO., LTD.....	19
YANTAI YIYUAN BIOLOGICAL ENGINEERING CO., LTD.....	20
YANTAI T.FULL BIOTECH CO., LTD.	20
ALL OTHER EXPORTERS – CHINA.....	21
SUMMARY OF PRELIMINARY RESULTS – SUBSIDY	22
DECISIONS	23
PROVISIONAL DUTY.....	23
FUTURE ACTION.....	24
RETROACTIVE DUTY ON MASSIVE IMPORTATIONS.....	25
UNDERTAKINGS.....	25
PUBLICATION	26
INFORMATION	27
APPENDIX 1 – SUMMARY OF ESTIMATED MARGIN OF DUMPING, ESTIMATED AMOUNT OF SUBSIDY AND PROVISIONAL DUTY PAYABLE.....	28
APPENDIX 2 – SUMMARY OF PRELIMINARY FINDINGSFOR SUBSIDY PROGRAMS.....	29
CATEGORY 1: PREFERENTIAL LOANS AND LOAN GUARANTEES.....	29
CATEGORY 2: GRANTS AND GRANT EQUIVALENTS.....	31
CATEGORY 3: PREFERENTIAL TAX PROGRAMS	35
CATEGORY 4: RELIEF FROM DUTIES AND TAXES	37
CATEGORY 5: GOOD / SERVICES PROVIDED BY THE GOVERNMENT AT LESS THAN FAIR MARKET VALUE	39

SUMMARY OF EVENTS

[1] On March 1, 2024, the Canada Border Services Agency (CBSA) received a written complaint from Nutri-Pea GP Inc. (Portage La Prairie, MB) and Roquette Canada Limited (Portage La Prairie, MB) (hereinafter, “the complainants”) alleging that imports of pea protein originating in or exported from the People’s Republic of China (China) have been dumped and subsidized. The complainants alleged that the dumping and subsidizing have caused injury and are threatening to cause injury to Canadian producers of pea protein.

[2] On March 22, 2024, pursuant to paragraph 32(1)(a) of the *Special Import Measures Act* (SIMA), the CBSA informed the complainants that the complaint was properly documented. On April 2, 2024, the CBSA informed the Government of China (GOC) that a properly documented complaint had been filed. The GOC was provided with the non-confidential version of the subsidy complaint and was invited for consultations pursuant to Article 13.1 of the *Agreement on Subsidies and Countervailing Measures*, prior to the initiation of the subsidy investigation. The CBSA did not receive any request for consultations.

[3] The complainants provided evidence to support the allegations that certain pea protein from China have been dumped and subsidized, as well as evidence that discloses a reasonable indication that the dumping and subsidizing have caused injury or are threatening to cause injury to the Canadian industry producing like goods.

[4] On April 22, 2024, pursuant to subsection 31(1) of SIMA, the CBSA initiated investigations respecting the dumping and subsidizing of pea protein from China.

[5] Upon receiving notice of the initiation of the investigations, 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 dumping and subsidizing of the above-mentioned goods have caused injury or are threatening to cause injury to the Canadian industry producing the like goods.

[6] On June 20, 2024, 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 and subsidizing of pea protein from China have caused injury or are threatening to cause injury to the domestic industry.

[7] On July 22, 2024, as a result of the CBSA’s preliminary investigations and pursuant to subsection 38(1) of SIMA, the CBSA made preliminary determinations of dumping and subsidizing of pea protein originating in or exported from China.

[8] On the same date, pursuant to subsection 8(1) of SIMA, provisional duties were imposed on imports of dumped and subsidized goods that are of the same description as any goods to which the preliminary determinations apply, and that are released during the period commencing on the day the preliminary determinations were made and ending on the earlier of the day on which the CBSA causes the investigations in respect of any goods 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) for the investigations are January 1, 2023 to December 31, 2023.

PROFITABILITY ANALYSIS PERIOD

[10] The Profitability Analysis Period (PAP) is October 1, 2022 to December 31, 2023.

INTERESTED PARTIES

Complainant

[11] The name and address of the complainant is as follows:

Nutri-Pea GP Inc.
880 Philips Street
Portage La Prairie, MB
R1N 4A4

Roquette Canada Limited
40117 Road 65 North
Portage La Prairie, MB
R1N 3B5

Other Producers

[12] The complainants stated that they are the only producers of pea protein in Canada.¹ The CBSA did its own supplementary research, but could not identify any other producers in Canada.

Trade Unions

[13] The complainants confirmed that their employees are not represented by a trade union.² The CBSA did its own supplementary research, but could not identify any trade unions that represent the employees of the complainants. As the complainants are the only known producers of pea protein in Canada, this means that there are no known trade unions.

¹ Exhibit 2 (NC) - HPC Complaint – para 41

² Exhibit 2 (NC) – HPC Complaint - Addendum

Importers

[14] At the initiation of the investigations, the CBSA identified 22 potential importers of the subject goods from CBSA import entry documentation and from information submitted in the complaint. All of the potential importers were asked to respond to the CBSA's importer Request for Information (RFI).³ Six importers provided a response to the importer RFI, A&A Pharmachem Inc.; Osage Food Products Inc.; Top Health Ingredients Inc.; Nexxus Foods Inc.; Quadra Chemicals Ltd.; and Nura USA.⁴

Exporters

[15] At the initiation of the investigations, the CBSA identified 16 potential exporters of the subject goods from CBSA import entry documentation and from information submitted in the complaint. All of the potential exporters were asked to respond to the CBSA's dumping and subsidy RFIs.⁵

[16] Five exporters provided substantially complete responses to the CBSA's dumping and subsidy RFIs in sufficient time to be considered for the preliminary determination: Shandong Jianyuan Bioengineering Co., Ltd., Yantai Shuangta Food Co., Ltd., Yantai Oriental Protein Tech Co., Yantai Yiyuan Biological Engineering Co., Ltd., and Yantai T.Full Biotech Co., Ltd.⁶ In addition, two exporters, Hainan Zhongxin Chemical Co., Ltd. and Nura USA, LLC provided responses to the RFIs. However, these responses were found to be deficient for purposes of the preliminary determination.⁷

Government

[17] Upon initiation of the investigations, the GOC was sent the CBSA's government subsidy RFI requesting information concerning the alleged subsidy programs available to producers/exporters of subject goods. The GOC did not respond to the government subsidy RFI.

[18] For the purposes of these investigations, GOC 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.

³ Exhibit 19 (NC) – Requests for information and industry profit survey sent to importers

⁴ Exhibit 23 (NC), 32 (NC), 41 (NC), 52 (NC), 96 (NC) and 129 (NC) – Responses to importer RFI

⁵ Exhibit 17 (NC) and 18 (NC) – Exporter RFI – Dumping and Subsidy

⁶ Exhibit 56 (NC), Exhibit 59 (NC), Exhibit 61 (NC), Exhibit 64 (NC), Exhibit 68 (NC), Exhibit 72 (NC), Exhibit 83 (NC), Exhibit 85 (NC), Exhibit 107 (NC), Exhibit 109 (NC), Exhibit 116 (NC), Exhibit 124 (NC), Exhibit 126 (NC), Exhibit 139 (NC) – Responses to Exporter RFIs

⁷ Exhibit 141 (NC), Exhibit 143 (NC) and Exhibit 131 (NC) – Responses to Exporter RFIs

PRODUCT INFORMATION

Definition⁸

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

High protein content (HPC) pea protein originating in or exported from the People's Republic of China in all physical forms regardless of packaging, with a minimum pea protein content of 65 percent on a dry weight basis calculated using a Jones factor of 6.25, but excluding:

- Texturized pea protein; and
- HPC pea protein that has been incorporated into finished products where the HPC pea protein itself is further processed such that it does not retain its original physical and chemical characteristics and other properties.

Additional Product Information⁹

[20] HPC pea protein is a protein derived from peas, including but not limited to yellow field peas and green field peas. Such peas are sometimes referred to as field peas, yellow peas, or yellow split peas. *Pisum sativum* is the Latin name for the peas utilized in pea protein that is covered by the scope of this product definition. Not covered by the scope of this product definition is protein derived from chickpeas, beans, lentils, or nuts.

[21] HPC pea protein is most commonly identified as "pea protein isolate" but may also be identified by other labels that include "hydrolyzed pea protein," "pea peptides," "fermented pea protein," or "pea protein concentrate."

[22] HPC pea protein may consist of small amounts of other substances including but not limited to ash, fibre, preservatives, salt, microbiological content, minerals, or masking or flavouring agents. Even in a dry state, HPC pea protein also contains a small amount of moisture from the ambient air.

[23] Excluded from the scope of the product definition is texturized pea protein. Texturized pea protein is HPC pea protein that has gone through an extrusion process to alter the HPC pea protein at the structural and functional level, resulting in a product with a fibrous structure which resembles muscle meat upon hydration for use in meat analogue products.

⁸ Exhibit 2 (NC) – HPC Complaint – para 6

⁹ Exhibit 2 (NC) – HPC Complaint – para 7-14

[24] Also excluded from the scope of this product definition is HPC pea protein that has been incorporated into finished products such that it no longer retains the physical and chemical characteristics and properties of HPC pea protein in a dry state. Products that would fall within this exclusion would include burgers and other meat analogue products, snack bars, pea protein crisps, bakery products, sugar and gum confectionary products, ready to drink non-dairy milks or other liquid protein drinks, cheeses and other non-dairy alternative products, baby foods, food sauces and seasoning, and pet food.

[25] HPC pea protein can be consumed directly, but it is most often used as an ingredient in the manufacturing of other food and drink products, notably sports and nutritional drinks (e.g., protein shakes); nutrition bars; plant-based meat alternative products (e.g., burgers, sausages, chicken, fish, meatballs); milk alternatives; non-dairy alternatives to other dairy products such as yogurts, cheeses and ice creams; cereals, snacks and other baked goods; food sauces, seasonings and dressings; pasta; sugar and gum confectionary products; baby food; senior and clinical nutrition; and nutraceuticals.

[26] HPC pea protein is produced to different grades which have relatively small variations in characteristics, such as: whether the peas are organic; the particle size of the pea protein (often referred to as “fineness”); pH levels; sodium levels; the exact percentage of protein content; solubility; and moisture levels. HPC pea protein may also commonly have added masking or flavouring agents. These differences are designed to optimize the product for use in different applications. For example, buyers purchasing HPC pea protein for use in the production of beverages generally prefer product that is highly soluble and is also highly dispersible (meaning that it has a uniform distribution in solution). These relatively minor variations do not change the physical characteristics and uses described above and it is often the case that several different grades could be used in a given application.

Production Process¹⁰

[27] Peas are a rich source of protein, but also consist largely of starch and fiber. HPC pea protein is generally produced through a “wet milling” process which separates and isolates each of these main elements. At a high level, the steps for wet milling HPC pea protein are:

- i. Pea reception and screening – peas are sorted through one or more processes and equipment to remove foreign debris;
- ii. Cleaning and dehulling – peas are de-hulled with various pre-crushers, crushers, and other devices which break the peas and separate the hulls from the peas;
- iii. Milling – pea grist must be crushed and milled through various procedures that process and re-process the grist to the consistency of flour;
- iv. Separation/extraction – separation of the main elements of the pea (namely protein, starch, and fiber);
- v. Drying. HPC – pea protein is dried through spray dryers which essentially involves the wet protein mixture being sprayed in a mist into hot air dryers; and,
- vi. Packaging – HPC pea protein is finally packaged at filling stations.

¹⁰ Exhibit 2 (NC) – HPC Complaint – para 17-23

Classification of Imports

[28] The allegedly dumped and subsidized goods are normally imported under the following tariff classification numbers:

3504.00.90.00
2106.10.00.00

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

LIKE GOODS AND CLASS OF GOODS¹¹

[30] 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 any identical goods, goods the uses and other characteristics of which closely resemble those of the other goods. In considering the issue of like goods, the CITT typically looks at a number of factors, including the physical characteristics of the goods, their market characteristics and whether the domestic goods fulfill the same customer needs as the subject goods.

[31] With respect to the definition of like goods, the complainants stated that HPC pea protein produced by the Canadian industry is like goods to the subject goods. Domestically produced HPC pea protein has the same physical properties, is marketed and sold through the same distribution channels, is purchased by the same end users, is used in the same end uses, and is interchangeable with subject goods. Consequently, the subject goods compete directly with domestic like goods.

[32] For the purposes of this analysis, like goods consist of domestically produced HPC pea protein described in the product definition.

[33] After considering questions of use, physical characteristics and all other relevant factors, the CBSA is of the opinion that subject goods and like goods constitute only one class of goods.

[34] In its preliminary injury inquiry for these investigations, the CITT further reviewed the matter of like goods and classes of goods. On July 5, 2024, the CITT issued its preliminary inquiry *Statement of Reasons*, indicating that:

*“For the purposes of this inquiry, the Tribunal is also satisfied that there is insufficient evidence to find that there is more than a single class of goods..”*¹²

¹¹ Exhibit 2 (NC) – HPC Complaint – paras. 41-48

¹² Canadian International Trade Tribunal; Preliminary Injury Inquiry – Pea Protein – *Statement of Reasons* (July 5, 2024), PI-2024-001, para. 36

THE CANADIAN INDUSTRY

[35] The domestic industry is comprised of only the complainants. The CBSA conducted independent research but could not identify any other producers in Canada. Based on the available evidence, the CBSA is satisfied that the complainants account for all known production of like goods produced in Canada.

IMPORTS INTO CANADA

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

[37] The following table presents the CBSA's analysis of imports of HPC pea protein for the purposes of the preliminary determinations:

**Import Volume of HPC Pea Protein
(January 1, 2023 to December 31, 2023)**

Country	% of Total Import Volume
China	62.1%
All Other Countries	37.9%
Total	100%

INVESTIGATIONS PROCESS

[38] Regarding the dumping investigation, information was requested from all known and potential exporters, producers, vendors and importers, concerning shipments of HPC pea protein released into Canada during the POI.

[39] Regarding the subsidy investigation, information related to potential actionable subsidies was requested from all known and potential exporters and producers in China. Information was also requested from the GOC concerning financial contributions made to exporters or producers of HPC pea protein released into Canada during the POI. The GOC was also requested to forward the RFIs to all subordinate levels of government that had jurisdiction over the exporters.

[40] The GOC and the exporters/producers were also notified that failure to submit all required information and documentation, including non-confidential versions, failure to comply with all instructions contained in the RFI, failure to permit verification of any information or failure to provide documentation requested during the verification visits or the desk audits may result in the margin of dumping, the amount of subsidy and the assessment of dumping and/or countervailing duties on subject goods being based on facts available to the CBSA. Further, they were notified that determinations on the basis of facts available could be less favorable to them than if complete, verifiable information was made available.

[41] Several parties (i.e., importers and exporters) requested an extension to respond to their respective RFIs. The CBSA reviewed each request but extensions were not granted as the reasons for making the requests did not constitute unforeseen circumstances or unusual burdens.

[42] After reviewing the RFI responses, supplemental RFIs (SRFIs) were sent to respondents who submitted complete submissions, in order to clarify information provided in the responses and request additional information, where necessary.

[43] For the responding parties that did not provide complete information, deficiency letters were sent, in order to notify them that information was missing and that without the missing information, preliminary determinations would be made on the basis of facts available.

[44] Preliminary determinations are based on the information available to the CBSA at the time of the preliminary determinations. During the final phase of the investigations, the CBSA will continue to collect and verify information, the results of which will be incorporated into the CBSA's final decisions, which must be made by October 21, 2024.

REPRESENTATIONS

[45] During the preliminary phase of the investigations, counsel for the complainant made representations concerning various exhibits on the administrative records, including certain RFI responses¹³ These representations concern topics including the accuracy and completeness of information provided, government involvement with certain companies and sectors, the relationships between certain parties, and other missing or unclear information provided in the RFI responses. The complainants argue that certain exporter submissions should be considered deficient due to these concerns.

[46] The CBSA has noted the arguments submitted in these representations and will take them into consideration in the course of analyzing and verifying information for the purposes of the final decisions.

Section 20

[47] In addition to the representations above, counsel for the complainants made representations alleging that the conditions described in section 20 prevail in the HPC pea protein sector in China.¹⁴ The representations contained new information to support the claim, previously alleged in the complaint, that the GOC substantially determines domestic prices of HPC pea protein and that the prices are substantially different than they would be in a competitive market and that the CBSA should initiate a section 20 inquiry.

¹³ Exhibit 120 (NC), 122 (NC), 133 (NC), 157(NC), 159 (NC) and 161 (NC) – Comments submitted by counsel for Nutri-Pea and Roquette Canada concerning exporter responses

¹⁴ Exhibit 118 (NC), 193 (NC), 197 (NC) and 199 (NC) comments submitted by counsel for Nutri-Pea and Roquette Canada concerning the application of section 20

[48] Section 20 is a provision of SIMA that may be applied to determine the normal values 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, it is applied where, in the opinion of the CBSA, 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.¹⁵

[49] A section 20 inquiry refers to the process whereby the CBSA collects information from various sources in order to form an opinion as to whether the conditions described under subsection 20(1) of SIMA exist with respect to the sector under investigation.

[50] For purposes of the dumping preliminary determinations, the CBSA analyzed the new information submitted by counsel for the complainants together with the information provided in the complaint and the evidence it has gathered independently to determine whether an inquiry under section 20 is warranted. As a result, notwithstanding the new information submitted on the administrative record by counsel subsequent to the initiation of the investigation and the CBSA's additional research, there continues to be insufficient evidence to support initiating a section 20 inquiry.

DUMPING INVESTIGATION

Normal Value

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

Export Price

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

¹⁵ China is a prescribed country under section 17.1 of the *Special Import Measures Regulations*

[53] 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

[54] 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

[55] For the purposes of the preliminary determination, the CBSA has received sufficient information from five exporters to estimate margins of dumping. A summary of the exporters that provided a response to the dumping RFI is provided below.

[56] Although the CBSA received dumping RFI responses from seven exporters of subject goods originating in or exported from China, responses from Hainan Zhongxin Chemical Co., Ltd. and Nura USA, LLC were insufficient for the purposes of the preliminary determination.

Shandong Jianyuan Bioengineering Co., Ltd.

[57] Shandong Jianyuan Bioengineering Co., Ltd. (Jianyuan Bioengineering) is a privately held limited liability company established in 2020. Jianyuan Bioengineering is a manufacturer of pea protein, pea starch and other co-products.

[58] Subject goods shipped to Canada during the POI were produced in Jianyuan Bioengineering's manufacturing facility located in Shandong, China and in its additional wholly owned manufacturing facility, Hengyuan Biotechnology Co., Ltd., also located in Shandong, China. All subject goods shipped to Canada during the POI were sold through Jianyuan Bioengineering's trading subsidiary, Jianyuan International Co., Ltd.

[59] Exports by Jianyuan Bioengineering represents 5.3% of the volume of subject goods shipped to Canada from China during the POI.

[60] Jianyuan Bioengineering, Hengyuan Biotechnology Co., Ltd. and Jianyuan International Co., Ltd. each provided a substantially complete response to the dumping RFI. A supplemental RFI (SRFI) was sent to each entity to gather additional information and seek clarification regarding its original response.

[61] During the POI, both of Jianyuan Bioengineering's manufacturing facilities had sufficient sales of like goods in the domestic market that met the conditions of sections 15 and 16 of SIMA. As such, normal values were estimated pursuant to section 15 of SIMA, based on domestic selling prices of like goods.

[62] Jianyuan Bioengineering exported subject goods to several unrelated importers in Canada during the POI. Export prices for the subject goods were estimated in accordance with section 24 of SIMA, based on the lesser of the exporter's selling price and the importer's purchase price, adjusted by deducting the costs, charges and expenses incurred in preparing the goods for shipment to Canada and resulting from the exportation and shipment of the goods.

[63] The total estimated normal value compared to the total estimated export price results in an estimated margin of dumping of 0% for Jianyuan Bioengineering, expressed as a percentage of the export price.

Yantai Shuangta Food Co., Ltd

[64] Yantai Shuangta Food Co., Ltd (Shuangta) is publically traded limited liability company established in 1992. Shuangta manufactures multiple products from peas, including vermicelli, pea starch, pea protein and pea fiber products.

[65] The subject goods shipped in Canada during the POI were produced in Shuangta's manufacturing facility located in Shandong, China. All subject goods shipped to Canada during the POI were sold through its wholly owned trading subsidiary, Zhaoyuan Junbang Trading Co., Ltd.

[66] Exports by Shuangta represents 18.9% of the volume of subject goods shipped to Canada from China during the POI.

[67] Shuangta and Zhaoyuan Junbang Trading Co., Ltd. each provided responses to the dumping RFI. A SRFI was sent to both entities to gather additional information and seek clarification regarding their original responses.

[68] During the POI, Shuangta had sufficient sales of like goods in the domestic market that met the conditions of sections 15 and 16 of SIMA. As such, normal values were estimated pursuant to section 15 of SIMA, based on domestic selling prices of like goods.

[69] Shuangta exported subject goods to several unrelated importers in Canada during the POI. Export prices for the subject goods were estimated in accordance with section 24 of SIMA, based on the lesser of the exporter's selling price and the importer's purchase price, adjusted by deducting the costs, charges and expenses incurred in preparing the goods for shipment to Canada and resulting from the exportation and shipment of the goods.

[70] The total estimated normal value compared to the total estimated export price results in an estimated margin of dumping of 0% for Shuangta, expressed as a percentage of the export price.

Yantai Oriental Protein Tech Co., Ltd

[71] Yantai Oriental Protein Tech Co., Ltd (Oriental) is a privately held limited liability company established in 2008. Oriental is a manufacturer and exporter of pea protein, pea starch and other co-products.

[72] All subject goods released into Canada during the POI were produced in Oriental's manufacturing facility located in Shandong, China. Both Oriental and its related trading company, Yantai Zhongzhen Trading Co., Ltd., sold good produced by Oriental to Canada.

[73] Exports by Oriental represents 0.8% of the volume of subject goods shipped to Canada from China during the POI.

[74] Oriental and Yantai Zhongzhen Trading Co., Ltd. each provided a substantially complete response to the dumping RFI. SRFIs were sent to both entities to gather additional information and seek clarification regarding their original responses.

[75] During the POI, Oriental had sufficient sales of like goods in the domestic market that met the conditions of sections 15 and 16 of SIMA. As such, normal values were estimated pursuant to section 15 of SIMA, based on domestic selling prices of like goods.

[76] Oriental exported subject goods to three unrelated importers in Canada during the POI. Export prices for the subject goods were estimated in accordance with section 24 of SIMA, based on the lesser of the exporter's selling price and the importer's purchase price, adjusted by deducting the costs, charges and expenses incurred in preparing the goods for shipment to Canada and resulting from the exportation and shipment of the goods.

[77] The total estimated normal value compared to the total estimated export price results in an estimated margin of dumping of 0% for Oriental, expressed as a percentage of the export price.

Yantai Yiyuan Biological Engineering Co., Ltd.

[78] Yantai Yiyuan Biological Engineering Co., Ltd. (Yiyuan) is a privately held limited liability company established in 2019. All subject goods shipped to Canada during the POI were produced in Yiyuan's manufacturing facility located in Shandong, China.

[79] Exports by Yiyuan represents 0.1% of the volume of subject goods shipped to Canada from China during the POI.

[80] The response to the dumping RFI from Yiyuan was substantially complete. A SRFI was sent to Yiyuan to gather additional information and seek clarification regarding its original response.

[81] During the POI, Yiyuan did not have sufficient sales of like goods in the domestic market that met the conditions of sections 15 and 16 of SIMA. As such, normal values were estimated pursuant to paragraph 19(b) of SIMA. A reasonable amount for profits was estimated under subparagraph 11(1)(b)(iii) of the SIMR, using the weighted average profit made on the sales by other producers in the country of export.

[82] Yiyuan exported subject goods to one unrelated importer in Canada during the POI. Export prices for the subject goods were estimated in accordance with section 24 of SIMA, based on the lesser of the exporter's selling price and the importer's purchase price, adjusted by deducting the costs, charges and expenses incurred in preparing the goods for shipment to Canada and resulting from the exportation and shipment of the goods.

[83] The total estimated normal value compared to the total estimated export price results in an estimated margin of dumping of 0% for Yiyuan, expressed as a percentage of the export price.

Yantai T.Full Biotech Co., Ltd.

[84] Yantai T.Full Biotech Co., Ltd. (Yantai T.Full) is a privately held limited liability company established in 2011. All subject goods shipped to Canada during the POI were produced in Yantai T.Full's manufacturing facility located in Shandong, China.

[85] Exports by Yantai T.Full represents 5.4% of the volume of subject goods shipped to Canada from China during the POI.

[86] The response to the dumping RFI from Yantai T.Full was substantially complete. A SRFI was sent to Yantai T.Full to gather additional information and seek clarification regarding their original response.

[87] During the POI, Yantai T.Full had sufficient sales of like goods in the domestic market that met the conditions of sections 15 and 16 of SIMA. As such, normal values were estimated pursuant to section 15 of SIMA, based on domestic selling prices of like goods.

[88] Yantai T.Full exported subject goods to several unrelated importers in Canada during the POI. Export prices for the subject goods were estimated in accordance with section 24 of SIMA, based on the lesser of the exporter's selling price and the importer's purchase price, adjusted by deducting the costs, charges and expenses incurred in preparing the goods for shipment to Canada and resulting from the exportation and shipment of the goods.

[89] The total estimated normal value compared to the total estimated export price results in an estimated margin of dumping of 12.0% for Yantai T.Full, expressed as a percentage of the export price.

All Other Exporters – China

[90] For exporters of subject goods that did not provide a response to the dumping RFI or did not furnish sufficient information, the normal values and export prices were estimated on the basis of facts available.

[91] In establishing the methodology for estimating the normal values and export prices for all other exporters from China, the CBSA considered all of the information on the administrative record, including the complaint filed by the domestic industry, the CBSA's estimates at the initiation of the investigations, information submitted by parties who responded to the dumping RFI, and CBSA customs entry documentation.

[92] The CBSA decided that the normal values and export prices estimated for the exporter from China whose submission was complete for purposes of the preliminary determination, rather than the information provided in the complaint or estimated at initiation, would be used to establish the methodology for estimating normal values for all other exporters of subject goods from China since it is more relevant and reflects the trading practices of a Chinese exporter of subject goods during the POI.

[93] The CBSA examined the difference between the estimated normal value and the estimated export price for each individual transaction of exporters who provided complete submissions for purposes of the preliminary determination, and considered that the highest amount (expressed as a percentage of the export price), was an appropriate basis for estimating normal values. The transactions were examined to ensure that no anomalies were considered, such as very low volume and value, effects of seasonality or other business factors. This methodology relies on information related to goods that originated in China and in general, provides an incentive for exporters to participate by ensuring that exporters who have provided the necessary information requested in a dumping investigation will always have a more favourable outcome than those who have not participated.

[94] 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.

[95] Using the above methodologies, for the preliminary determination, the estimated margin of dumping for all other exporters in China is 34.8%, expressed as a percentage of the export price.

Summary of Preliminary Results – Dumping

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

Summary of Preliminary Results - Dumping Period of Investigation (January 1, 2023 to December 31, 2023)

Exporter / Country of Origin or Export	Estimated Margin of Dumping (% of Export Price)	Estimated Volume of Subject Goods (% of Total Imports)
Shandong Jianyuan Bioengineering Co., Ltd.	0%	3.3%
Yantai Shuangta Food Co., Ltd.	0%	11.8%
Yantai Oriental Protein Tech Co., Ltd.	0%	0.5%
Yantai Yiyuan Biological Engineering Co., Ltd.	0%	0.1%
Yantai T. Full Biotech Co., Ltd.	12%	3.4%
All Other Exporters	34.8%	43.0%
Total China		62.1%
All Other Countries		37.9%
All Countries		100%

Negligibility

[97] 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.

[98] Pursuant to subsection 2(1) of SIMA, the 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.

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

Insignificance

[100] If, in making a preliminary determination, the CBSA determines that the margin of dumping of the goods of a particular exporter 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. 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.

[101] The margin of dumping estimated for Shandong Jianyuan Bioengineering Co., Ltd.; Yantai Shuangta Food Co., Ltd.; Yantai Oriental Protein Tech Co., Ltd.; and Yantai Yiyuan Biological Engineering Co., Ltd. are below 2% of the export price and are therefore insignificant. As a result, the investigation will continue in respect of these goods but provisional anti-dumping duty will not be imposed on subject goods imported into Canada from these exporters during the provisional period

[102] For all other exporters, the estimated margin of dumping, expressed as a percentage of the export price, is above 2% and is, therefore, not insignificant. In respect of these goods, provisional anti-dumping duties will be imposed on goods of the same description imported during the provisional period.

[103] A summary of the estimated margins of dumping and provisional duties by exporter is presented in **Appendix 1**.

SUBSIDY INVESTIGATION

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

[105] Pursuant to subsection 2(1.6) of SIMA, there is a financial contribution by a government of a country other than Canada where:

- (a) practices of the government involve the direct transfer of funds or liabilities or the contingent transfer of funds or liabilities;
- (b) amounts that would otherwise be owing and due to the government are exempted or deducted or amounts that are owing and due to the government are forgiven or not collected;
- (c) the government provides goods or services, other than general governmental infrastructure, or purchases goods; or
- (d) the government permits or directs a non-governmental body to do anything referred to in any of paragraphs (a) to (c) where the right or obligation to do the thing is normally vested in the government and the manner in which the non-governmental body does the thing does not differ in a meaningful way from the manner in which the government would do it.

[106] Where subsidies exist, they may be subject to countervailing measures if they are specific in nature. According to subsection 2(7.2) of SIMA a subsidy is considered to be specific when it is limited, in a legislative, regulatory or administrative instrument, or other public document, to a particular enterprise within the jurisdiction of the authority that is granting the subsidy; or is a prohibited subsidy.

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

[108] Notwithstanding that a subsidy is not specific in law, under subsection 2(7.3) of SIMA a subsidy may also be considered specific having regard as to whether:

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

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

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

PRELIMINARY RESULTS OF THE SUBSIDY INVESTIGATION

[111] At the initiation of the subsidy investigation, the CBSA sent subsidy RFIs to the GOC, as well as to all known exporters/producers of pea protein in China.

[112] The GOC was also requested to forward the subsidy RFI to all subordinate levels of government that had jurisdiction over the exporters. The exporters/producers were requested to forward a portion of the subsidy RFI to their input suppliers, who were asked to respond to questions pertaining to their legal characterization as SOEs.

[113] The GOC did not respond to the CBSA's government subsidy RFI. The lack of response from the GOC limited the CBSA's ability to estimate the amount of subsidy in the prescribed manner as the required information relating to financial contribution, benefit and specificity was not provided. It also limited the CBSA's ability to determine whether producers, or other suppliers of goods and services, are public bodies.

[114] Although the GOC did not reply to the CBSA's government subsidy RFI, the CBSA nevertheless recognized the exporters' level of cooperation and estimated an amount of subsidy for cooperative exporters. The amount of subsidy is estimated for the preliminary determination for the cooperative exporters on the basis of information provided by the exporters in their subsidy RFI responses and other publicly available information on the record.

[115] In conducting its investigation, the CBSA requested information respecting 16 potential subsidy programs. After reviewing a list of additional subsidy programs reported by the parties that responded to the subsidy RFI, the total list of programs increased to 26, as listed in Appendix 2.

[116] The CBSA will continue to analyze the submitted information during the final phase of the investigation. The CBSA may also consider any other potential subsidy programs that have not yet been identified.

[117] For the purposes of the preliminary determination, the CBSA has received sufficient information from five exporters to estimate amounts of subsidy. An account of the subsidies received by the exporters that provided a response to the subsidy RFI is provided below.

[118] Although the CBSA received subsidy RFI responses from six exporters of subject goods originating in or exported from China, the responses from Hainan Zhongxin Chemical Co., Ltd. was insufficient for the purposes of the preliminary determination. A letter has been sent out noting deficiencies and advised exporter to provide a revised subsidy RFI response promptly to ensure that the CBSA has sufficient time to review, analyze and verify the information provided.

Shandong Jianyuan Bioengineering Co., Ltd.

[119] Jianyuan Bioengineering provided a response to the subsidy RFI. For purposes of the preliminary determination, Jianyuan Bioengineering was found to have received countervailable benefits from nine subsidy programs.

- Program 1: Preferential Loans and loan guarantees
- Program 4: Interest Reduction and Profit Concession of Small and Micro Loans
- Program 7: Export assistance grants & other export development performance grants
- Program 10: Grants for encouraging protein enterprises to increase R&D investment and improve scientific and technological innovation capabilities
- Program 13: Subsidies Related to Science and Technology
- Program 14: Subsidies related to Related to Employment, Training and Recruitment
- Program 19: Preferential tax policies related to research and investment
- Program 23: Municipal/local income or property tax reductions

Program 24: VAT refund for comprehensive resource utilization products and services

[120] Further to its analysis of the information on the administrative record, the CBSA considers that the above subsidy programs may constitute a financial contribution that confers a benefit to the exporter. The CBSA also considers these programs may be specific and therefore actionable.

[121] For purposes of the preliminary determination, the estimated amount of subsidy Jianyuan Bioengineering is 1.5%, expressed as a percentage of the export price.

Yantai Shuangta Food Co., Ltd.

[122] Shuangta provided a response to the subsidy RFI. For purposes of the preliminary determination, Shuangta was found to have received countervailable benefits from nine subsidy programs.

- Program 1: Preferential Loans and loan guarantees
- Program 3: Preferential export financing and export credit guarantee/insurance
- Program 8: Design, research and development grants
- Program 10: Grants for encouraging protein enterprises to increase R&D investment and improve scientific and technological innovation capabilities
- Program 11: Pollution Control Award
- Program 12: Subsidies Related to Company/Enterprise Development and Innovation
- Program 13: Subsidies Related to Science and Technology
- Program 14: Subsidies related to Related to Employment, Training and Recruitment
- Program 15: Subsidies Related to Building

[123] Further to its analysis of the information on the administrative record, the CBSA considers that the above subsidy programs may constitute a financial contribution that confers a benefit to the exporter. The CBSA also considers these programs may be specific and therefore actionable.

[124] For purposes of the preliminary determination, the estimated amount of subsidy for Shuangta is 1.3%, expressed as a percentage of the export price.

Yantai Oriental Protein Tech Co., Ltd.

[125] Oriental provided a response to the subsidy RFI. For purposes of the preliminary determination, Oriental was found to have received countervailable benefits from 11 subsidy programs.

- Program 1: Preferential Loans and Loan Guarantees
- Program 5: Interest subsidy for leading enterprises
- Program 7: Export Assistance Grants & Other Export Development Performance Grants
- Program 8: Design, Research and Development Grants

- Program 11: Pollution Control Award
- Program 12: Subsidies Related to Company/Enterprise Development and Innovation
- Program 13: Subsidies Related to Science and Technology
- Program 14: Subsidies related to Related to Employment, Training and Recruitment
- Program 17: Corporate Income Tax Reduction for New High Tech Enterprises (“NHTE”)
- Program 18: Corporate income tax reduction for micro and small enterprises
- Program 24: VAT refund for comprehensive resource utilization products and services

[126] Further to its analysis of the information on the administrative record, the CBSA considers that the above subsidy programs may constitute a financial contribution that confers a benefit to the exporter. The CBSA also considers these programs may be specific and therefore actionable.

[127] For purposes of the preliminary determination, the estimated amount of subsidy for Oriental is 1.1%, expressed as a percentage of the export price.

Yantai Yiyuan Biological Engineering Co., Ltd.

[128] Yiyuan provided a response to the subsidy RFI. For purposes of the preliminary determination, Yiyuan was found to have received countervailable benefits from three subsidy programs.

- Program 6: Foreign trade development fund grants
- Program 8: Design, Research and Development Grants
- Program 24: VAT refund for comprehensive resource utilization products and services

[129] Further to its analysis of the information on the administrative record, the CBSA considers that the above subsidy programs may constitute a financial contribution that confers a benefit to the exporter. The CBSA also considers these programs may be specific and therefore actionable.

[130] For purposes of the preliminary determination, the estimated amount of subsidy for Yiyuan is 2.2%, expressed as a percentage of the export price.

Yantai T.Full Biotech Co., Ltd.

[131] Multiple programs were found to have conferred benefits to the exporter by being passed-through from its related supplier, Zhaoyuan Baofa Foodstuffs Co., Ltd., during the purchase of raw materials. The CBSA attributed the subsidies received by the supplier to the goods exported to Canada because of the relationship between the parties. The CBSA has concluded that a subsidy pass-through test is not required given the relation between the exporter and the related supplier. Consequently, any actionable subsidies received by the related supplier which are attributable to the goods under investigation and exported to Canada, was aggregated with those directly received by the exporter.

[132] Yantai T.Full provided a response to the subsidy RFI. For purposes of the preliminary determination, Yantai T.Full was found to have received countervailable benefits from eight subsidy programs, including pass-through subsidies from their related supplier.

- Program 1: Preferential Loans and loan guarantees
- Program 8: Design, research and development grants
- Program 11: Pollution Control Award
- Program 12: Subsidies Related to Company/Enterprise Development and Innovation
- Program 13: Subsidies Related to Science and Technology
- Program 14: Subsidies related to Related to Employment, Training and Recruitment
- Program 16: Insurance Grants
- Program 23: Municipal/local income or property tax reductions

[133] Further to its analysis of the information on the administrative record, the CBSA considers that the above subsidy programs may constitute a financial contribution that confers a benefit to the exporter. The CBSA also considers these programs may be specific and therefore actionable.

[134] For purposes of the preliminary determination, the estimated amount of subsidy for Yantai T.Full is 0.8%, expressed as a percentage of the export price.

All Other Exporters – China

[135] For other exporters of subject goods that did not provide a response to the subsidy RFI or did not furnish sufficient information, the CBSA estimated an amount of subsidy on the basis of the following methodology:

1. the highest amount of subsidy for each of the 19 programs, as found at the preliminary determination, for the producers/exporters located in China for whom the CBSA has sufficient information to estimate an amount of subsidy, plus;
2. the highest amount of subsidy for the 19 programs listed in (1), applied to each of the remaining seven potentially actionable subsidy programs for which sufficient information is not available or has not been provided at the preliminary determination.

[136] In establishing the methodology for estimating the amount of subsidy for all other exporters from China, the CBSA considered all of the information on the administrative record, including the complaint filed by the domestic industry, the CBSA's estimates at the initiation of the investigation, and information submitted by the exporter, as well as their related affiliates in China who responded to the subsidy RFI.

[137] This methodology relies on information related to potentially actionable subsidies in China. It recognizes that the GOC did not provide a response to the subsidy RFI (thereby impeding the CBSA’s ability to make a fully informed decision), and in general, provides an incentive for exporters to participate by limiting the advantage that an exporter may gain from not providing necessary information requested in a subsidy investigation as compared to an exporter that did provide the necessary information.

[138] Using the above methodology, for the preliminary determination, the estimated amount of subsidy for all other exporters in China is 19.8%, expressed as a percentage of the export price.

Summary of Preliminary Results – Subsidy

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

Summary of Preliminary Results - Subsidy Period of Investigation (January 1, 2023 to December 31, 2023)

Exporter / Country of Origin or Export	Estimated Amount of Subsidy (% of Export Price)	Estimated Volume of Subject Goods (% of Total Imports)
Shandong Jianyuan Bioengineering Co., Ltd.	1.5%	3.3%
Yantai Shuangta Food Co., Ltd.	1.3%	11.8%
Yantai Oriental Protein Tech Co., Ltd	1.1%	0.5%
Yantai Yiyuan Biological Engineering Co., Ltd	2.2%	0.1%
Yantai T.Full Biotech Co., Ltd.	0.8%	3.4%
All Other Exporters	19.8%	43.0%
Total China		62.1%
All Other Countries		37.9%
Total		100%

Negligibility

[140] 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.

[141] Pursuant to subsection 2(1) of SIMA, the 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.

[142] As can be seen from the above table, the volume of subject goods from China is above 3% of the total volume of goods released into Canada from all countries. Based on the provisions above, the volume of subject goods from China is, therefore, not negligible.

Insignificance

[143] If, in making a preliminary determination, the CBSA determines that the amount of subsidy on the goods of an exporter 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.

[144] Pursuant to subsection 2(1) of SIMA, an amount of subsidy of less than 1% of the export price of the goods is defined as insignificant.

[145] The amount of subsidy estimated for Yantai T.Full Biotech Co., Ltd. is below 1% of the export price and was, therefore, determined to be insignificant. As a result, the investigation will continue in respect of these goods but provisional countervailing duty will not be imposed on subject goods imported into Canada from this exporter during the provisional period.

[146] For all other exporters, the estimated amount of subsidy, expressed as a percentage of the export price, is above 1% and is, therefore, not insignificant. In respect of these goods, provisional countervailing duties will be imposed on goods of the same description imported during the provisional period.

[147] A summary of the estimated amounts of subsidy and provisional duties by exporter is presented in **Appendix 1**.

DECISIONS

[148] On July 22, 2024, pursuant to subsection 38(1) of SIMA, the CBSA made preliminary determinations of dumping and subsidizing respecting HPC pea protein originating in or exported from China.

PROVISIONAL DUTY

[149] Pursuant to subsection 8(1) of SIMA, provisional duties payable by the importer in Canada will be applied to dumped and subsidized imports of HPC pea protein that are released from the CBSA during the period commencing on the day the preliminary determinations are made and ending on the earlier of the day on which the CBSA causes the investigations in respect of any goods 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 duties is needed to prevent injury. As noted in the CITT's preliminary determination, there is evidence that discloses a reasonable indication that the dumping and subsidizing of HPC pea protein have caused injury or are threatening to cause injury to the domestic industry.

[150] Imports of HPC pea protein originating in or exported from China, and released by the CBSA on or after July 22, 2024, will be subject to provisional duties equal to the sum of the estimated margin of dumping and estimated amount of subsidy, expressed as a percentage of the export price of the goods per exporter. **Appendix 1** contains the estimated margins of dumping, estimated amounts of subsidy and the rates of provisional duties.

[151] Importers are required to pay provisional duties in cash or by certified cheque. Alternatively, they may post security equal to the amount payable. Importers should contact their CBSA regional office if they require further information on the payment of provisional duties 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

[152] The CBSA will continue its investigations of the dumping and subsidizing and will make final decisions by October 21, 2024.

[153] If the margins of dumping or amounts of subsidy of any exporter are found to be insignificant, the CBSA will terminate the investigation in respect of goods of that exporter and any provisional duties paid or security posted will be refunded to importers, as appropriate. If the CBSA is satisfied that the goods were dumped and/or subsidized, final determinations will be made.

The Canadian International Trade Tribunal

[154] The CITT has begun its inquiry into the question of injury to the Canadian industry. The CITT is expected to issue its finding by November 19, 2024.

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

[156] 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 HPC pea protein that are of the same description as goods described in the CITT's finding.

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

[158] If the CITT makes a finding that the subsidizing has caused injury, retardation or is threatening to cause injury, countervailing duty in the amount equal to the amount of subsidy on the imported goods will be levied, collected and paid on imports of HPC pea protein that are of the same description as goods described in the CITT's finding.

[159] For purposes of the preliminary determinations of dumping or subsidizing, the CBSA has responsibility for determining whether the actual and potential volume of goods is negligible. After preliminary determinations of dumping or subsidizing, the CITT assumes this responsibility. 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 or subsidized goods from a country is negligible.

RETROACTIVE DUTY ON MASSIVE IMPORTATIONS

[160] Under certain circumstances, anti-dumping and/or countervailing 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 and/or subsidized goods that were imported close to or after the initiation of the investigations 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 and/or subsidized goods that caused injury, imports of subject goods released by the CBSA in the 90 days preceding the day of the preliminary determinations could be subject to anti-dumping and/or countervailing duty.

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

UNDERTAKINGS

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

[163] Similarly, after a preliminary determination of subsidizing by the CBSA, other than a preliminary determination in which a determination was made that the amount of subsidy on the goods is insignificant, 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.

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

[165] 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 email address to one of the officers identified in the "*Information*" section of this document.

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

PUBLICATION

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

INFORMATION

[168] This *Statement of Reasons* is 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, 11th floor
Ottawa, Ontario K1A 0L8
Canada

Telephone: Andy Fei 343-553-1866
Heath McKenzie 343-574-9246

Email: simaregistry-depotlmsi@cbsa-asfc.gc.ca

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



Alex Lawton
A/ Director General
Trade and Anti-dumping Programs Directorate

ATTACHMENTS

Appendix 1: Summary of Estimated Margin of Dumping, Estimated Amount of Subsidy and Provisional Duty Payable

Appendix 2: Summary of Preliminary Findings for Subsidy Programs

**APPENDIX 1 – SUMMARY OF ESTIMATED MARGIN OF DUMPING,
ESTIMATED AMOUNT OF SUBSIDY AND PROVISIONAL DUTY PAYABLE**

The following table lists the estimated margin of dumping, the estimated amount of subsidy, and the provisional duty by exporter as a result of the decisions mentioned above. Imports of subject goods released from the Canada Border Services Agency on or after July 22, 2024, will be subject to provisional duty at the rate specified below.

Exporter	Estimated Margin of Dumping (% of Export Price)	Estimated Amount of Subsidy (% of Export Price)	Provisional Duties (% of Export Price)
Shandong Jianyuan Bioengineering Co., Ltd.	0%	1.5%	1.5%
Yantai Shuangta Food Co., Ltd.	0%	1.3%	1.3%
Yantai Oriental Protein Tech Co., Ltd.	0%	1.1%	1.1%
Yantai Yiyuan Biological Engineering Co., Ltd.	0%	2.2%	2.2%
Yantai T. Full Biotech Co., Ltd.	12.0%	0.8%*	12.0%
All Other Exporters	34.8%	19.8%	54.6%

* The estimated amount of subsidy on pea protein from this exporter is insignificant. As such, no provisional countervailing duties will be assessed on subject goods from this exporter.

APPENDIX 2 – SUMMARY OF PRELIMINARY FINDINGS FOR SUBSIDY PROGRAMS

As noted in the body of this document, the GOC did not provide a response to the subsidy RFI, which significantly impeded the CBSA's ability to conduct a proper analysis of the potential subsidy programs for the preliminary determination. However, in recognition of the cooperation and the volume of information provided by the cooperative exporters and their related affiliates, the CBSA has estimated the amount of subsidy based on the information provided in the responses to the subsidy RFI.

The CBSA included a list of 16 potential subsidy programs at the initiation of the investigation. For purposes of the preliminary determination, an additional 10 programs were identified for a total number of 26 potentially actionable subsidy programs, and the cooperative exporters were found to have been receiving benefits from a total of 19 programs. Of these programs, 9 were considered to be from the initial list of 16, while the remaining 10 were considered as programs not previously identified.

This Appendix consists of descriptions of the subsidy programs which responding cooperative exporters benefited from during the course of the POI and other potentially actionable subsidy programs identified by the CBSA that were not used by the responding exporters during the POI.

The CBSA has used the best information available to describe the potentially actionable subsidy programs that were not used by the responding exporters in the current investigation. This includes using information in the complaint, as well as information obtained from the CBSA's research on potential subsidy programs in China.

Potentially Actionable Subsidy Programs

Category 1: Preferential Loans and Loan Guarantees

Program 1: Preferential Loans and Loan Guarantees

This program relates to government loans at a preferential rate of interest. The benefit provided in this case is a lower rate of interest than would otherwise be available if the enterprises had to obtain a non-guaranteed commercial loan (i.e. the benchmark non-guaranteed commercial loan). Financial institutions may be considered to constitute "government" if they possess, exercise or are vested with government authority, which may be indicated by the following factors:

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

The CBSA has previously countervailed this program in *Fabricated Industrial Steel Components (FISC)*, *Carbon and Alloy Steel Line Pipe (Line Pipe)*, *Pup Joints*, *Oil Country Tubular Goods (OCTG)*, *Seamless Casing*, *Upholstered Domestic Seating (UDS)*, *Mattresses* and *Wind Towers*.

This program 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 or exempted, and would confer a benefit to the recipient equal to the amount of the reduction/exemption. The program 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.

Program 2: Zhaoyuan Municipal Policy Loans

The city of Zhaoyuan is the largest HPC pea protein production base accounting for 80% of China's production. According to a reply to a proposal 'Recommendations for Strengthening the Protein Health Industry', the municipal government of Zhaoyuan has set up the Zhaoyuan City "National Foreign Trade Transformation and Upgrading Base certification, in order to lay out the foundation for the development of the high-end protein industry, including pea protein. The Municipal Government of Zhaoyuan provides support with loan guarantees to continue to upgrade the link between the upstream and downstream portions of the industrial chain.

Given the focus of this program on the protein-health sector and in particular HPC pea protein, it is likely that producers in Zhaoyuan have received benefits under these programs. The benefit arising is equal to the difference between what the recipient pays on the loan and the amount that it otherwise would pay on a comparable commercial loan absent a guarantee.

This program 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 or exempted, and would confer a benefit to the recipient equal to the amount of the reduction/exemption. The program 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.

Program 3: Preferential Export Financing and Export Credit Guarantee/Insurance

The China Export & Credit Insurance Corporation (Sinasure) is a state funded policy oriented insurance company that was established to promote China's foreign trade and economic cooperation. The China Exim Bank and Sinasure each provide export credit guarantees which, according to information from the Bank, have "played a key role in supporting Chinese companies to go global" and promoted "the export of new and high tech products".

The CBSA has previously countervailed this program in *Line Pipe*, *UDS*, and *Mattresses*.

In a recent preliminary determination of the countervailing duty investigation by the United States Department of Commerce (USDOC) into certain pea protein from China, it appears that they countervailed this program as "Export Buyer's Credit".

This program may constitute a financial contribution pursuant to paragraph 2(1.6)(b) of SIMA; i.e., 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. The above confers a benefit to the exporter by way of reducing its financial costs upon obtaining loans from a financial institution, and the benefit is equal to the amount of the exemption/deduction. The program 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.

Program 4: Interest Reduction and Profit Concession of Small and Micro Loans

Under this program the Yantai Finance Bureau provides loans subsidies for interest reduction purposes to leading enterprises of agricultural industrialization within the Shandong Province.

This program 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 or exempted, and would confer a benefit to the recipient equal to the amount of the reduction/exemption. The program 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.

Category 2: Grants and Grant Equivalent

Program 5: Interest subsidy for leading enterprises

Under this program the Yantai Agriculture and Rural Bureau for Financial Allocation provides loan subsidies for leading enterprises of agricultural industrialization in Shandong province.

This program appears to be a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA as a direct transfer of funds from the government and confers a benefit to the recipient equal to the amount of the grant. The program 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.

Program 6: Foreign Trade Development Fund Grants

Under this program the GOC provides funding support for projects undertaken by exporting enterprises to: improve the competitiveness of their exported products; to develop an export processing base; to support the registration of trademarks in foreign countries; to support the training of foreign trade professional; and, to explore international markets.

Evidence provided in the complaint suggests that known exporters of HPC pea protein have obtained grants from the GOC's Foreign Trade Development Fund. The CBSA has previously countervailed this program in *Decorative and Other Non-structural Plywood (Plywood)*.

The financial contribution by the government is the direct transfer of funds pursuant to section 2(1.6)(a) of SIMA. The program may be considered specific pursuant to subsection 2(7.2)(b) of SIMA as a prohibited export-contingent subsidy.

Program 7: Export Assistance Grants & Other Export Development Performance Grants

Companies in China receive such grants provided by the GOC to assist in the development of export markets or to recognize export performance.

The CBSA has previously countervailed this program in *Sucker Rods, OCTG, Unitized Wall Modules, Galvanized Steel Wire, Aluminum Extrusions, Carbon Steel Welded Pipe, Steel Grating, Plywood, UDS, and Wind Towers*.

The program was established in the *Circular of the Trial Measures of the Administration of International Market Development Funds for Small and Medium-Sized Enterprises*, which came into force on October 24, 2000. The program was established to support the development of small and medium-sized enterprises, to encourage SMEs to join in the competition of international markets, to reduce the business risks of the enterprises, and to promote the development of the national economy. The granting authority is the Foreign Trade and Economic Department and the program is administered at the local levels.

The financial contribution by the government is the direct transfer of funds pursuant to section 2(1.6)(a) of SIMA. The program 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.

Program 8: Design, Research and Development Grants

A grant that provides financial aid for enterprises determined to have undertaken expenses in design, or research and development.

Evidence provided in the complaint suggests that producers in China of HPC pea protein have obtained grants relating to scientific and technological research and development. The CBSA has also previously countervailed this program in *Sucker Rods, Copper Tube, Photovoltaic Modules and Laminates, OCTG, Unitized Wall Modules, Seamless Casing, Pup Joints, Plywood, UDS, Mattresses, and Wind Towers*.

The financial contribution by the government is the direct transfer of funds pursuant to section 2(1.6)(a) of SIMA. The program 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.

Program 9: Energy Conservation and Emission Reduction Grant

These are grants provided by the GOC for the purposes of improving environmental performance, such as, monitoring and cleaning pollutants, improving energy efficiency, upgrading facilities to be more environmentally efficient, and treatment of waste water.

The CBSA has previously countervailed similar programs in *Copper Tube, Mattresses* and *Wind Towers* which addressed grants relating to improving environmental performances.

In a recent preliminary determination of the countervailing duty investigation by the USDOC into certain pea protein from China, it appears that they countervailed this program as “Grants for Energy Conservation and Emission Reduction”.

This program appears to be a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA as a direct transfer of funds from the government and confers a benefit to the recipient equal to the amount of the grant. The program 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.

Program 10: Grants for Encouraging Protein Enterprises to Increase R&D Investment and Improve Scientific and Technological Innovation Capabilities.

In 2019, the Municipal People’s Government of Zhaoyuan implemented a program to support “investment in research and development of the protein industry in the city, accelerate the construction of research and development institutions, improve scientific and technological innovation capabilities, and promote high-quality development.” Under Article 6 of the *Implementation Opinions on Encouraging Protein Enterprises to Increase R&D Investment and Improve Scientific and Technological Innovation Capabilities*, “protein enterprises” are encouraged to “increase investment in research and development activities” which will be “funded by the municipal finance.”

This program is a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA as a direct transfer of funds from the government and confers a benefit to the recipient equal to the amount of the grant. The program 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, and likewise pursuant to subsection 2(7.2) because it is limited to a group of enterprises situated within the municipality’s jurisdiction.

Program 11: Pollution Control Award

Available information indicates that the Zhaoyuan Finance Bureau introduced grants and incentives that are related to investments in pollution control equipment.

This program appears to be a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA as a direct transfer of funds from the government and confers a benefit to the recipient equal to the amount of the grant. The program 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.

Program 12: Subsidies Related to Company/Enterprise Development and Innovation

Available information indicates that the GOC has introduced several grants and incentives related to company and enterprise development and innovation grants and awards.

For example, the awards may be provided to encourage and support enterprises to develop new technologies. Grants may also be provided to encourage enterprises to upgrade business technologies and processes.

The CBSA has previously countervailed this program in *Wind Towers, Mattresses* and *UDS*.

This program appears to be a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA as a direct transfer of funds from the government and confers a benefit to the recipient equal to the amount of the grant. The program 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.

Program 13: Subsidies Related to Science and Technology

Available information indicates that the GOC has introduced several grants and incentives related to science and technology.

The CBSA has previously countervailed this program in *Wind Towers, Mattresses* and *UDS*.

This program appears to be a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA as a direct transfer of funds from the government and confers a benefit to the recipient equal to the amount of the grant. The program 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.

Program 14: Subsidies related to Related to Employment, Training and Recruitment

Available information indicates that the GOC has introduced several grants and incentives designed to support job stabilization by assisting companies with unemployment insurance payments as well as supporting the recruitment, training and subsequent job security of their staff. Grants may also be provided to improve labor relations.

Subsidies may also be granted to companies that recruit recent graduates, youths and impoverished laborers. Subsidies may also be provided to agencies that monitor and analyze employment conditions/situations in an area.

The CBSA has previously countervailed this program in *Wind Towers, Mattresses* and *UDS*.

This program appears to be a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA as a direct transfer of funds from the government and confers a benefit to the recipient equal to the amount of the grant. The program 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.

Program 15: Subsidies Related to Building

Available information indicates that the municipal Zhaoyuan Jinling Town people's government offered grants for building maintenance during the period of investigation.

This program appears to be a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA as a direct transfer of funds from the government and confers a benefit to the recipient equal to the amount of the grant. The program 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.

Program 16: Insurance Grants

Available information indicates that the Zhaoyuan Municipal Commerce Bureau has introduced grants and incentives relating to insurance premiums paid.

This program appears to be a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA as a direct transfer of funds from the government and confers a benefit to the recipient equal to the amount of the grant. The program 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.

Category 3: Preferential Tax Programs

Program 17: Corporate Income Tax Reduction for New High Tech Enterprises (“NHTE”)

Under Article 28.2 of the Enterprise Income Tax Law in China, companies designated as high- or new-technology enterprises (NHTE) are entitled to a reduced income tax rate of 15 percent rather than the normal national corporate tax rate of 25 percent. The granting authority responsible for this program is alleged to be the State Administration of Taxation and the program is administered by local tax authorities. In its notification of subsidy programs to the WTO, the GOC listed this program.

The CBSA has previously countervailed this program in *FISC, Line Pipe, Certain Seamless Casing, OCTG, Pup Joints, Plywood, UDS, Container Chassis, Mattresses* and *Wind Towers*.

The financial contribution by the Government consists of government revenue that is otherwise due is foregone or not collected, pursuant to section 2(1.6)(b) of SIMA. The program may be considered specific pursuant to subsection 2(7.2) of SIMA because it is limited to enterprises in certain industries.

Program 18: Corporate income tax reduction for micro and small enterprises

This program provides qualifying small businesses with a reduced tax rate of 10 percent instead of the normal national corporate tax rate of 25 percent.

The CBSA has previously countervailed this program in *Fasteners*.

The financial contribution by the Government consists of government revenue that is otherwise due is foregone or not collected, pursuant to section 2(1.6)(b) of SIMA. The program may be considered specific pursuant to subsection 2(7.2) of SIMA because it is limited to enterprises in certain industries.

Program 19: Preferential Tax Policies related to Research and Investment

According to Article 30 of the *Enterprise Income Tax Law* and Article 95 of the implementing *Regulations of the Enterprise Income Tax Law*, the expenses born by the enterprise incurred in the work of researching and development of new technologies, products, or techniques can be accounted for at the actual accrued amount of total expenses, thereby reducing the enterprise's actual income tax payable.

The CBSA has previously countervailed this program in *Photovoltaic Modules and Laminates, Seamless Casing, OCTG, Pup Joints, Plywood, UDS, Mattresses and Wind Towers*. Further, the GOC has listed this title in its notification of subsidy programs to the WTO.

In a recent preliminary determination of the countervailing duty investigation by the USDOC into certain pea protein from China, it appears that they countervailed this program as "Income Tax Deduction for Research and Development Expenses Under the Enterprise Income Tax Law (EITL)".

The financial contribution by the government consists of government revenue that is otherwise due is foregone or not collected, pursuant to section 2(1.6)(b) of SIMA. The program 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.

Category 4: Relief from Duties and Taxes

Program 20: Offsets to Taxable Income Related to Purchases of Domestic Machinery

Under this program, a tax credit up to 40% of the purchase price of domestic equipment may apply to the incremental increase in tax liability from the previous year. The legal bases of this program are the Provisional measures on enterprise income tax credit for investment in domestically produced equipment for technology renovation projects of July 1, 1999 and the Notice of the State Administration of Taxation on Stopping the Implementation of the Enterprise Income Tax Deduction and Exemption Policy of the Investments of an Enterprise in Purchasing Home-made Equipment, No. 52 [2008] of the State Administration of Taxation, effective January 1, 2008.

The CBSA has previously countervailed this program in *Aluminum Extrusions, Photovoltaic Modules and Laminates, Seamless Casing, OCTG, Pup Joints* and *Wind Towers*.

The financial contribution by the government consists of government revenue that is otherwise due is foregone or not collected, pursuant to section 2(1.6)(b) of SIMA. The program 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.

Program 21: Import Tariff Exemptions on Imported Equipment in Encouraged Industries

This program is to encourage foreign investment and to introduce advanced technology and equipment from abroad. The GOC provides a subsidy to Foreign Invested Enterprises (FIEs) and certain domestic enterprises engaged in “encouraged” industries in the form of import tariffs and VAT exemptions on imported equipment, including components and parts.

Evidence provided in the complaint indicates that HPC pea protein producers may have received benefits under this program in relation to purchases of imported equipment. The CBSA has previously countervailed this program in *Photovoltaic Modules and Laminates, Unitized Wall Modules, Seamless Casing, Pup Joints*, and *Line Pipe*.

The financial contribution by the Government consists of government revenue that is otherwise due is foregone or not collected, pursuant to section 2(1.6)(b) of SIMA. The program 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.

Program 22: VAT Refund for Plant Protein

The Notice of the Ministry of Finance and the State Administration of Taxation on Issuing the Catalogue of Value-Added Tax Preferences for Products and Labor Services Involving the Comprehensive Utilization of Resources (CS [2015] No. 78) provides a 70 percent immediate refund upon payment of VAT for companies in certain categories. Paragraph 2.15 of that notice lists “Production of bio-gas, feed and plant protein by starch and vermicelli processing waste liquid and waste residue” in category “II. Waste residue, wastewater (liquid) and waste gas” as activities that can generate the VAT refund.

Evidence provided by the complainants indicates that HPC pea protein producers may have received benefits under this program.

The financial contribution by the Government consists of government revenue that is otherwise due is foregone or not collected, pursuant to section 2(1.6)(b) of SIMA. The program 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.

Program 23: Municipal/Local Income or Property Tax Reductions

This program pertains to reductions and exemptions in tax provided from municipal or local income tax units.

The CBSA has previously countervailed similar programs in *UDS* and *Mattresses*.

The financial contribution by the Government consists of government revenue that is otherwise due is foregone or not collected, pursuant to section 2(1.6)(b) of SIMA. The program 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.

Program 24: VAT refund for comprehensive resource utilization products and services

This program provides a refund of value-added tax equal to 70% of the value-added tax payable by the qualifying companies.

The financial contribution by the Government consists of government revenue that is otherwise due is foregone or not collected, pursuant to section 2(1.6)(b) of SIMA. The program 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.

Category 5: Good / Services Provided by the Government at Less Than Fair Market Value

Program 25: Acquisition of Government Inputs/Utilities at Less than Fair Market Value

The complainants allege that exporters may avail themselves of input materials and utilities from state-owned enterprises (SOE) at below fair market value. They have identified whole peas as a raw material ingredient provided to HPC pea protein producers through state-owned and controlled suppliers at less than fair market value. In addition, the complainants identified electricity as an input that may be provided to HPC pea protein producers at less than fair market value.

The CBSA has previously countervailed this program in *Seamless Casing, OCTG, Stainless Steel Sinks, Steel Piling Pipe, Large Line Pipe, Pup Joints, UDS, Container Chassis, and Wind Towers*.

This program 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. The program may be considered specific pursuant to subsection 2(7.2) of SIMA because it is limited to enterprises in certain industries.

Program 26: Provision of Land for Less than Adequate Remuneration by Government

All land in China belongs to the government (i.e., either national or local governments, or through a “collective” at the township or village level), and government land agencies across China control the allocation of land through the granting of land-use rights.

The CBSA has previously countervailed this program in *Line Pipe and Large Line Pipe*.

This financial contribution by the Government consists of government revenue that is otherwise due is foregone or not collected, pursuant to section 2(1.6)(b) of SIMA. The program 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.