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Mr. Matthew M. Lerette
Senior Program Officer
Canada Border Services Agency, The (CBSA)
Trade Programs Directorate
Anti-dumping and Countervailing Program
11th Floor, 100 Metcalfe Street
Ottawa ON K1A 0L8

Dear Mr. Lerette:

**Re: GB 2020 RI - Response to Request for Re-Investigation
CGC Inc. and USG Corporation**

We act as counsel for CGC Inc. (“**CGC**”) and USG Corporation (“**USG**”). We write pursuant to the CBSA letter of October 27, 2020 enclosing the request for a re-investigation in the above referenced matter filed by CertainTeed Gypsum Inc. (“**CertainTeed**”) on October 19, 2020 (the “**Request**”).

The Request sets out several grounds which CertainTeed argues justify a re-investigation. CertainTeed’s arguments present an inaccurate perspective of the current market situation, and the potential utility of a re-investigation. In reality, imports of subject goods by CGC have nearly been eliminated since the imposition of duties. Prices of subject goods in the U.S. have not increased in any meaningful way — if at all. The normal values in place accurately assess current market conditions and costs.

Given the accuracy and appropriateness of the existing normal values, the administrative expense of a re-investigation, and the additional concerns raised by attempting to conduct a cross-border verification and re-investigation during the present pandemic, CGC and USG submit that the CBSA should refuse to commence a re-investigation.

1) CGC & USG have not seen an influx of subject good imports

CertainTeed claims that there has been a meaningful increase in volume of imports, and argues that this has been caused by normal values which are no longer appropriate. CGC and USG have examined their own data between January and August of each year from 2017 to 2020.¹

¹ We note that CertainTeed used January to July 2019 and compared it to January to July 2020. We approve of the method of comparing “apples to apples” of using partial year data for volumes against partial year data rather than trying to compare full year data in 2018 and 2019 to partial year data in 2020. However, we have included August in each total as the data was available for each year when this response was drafted.

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Using this time period the total volume of shipments increased by approximately []% between 2017 and 2018, before falling by approximately []% in 2019 compared to 2018. Since duties have been imposed, shipments have dropped dramatically — the total shipment level fell by []% from 2017 to 2020. The new normal values have not resulted in any increase in shipments. Instead, there has been a significant net reduction in volumes of subject goods imported by CGC since that date.

2) US Selling Prices have been relatively stable, []

CertainTeed has claimed that announcements of price increases by US producers reflect domestic US market prices. This is incorrect for two reasons.

First, from a qualitative point of view, this ignores the structure of the market. The gypsum wallboard market has multiple features that make simple price increase notices largely unimportant for analyzing market prices. Price increase letters rarely reflect the actual changes in prices and in fact may not lead to any price change at all.

CertainTeed's argument also ignores that the pricing structure of the industry is based on customer-by-customer price negotiations, which include the use of many different discounting programs and systems. CBSA will be aware of these pricing practices from the initial investigation.

Second, and most importantly, from a quantitative point of view CertainTeed's claims do not at all reflect the experience of USG. USG conducted a high level review of its sales to arms-length Gypsum Supply Dealers ("GSDs"), the entities identified as being the equivalent of distributor importers in Canada. We examined the []

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Using that methodology we can see how the prices for these goods sold to US customers have actually largely [] since the imposition of the new normal values.

Product	Facility	Change 2018 to 2020
[]	[]	[]%
[]	[]	[]%
[]	[]	[]%
Average	[]	[]%
[]	[]	[]%
[]	[]	[]%

² To keep "apples to apples" we again used data from January to August in each year.

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[]	[]	[]%
Average	[]	[]%
[]	[]	[]%
[]	[]	[]%
[]	[]	[]%
Average	[]	[]%

This has led to a total []. As such, CertainTeed's claims that US domestic customer selling prices have been climbing in 2019 and 2020 simply not accurate for USG.

3) USG has []

USG has not had a chance to complete a full costing under CBSA investigation methodologies. However, it has []

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In addition, a portion of SG&A is usually attributed to the goods under re-investigation when determining costs for the subject goods. []

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4) The Reference Values minimize the Normal Value Age

Imports of the subject goods are subject to the *Gypsum Remission Order, 2017* (the "Remission Order"). The Remission Order sets a "Reference Value" which a qualified importer may use in place of the required normal value as established by the CBSA when the Remission Order is claimed. The Remission Order calculates the Reference Value based upon the original Normal Values calculated during the original investigation; it does not apply to any re-investigation normal values.

At present, []

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The presence of the Remission Order therefore undermines the necessity for constantly updating and maintaining the normal value. Especially given the limited resources of the CBSA,

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and the complications imposed by the pandemic, this factor weighs heavily against starting a re-investigation.

5) CertainTeed has provided no evidence of alleged circumvention

USG and CGC vigorously deny any attempts to circumvent the anti-dumping duties imposed under the *Special Import Measures Act*. USG and CGC have expended considerable internal and external resources to cooperate with all CBSA quarterly reviews, and ensure that its supply chains are arranged in a way to prevent any circumvention and maintain full compliance with the anti-dumping duties.

We have been provided with no evidence to support any claims by CertainTeed of alleged circumvention. As such, we have no basis on which to make an informed defence of this line of argument. It would be unreasonable and violate duties of procedural fairness and natural justice for the CBSA to commence a re-investigation into these allegations of CertainTeed without providing CGC and USG adequate opportunity to address those same allegations.

As such, if CBSA does intend to commence a re-investigation, it should ignore these bases of the request, and not allow CertainTeed to raise any argument related to these allegations.

6) A Re-Investigation is Unwarranted

In conclusion, the reasons offered by CertainTeed do not support the need for a re-investigation. Imports of subject goods by CGC are nearly non-existent since the imposition of duties. There has been no increase on prices of subject goods sold in the U.S. There is also no urgency in conducting a new review, as the existing Remission Order contains its own moderating mechanisms.

Conducting a review will require outsized expenditure of resources by all parties, and potentially entail cross border travel for both the CBSA and USG's legal team for any verification. This would be done at a time when a second wave of COVID-19 is prevalent in both Canada and the United States. As such, CGC and USG submit that a re-investigation is not necessarily, and can certainly be delayed until after the pandemic has been controlled.

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In the alternative, should the CBSA decide to initiate a reinvestigation, it should exclude any investigation or review of the supposed circumvention raised by CertainTeed. Given that CertainTeed has provided us with no meaningful disclosure to analyze, to review this alleged circumvention would violate the procedural fairness rights owed to CGC and USG in these proceedings.

Yours truly,



Robert A. Glasgow

RAG/mg

ec: John Boscarior
Ljiljana Stanic