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OTTAWA, December 23, 2014

STATEMENT OF REASONS

Concerning the final determinations with respect to the dumping of

**CERTAIN CONCRETE REINFORCING BAR ORIGINATING IN OR EXPORTED
FROM THE PEOPLE'S REPUBLIC OF CHINA, THE REPUBLIC OF KOREA AND
THE REPUBLIC OF TURKEY**

and the subsidizing of

**CERTAIN CONCRETE REINFORCING BAR ORIGINATING IN OR EXPORTED
FROM THE PEOPLE'S REPUBLIC OF CHINA**

and

the terminations of the investigation with respect to the subsidizing of

**CERTAIN CONCRETE REINFORCING BAR ORIGINATING IN OR EXPORTED
FROM THE REPUBLIC OF KOREA AND THE REPUBLIC OF TURKEY**

DECISIONS

Pursuant to paragraph 41(1)(a) of the *Special Import Measures Act*, on December 10, 2014, the President of the Canada Border Services Agency made final determinations respecting the dumping of certain concrete reinforcing bar originating in or exported from the People's Republic of China, the Republic of Korea, and the Republic of Turkey and the subsidizing of certain concrete reinforcing bar originating in or exported from the People's Republic of China.

Pursuant to paragraph 41(1)(b) of the *Special Import Measures Act*, on December 10, 2014, the President of the Canada Border Services Agency terminated the subsidy investigation regarding certain concrete reinforcing bar originating in or exported from the Republic of Korea and the Republic of Turkey.

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

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SUMMARY OF EVENTS

[1] On April 24, 2014, the Canada Border Services Agency (CBSA) received a written complaint from Alta Steel Inc. (Alta) of Edmonton, Alberta, ArcelorMittalCN (ArcelorMittal) of Contrecoeur, Quebec and Gerdau Longsteel North America (Gerdau) of Whitby, Ontario (the Complainants), alleging that imports of certain concrete reinforcing bar originating in or exported from People's Republic of China (China), the Republic of Korea, and the Republic of Turkey (Turkey) are being dumped and subsidized. The Complainants alleged that the dumping and subsidizing has caused injury and is threatening to cause injury to the Canadian industry producing these goods.

[2] On May 15, 2014, pursuant to paragraph 32(1)(a) of the *Special Import Measures Act* (SIMA), the CBSA informed the Complainants that the complaint was properly documented. The CBSA also notified the Government of China (GOC), the Government of the Republic of Korea (GOK) and the Government of Turkey (GOT) that a properly documented complaint had been received and provided these governments with the non-confidential version of the subsidy portion of the complaint related to their country.

[3] The governments of the countries under investigation were invited for consultations prior to the initiation of the investigations, pursuant to Article 13.1 of the *Agreement on Subsidies and Countervailing Measures* (ASCM). Consultations were held with the GOK and the GOT. No consultations were requested by the GOC.

[4] The Complainants provided evidence to support the allegations that certain concrete reinforcing bar originating in or exported from China, the Republic of Korea and Turkey have been dumped and subsidized. The evidence also disclosed a reasonable indication that the dumping and subsidizing have caused injury and are threatening to cause injury to the Canadian industry producing these goods.

[5] On June 5, 2014, the Government of Canada received written representations from the GOK with respect to its views on the adequacy of the evidence presented in the non-confidential version of the subsidy portion of the complaint. On June 11, 2014, consultations pursuant to Article 13.1 of the ASCM were held between the Government of Canada and the GOK. During these consultations, the GOK reiterated the written representations with respect to its views on the adequacy of the evidence presented in the non-confidential version of the subsidy complaint.

[6] On June 11, 2014, consultations pursuant to Article 13.1 of the ASCM were held between the Government of Canada and the GOT. On the same day, the Government of Canada received written representations from the GOT with respect to its views on the accuracy and adequacy of the evidence presented in the non-confidential version of the subsidy complaint.

[7] On June 13, 2014, pursuant to subsection 31(1) of SIMA, the President of the CBSA (President) initiated investigations respecting the dumping and subsidizing of certain concrete reinforcing bar from China, the Republic of Korea and Turkey.

[8] Upon receiving notice of the initiation of the investigations, the Canadian International Trade Tribunal (Tribunal) commenced a preliminary injury inquiry, pursuant to subsection 34(2) of SIMA, into whether the evidence disclosed a reasonable indication that the alleged dumping and subsidizing of certain concrete reinforcing bar originating in or exported from China, the Republic of Korea and Turkey has caused injury or retardation or is threatening to cause injury to the Canadian industry producing the goods.

[9] On August 12, 2014, pursuant to subsection 37.1(1) of SIMA, the Tribunal made a preliminary determination that there is evidence that discloses a reasonable indication that the alleged dumping and subsidizing of certain concrete reinforcing bar from China, the Republic of Korea and Turkey has caused injury or is threatening to cause injury to the domestic industry.

[10] On September 11, 2014, as a result of the CBSA's preliminary investigations and pursuant to subsection 38(1) of SIMA, the President made preliminary determinations of dumping and subsidizing of certain concrete reinforcing bar originating in or exported from China, the Republic of Korea and Turkey and began imposing provisional duties on imports of the subject goods pursuant to subsection 8(1) of SIMA.

[11] On September 12, 2014, the Tribunal initiated an inquiry pursuant to section 42 of SIMA to determine whether the dumping and subsidizing of the above-mentioned goods had caused injury or were threatening to cause injury to the Canadian industry.

[12] The CBSA continued its investigation and, on the basis of the results, the President was satisfied that certain concrete reinforcing bar from China, the Republic of Korea and Turkey had been dumped and that the margins of dumping were not insignificant. Consequently, on December 10, 2014, the President made a final determination of dumping pursuant to paragraph 41(1)(a) of SIMA.

[13] Similarly, the President was satisfied that certain concrete reinforcing bar from China had been subsidized and that the amount of subsidy was not insignificant. As a result, on December 10, 2014, the President also made a final determination of subsidizing pursuant to paragraph 41(1)(a) of SIMA.

[14] On the same date, the President was satisfied that the amount of subsidy of certain concrete reinforcing bar from the Republic of Korea and Turkey was insignificant. As a result, on December 10, 2014, the President terminated the investigations into the subsidizing of certain concrete reinforcing bar originating in or exported from the Republic of Korea and Turkey pursuant to paragraph 41(1)(b) of SIMA.

[15] The Tribunal's inquiry into the question of injury to the Canadian industry is continuing, and it has announced that it will issue its decision by January 9, 2015. Provisional duties will continue to apply until this date on imports of subject goods from the three named countries. However, the provisional duties related to the subsidization of goods from the Republic of Korea and Turkey will no longer apply, and the provisional duty paid or security posted will be returned.

PERIOD OF INVESTIGATION

[16] The Period of Investigation (POI) with respect to dumping and subsidizing covered all subject goods released into Canada from January 1, 2013 to March 31, 2014.

PROFITABILITY ANALYSIS PERIOD

[17] The Profitability Analysis Period covered domestic sales and costing information for goods sold from January 1, 2013 to March 31, 2014.

INTERESTED PARTIES

Complainants

[18] The Complainants represent all domestic production of like goods.¹

[19] The names and addresses of the three complainants are:

Alta Steel Inc.
9401 34 Street
Edmonton, AB T6B 2X6

Gerdau Longsteel North America
Hopkins Street South
Whitby, ON L1N 5T1

ArcelorMittal LCNA
4000 Routes des Acieries
Contrecoeur, QC J0L 1C0

Importers

[20] At the initiation of the investigations, the CBSA identified 32 potential importers of the subject goods from information provided by the Complainants and CBSA import entry documentation over the period of January 1, 2013 to March 31, 2014.

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

Exporters

[22] At the initiation of the investigations, the CBSA identified 137 potential exporters and producers of the subject goods from information provided by the Complainants and CBSA import entry documentation. The CBSA sent exporter dumping and exporter subsidy RFIs to each of these potential exporters and producers and sent an exporter section 20 RFI to producers of concrete reinforcing bar located in China.

¹ Refer to the definition of like goods in the Like Goods section on page 7

[23] The CBSA received six responses to the exporter dumping RFI, six responses to the exporter subsidy RFI and one response to the section 20 RFI.

Surrogate Producers

[24] As part of the section 20 inquiry, surrogate country RFIs were sent to all known producers of concrete reinforcing bar in Chinese Taipei and the Kingdom of Thailand (Thailand). A total of 24 RFIs were sent to these producers requesting domestic selling and costing information for certain concrete reinforcing bar produced at their facilities.

[25] The CBSA did not receive any responses to the surrogate country RFIs.

Foreign Governments

[26] The CBSA sent a government subsidy RFI to each of the GOC, GOK and GOT. The CBSA received responses to the Government Subsidy RFI from the GOK and the GOT and both of these responses were considered substantially complete. The CBSA did not receive a response to the government subsidy RFI from the GOC.

[27] The CBSA also sent the GOC a government section 20 RFI. The CBSA did not receive a response to the government section 20 RFI from the GOC.

PRODUCT INFORMATION

Definition

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

Hot-rolled deformed steel concrete reinforcing bar in straight lengths or coils, commonly identified as rebar, in various diameters up to and including 56.4 millimeters, in various finishes, excluding plain round bar and fabricated rebar products, originating in or exported from the People's Republic of China, the Republic of Korea, and the Republic of Turkey.

[29] The subject goods will be referred to as "Rebar" and concrete reinforcing bar, interchangeably.

Additional Product Information²

[30] For further clarity, the subject goods include all hot-rolled deformed bar, rolled from billet steel, rail steel, axle steel, low alloy-steel and other alloy steel that does not comply with the definition of stainless steel.

² Dumping Exhibit 2 (NC) –Complaint – Pages 4-6

[31] Uncoated rebar, sometimes referred to as black rebar, is generally used for projects in non-corrosive environments where anti-corrosion coatings are not required. On the other hand, anti-corrosion coated rebar is used in concrete projects that are subjected to corrosive environments, such as road salt. Examples of anti-corrosion coated rebar are epoxy or hot-dip galvanized rebar. The subject goods include uncoated rebar and rebar that has a coating or finish applied.

[32] Fabricated rebar products are generally engineered using computer automated design programs, and are made to the customer's unique project requirements. The fabricated rebar products are normally finished with either a protective or corrosion-resistant coating. Fabricated rebar is not included in the product definition of subject goods. Rebar that is simply cut-to-length is not considered to be a fabricated rebar and it is included in the definition of subject goods.

[33] Rebar is produced in Canada in accordance with the National Standard of Canada CAN/CSA-G30.18-M92 for Billet-Steel Bar for Concrete Reinforcement (National Standard) prepared by the Standards Association and approved by the Standards Council of Canada.

[34] The following are the most common bar designation numbers for the subject goods in Canada, with the corresponding diameter in millimeters in brackets: 10 (11.3), 15 (16.0), 20 (19.5), 25 (25.2), 30 (29.9), 35 (35.7). Rebar sizes are commonly referred to as the bar designation number combined with the letter "M". Thus, 10M rebar has a designation number of 10 and a diameter of 11.3 millimeters. Other diameters may also be demanded, and other measurement systems employed. For example, Imperial measure #7 bar (approximately 22 mm) is a common designation used in the mine roofing industry.

[35] The National Standard identifies two grades of rebar, namely regular or "R" and weldable or "W". R grades are intended for general applications while W grades are used where welding, bending or ductility is of special concern. Welded rebar was a premium product for the Canadian industry, reflecting the higher cost of alloy steel; however, since all imports have been weldable product, Canadian production has shifted to weldable as a standard product. Weldable rebar is substitutable for regular rebar in all applications, though the reverse does not hold.

[36] The National Standard also identifies yield strength levels of 300, 400, and 500. This number refers to the minimum yield strength and is measured in megapascal (MPa). The grade and yield strength of rebar is identified by combining yield strength number with grade. Thus, 400R is regular rebar with a yield strength of 400 MPa, and 400W is weldable rebar with a yield strength of 400 MPa. Yield strength is measured with an extensometer in accordance with the requirements of section 9 of the National Standard.

[37] The standard lengths for rebar are 6 metres (20 feet), 12 metres (40 feet) and 18 metres (60 feet), although rebar can be cut and sold in other lengths as specified by customers, or sold in coils.

Production Process³

[38] Deformed steel concrete reinforcing bar can be produced in an integrated steel production facility, or using ferrous scrap metal as the principal raw material. Scrap metal is melted in an electric arc furnace and is further processed in a ladle arc-refining unit. The molten steel is then continuously cast into rectangular billets of steel that are cut-to-length. An integrated facility would also produce billets from molten steel. The billets are then rolled into various sizes of rebar, which is cut to various lengths depending on the customers' requirements.

[39] Deformed rebar is rolled with deformations on the bar, which provides gripping power so that concrete adheres to the bar and provides reinforcing value. The deformations must conform to requirements set out in national standards.

Product Use⁴

[40] The subject goods are used in a number of applications, the most common of which is construction.

[41] Rebar is most commonly used to reinforce concrete and masonry structures. It enhances the compressional and tensional strength of concrete and helps prevent the concrete from cracking during curing or following changes in temperature.

[42] Residential markets primarily use rebar in smaller sizes, while the heavy construction and fabrication markets use most of the larger sizes of rebar.

Classification of Imports

[43] As of 2012, imports of the subject goods are now usually classified in Section XV of the *Customs Tariff* under the following Harmonized System (HS) classification numbers:

7213.10.00.00	Bar and rods, hot-rolled, in irregularly wound coils, of iron or non-alloy steel. - Containing indentations, ribs, grooves or other deformations produced during the rolling process
7214.20.00.00	Other bar and rods of iron or non-alloy steel, not further worked than forged, hot-rolled, hot-drawn or hot-extruded, but including those twisted after rolling. - Containing indentations, ribs, grooves or other deformations produced during the rolling process or twisted after rolling

³ Dumping Exhibit 2 (NC) –Complaint – Pages 5-6

⁴ Dumping Exhibit 2 (NC) –Complaint – Page 6

[44] In some instances, imports of subject goods are also classified under the following HS Classification numbers:

7215.90.00.90	Other bars and rods of iron or non-alloy steel. – Other
7227.90.00.90	Bars and rods, hot-rolled, in irregularly wound coils, of other alloy steel. – Other

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

CLASS OF GOODS

[46] The dumping and subsidy investigations were initiated on a single class of goods. However, as a result of the Tribunal’s preliminary injury inquiry⁵, the Tribunal was of the opinion that the question of whether there are multiple classes of goods merited further consideration. As such, the Tribunal requested the CBSA to collect, in addition to the single class of subject goods as defined at initiation, separate information on the dumping and subsidizing of uncoated (or black) rebar; and coated rebar.

[47] In response to this request, on September 11, 2014, the CBSA submitted to the Tribunal the information it had available on the potential classes of goods.

[48] On October 27, 2014, the Tribunal determined that certain concrete reinforcing bar constitutes a single class of goods. The Tribunal informed the CBSA that as a result of this determination, the CBSA would no longer be required to collect information on the dumping and subsidizing of uncoated (or black) rebar and coated rebar separately.

LIKE GOODS

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

[50] Concrete reinforcing bar produced by the domestic industry competes directly with, has the same end uses as, and can be substituted for, the subject goods. Also, both are made from the same input material and are produced in the same general manner. Therefore, the CBSA has concluded that the rebar produced by the Canadian industry constitutes like goods to the subject goods.

⁵ Preliminary Injury Inquiry No. PI-2014-001 Certain Concrete Reinforcing Bar, issued on August 27, 2014. Reasons available online at <http://www.citt.gc.ca/en/node/6780>.

THE CANADIAN INDUSTRY

[51] As previously stated, the Complainants represent the entire domestic production of like goods.

IMPORTS INTO CANADA

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

[53] The following table presents the CBSA's analysis of imports of certain concrete reinforcing bar for purposes of the final determinations:

**Import Volumes of Certain Concrete Reinforcing Bar
(January 1, 2013 to March 31, 2014)**

Imports into Canada	% of Total Import Volume
China	11.5%
Republic of Korea	8.9%
Turkey	18.3%
All Other Countries	61.3%
Total Imports	100.0%

INVESTIGATION PROCESS

[54] Regarding the dumping investigation, information was requested from all known and potential exporters, producers, vendors and importers, concerning certain concrete reinforcing bar released into Canada during the dumping POI of January 1, 2013 to March 31, 2014.

[55] Regarding the section 20 inquiry, information was requested from all known and potential producers and exporters in China and from the GOC. Information was also requested from surrogate producers located in Chinese Taipei and the Kingdom of Thailand.

[56] Regarding the subsidy investigation, information related to potential actionable subsidies was requested from all known and potential exporters in China, the Republic of Korea and Turkey. Information was also requested from the GOC, GOK and GOT, concerning financial contributions made to exporters or producers of certain concrete reinforcing bar released into Canada during the subsidy POI of January 1, 2013 to March 31, 2014.

[57] After reviewing the responses to the RFIs, Supplemental Requests for Information (SRFI) were sent to each of the responding parties to clarify information provided in the submissions. In addition, on-site verifications were conducted at the premises of selected exporters during the final phase of the dumping and subsidy investigations.

[58] Details pertaining to the information submitted by the exporters in response to the exporter dumping RFI as well as the results of the CBSA's dumping investigation, including the section 20 inquiry with respect to the Chinese steel long products sector, which includes rebar, are provided in the "Dumping Investigation" section of this document. Details pertaining to the information submitted by the exporters and governments in response to the subsidy RFI as well as the results of the CBSA's subsidy investigation are provided in the "Subsidy Investigation" section of this document.

[59] As part of the final stage of the investigations, case briefs and reply submissions were provided by counsel representing the Complainants, exporters and the GOT. Details of all representations are provided in **Appendix 3**.

[60] Under Article 15 of the World Trade Organization (WTO) *Anti-dumping Agreement*, developed countries are to give regard to the special situation of developing country members when considering the application of anti-dumping measures under the Agreement. Possible constructive remedies provided for under the Agreement are to be explored before applying anti-dumping duty where they would affect the essential interests of developing country members. As China and Turkey are listed on the *Development Assistance Committee (DAC) List of Official Development Assistance (ODA) Recipients* maintained by the *Organization for Economic Co-operation and Development (OECD)*⁶, the President recognizes China and Turkey as developing countries for purposes of actions taken pursuant to SIMA.

[61] Accordingly, the obligation under Article 15 of the WTO *Anti-dumping Agreement* was met by providing the opportunity for exporters to submit price undertakings. In this particular investigation, the CBSA did not receive any undertaking proposals from exporters in China and Turkey.

DUMPING INVESTIGATION

[62] The CBSA received responses to the dumping RFI from six exporters: one exporter located in China, three exporters located in the Republic of Korea and two exporters located in Turkey.

Normal Values

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

[64] Normal values for the three exporters from the Republic of Korea and one exporter from Turkey that submitted complete responses were determined in accordance with section 15 of SIMA and section 19 of SIMA.

⁶ The Organization for Economic Co-operation and Development, DAC List of ODA Recipients from 2011 to 2013, the document is available at: www.oecd.org/dac/stats/DAC%20List%20used%20for%202012%20and%202013%20flows.pdf

[65] In situations where the President of the CBSA is of the opinion that section 20 conditions apply, normal value cannot be determined on the basis of domestic selling prices or on the full cost of goods plus profit.

[66] Normal values for the exporter from China that submitted a complete response were determined using a surrogate country methodology pursuant to section 29 of SIMA, based on the average of the normal values from the producers in Turkey and the Republic of Korea that provided complete responses to the RFI.

Export Prices

[67] The export price of goods sold to importers in Canada is generally based on the lesser of the adjusted exporter's sale price for the goods or the adjusted importer's purchase price, in accordance with the methodology of section 24 of SIMA. 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.

Results of the Dumping Investigation by Country

[68] With respect to each of the exporters that provided a complete response to the exporter RFI, the CBSA determined a margin of dumping by comparing the total normal value with the total export price of the goods. When the total export price was less than the total normal value, the difference was the margin of dumping for that specific exporter.

[69] For those exporters that did not submit a response to the exporter RFI, the normal value of the goods was determined by advancing the export price by the highest amount by which the normal value exceeded the export price on an individual transaction (41%) for an exporter which provided a complete response to the exporter RFI.

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

[71] In determining the margin of dumping for each country, the margins of dumping found in respect of each exporter were weighted according to each exporter's volume of certain concrete reinforcing bar exported to Canada during the dumping POI.

[72] Based on the preceding, 100% of certain concrete reinforcing bar originating in or exported from China, the Republic of Korea and Turkey, and imported into Canada during the POI, was dumped.

[73] Details of the results of the investigation by exporter follow, a summary of each exporter's margin of dumping is provided in **Appendix 1** and the overall margin of dumping for each country is provided in the table at the end of this section.

The Republic of Korea

Hyundai Steel Company

[74] Hyundai Steel Company is an exporter of subject goods from the Republic of Korea during the POI.

[75] Hyundai Steel Company's head office is located in Seoul, Republic of Korea. Their response to the dumping RFI was complete. Hyundai Steel was sent a SRFI to gather additional information. On-site verifications were conducted by CBSA officials at the headquarters of Hyundai Steel from October 21 to October 24, 2014.

[76] Hyundai Steel Company had domestic sales of concrete reinforcing bar during the POI. All normal values were determined pursuant to section 15 of SIMA based on profitable domestic selling prices of like goods.

[77] For subject goods exported from Hyundai Steel Company to Canada during the POI, export prices were determined pursuant to section 24 of SIMA, based on the exporter's selling price less all costs, charges and expenses resulting from the exportation of the goods.

[78] The total normal value compared with the total export price results in a margin of dumping of 13.3%, expressed as a percentage of the export price, for Hyundai Steel Company.

Hyundai Corporation

[79] Hyundai Corporation is an exporter of subject goods from the Republic of Korea during the POI. All subject goods exported to Canada by Hyundai Corporation during the POI were produced by Hyundai Steel Company. Hyundai Steel Company and Hyundai Corporation are not related parties.

[80] Hyundai Corporation's head office is located in Seoul, the Republic of Korea. Although for purposes of the preliminary determination the company's RFI response was considered substantially complete, the CBSA has determined that this company's submission was not complete for purposes of the final determination. This is due to the fact that information required to determine normal values which was requested by the CBSA in SRFIs was not provided by Hyundai Corporation.

[81] Therefore, the margin of dumping for Hyundai Corporation will be determined pursuant to section 29 of SIMA based on the All Other Exporters' margin of dumping methodology described below.

G.S Global Corporation (GSG)

[82] GSG is an exporter of subject goods from the Republic of Korea during the POI. All subject goods exported to Canada by GSG during the POI were produced by Hyundai Steel Company.

[83] GSG's head office is located in Seoul, the Republic of Korea. Although for purposes of the preliminary determination the company's RFI response was considered substantially complete, the CBSA has determined that this company's submission was incomplete for purposes of the final determination. This is due to the fact that information required to determine normal values which was requested by the CBSA in SRFIs was not provided by GSG.

[84] Therefore, the margin of dumping for GSG will be determined pursuant to section 29 of SIMA based on the All Other Exporters' margin of dumping methodology described below.

Turkey

Habas Sinai ve Tibbi Gazlar Istihsal Endustrisi A.S. (Habas)

[85] Habas is an exporter of subject goods from Turkey during the POI.

[86] Habas' head office is located in Istanbul, Turkey. Their response to the dumping RFI was complete. Habas was sent three SRFIs to gather additional information. On-site verifications were conducted by CBSA officials at the headquarters of Habas from October 13 to October 17, 2014.

[87] Habas had a large amount of domestic sales of rebar during the POI. Where applicable, normal values were determined pursuant to section 15 of SIMA based on profitable domestic selling prices of like goods.

[88] Where normal values could not be determined under section 15, the normal values were determined pursuant to paragraph 19(b) of SIMA, based on the aggregate of the cost of production of the goods, a reasonable amount for administrative, selling and all other costs and a reasonable amount for profits. The amount for profits was determined pursuant to subparagraph 11(1)(b)(ii) of the SIMR, based on Habas' profitable domestic sales of goods of the same general category.

[89] For subject goods exported from Habas to Canada during the POI, export prices were determined pursuant to section 24 of SIMA, based on the exporter's selling price less all costs, charges and expenses resulting from the exportation of the goods.

[90] The total normal value compared with the total export price results in a margin of dumping of 3.8%, expressed as a percentage of the export price, for Habas.

Habas Petrol Urunleri Sanayi ve Ticaret A.S. (Habas Petrol)

[91] Habas Petrol, an associated company of Habas, provided a late response to the dumping RFI on October 24, 2014, just prior to the October 27, 2014 close of record.

[92] The late response was reviewed and determined to be incomplete. As a result of receiving the RFI submission late in the investigation, the CBSA was unable to send SRFIs or verify the submitted information.

[93] Therefore, the margin of dumping for Habas Petrol was determined pursuant to section 29 of SIMA based on the All Other Exporters' margin of dumping methodology described below.

China

Section 20 Inquiry

[94] Section 20 of SIMA may be applied to determine the normal value of goods in a dumping investigation where certain conditions prevail in the domestic market of the exporting country. In the case of a prescribed country under paragraph 20(1)(a) of SIMA,⁷ it is applied where, in the opinion of the President, domestic prices are substantially determined by the government of that country and there is sufficient reason to believe that they are not substantially the same as they would be if they were determined in a competitive market. Where section 20 is applicable, the normal values of goods are not determined using domestic prices or costs in that country.

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

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

[97] For the purpose of this investigation, the Complainants requested that section 20 be applied in the determination of normal values due to the alleged existence of the conditions set forth in paragraph 20(1)(a) of SIMA. The Complainants provided information to support these allegations concerning the long products steel sector in China, which includes concrete reinforcing bar.

[98] At the initiation of the investigation, the CBSA had sufficient evidence, supplied by the Complainants, from its own research and from past investigations, to support the initiation of a section 20 inquiry to examine the extent of GOC involvement in pricing in the long products steel sector, which includes concrete reinforcing bar. The information indicated that prices in China in this sector have been influenced by various GOC industrial policies. Consequently, the CBSA sent section 20 RFIs to the GOC and all known long products steel producers in China to obtain information on the matter.

⁷ China is a prescribed country under section 17.1 of the Special Import Measures Regulations

Results of the Section 20 Inquiry

[99] The CBSA sent questionnaires to 83 exporters and producers in the long products steel sector in China. One producer⁸ provided a response and their total production figures account for a fraction of the total production of concrete reinforcing bar in China.⁹ The GOC did not provide a response to the section 20 RFI. In the absence of complete information the CBSA's sources of information are constrained. Accordingly, the CBSA has relied on its own research and information that was on the administrative record, notwithstanding its efforts to obtain more comprehensive data.

[100] The following is the CBSA's analysis of the relevant factors that are present in the Chinese steel industry and which affect the long products steel sector, which includes concrete reinforcing bar.

[101] The GOC classifies the iron and steel industry to be a "fundamental or pillar" industry and therefore the government maintains a degree of control over the industry, through a minimum of 50% equity in the principal enterprises.¹⁰

[102] Information on the record indicates that in 2010 eight of the top ten steel companies in China were state-owned.¹¹ In 2013 it is estimated that the top ten steel companies accounted for 45% of the total Chinese crude steel production.¹² The complainants also provided supporting documentation that demonstrates that state owned enterprises produce steel billet and/or rebar themselves or through their subsidiaries. This indicates that the GOC exerts control over the Chinese steel industry, which encompasses the long products steel sector, including concrete reinforcing bar.

⁸ Dumping Exhibits 56 (PRO) and 57 (NC) - Response to Section 20 RFI - Shandong Shiheng Special Steel Group Co., Ltd.

⁹ Dumping Exhibits Exhibit 78 (PRO) – Document 41; Exhibit 54 (PRO) - A14 (b).

¹⁰ Dumping Exhibit 147 (PRO) - 2007-07 Money for Metal - Chinese Steel Industry

¹¹ Dumping Exhibit 2 (NC) – Complaint, Attachment 24, p. 9.

¹² Dumping Exhibit 36 (PRO) – Document 5 - 2013 Top Steelmakers in the World (Top 50); Exhibit 78 (PRO) – Document 50 - 2014-02 MIIT - 2013 Report on the economic operation of the steel industry.

[103] As cited in previous section 20 inquiries relating to the steel industry¹³, the National Steel Industry Development Policy (2005 National Steel Policy)¹⁴ dated July 8, 2005, outlines the GOC future plans for the domestic steel industry in China. The major objectives of the 2005 National Steel Policy are:

- the structural adjustment of the domestic steel industry in China;
- industry consolidations through merger and acquisitions;
- the regulations of technological upgrading with new standards for the steel industry;
- measures to reduce material and energy consumption and enhance environmental protection; and
- government supervision and management in the steel industry.

[104] On March 20, 2009, the GOC promulgated the Blueprint for the Adjustment and Revitalization of the Steel Industry (2009 Steel Revitalization/Rescue Plan)¹⁵, issued by the General Office of the State Council. This macro-economic policy was the GOC's response to the international financial crisis and is also the action plan for the steel industry for the period between 2009 and 2011. This plan includes the following major tasks:

- maintain the stability of the domestic market and improve the export environment;
- strictly control the total output of steel and accelerate the process of eliminating what is backward (obsolete);
- enhance enterprise reorganization and improve the industrial concentration level;
- spend more on technical transformation and promote technical progress;
- optimize the layout of the steel industry and overall arrangements of its development;
- adjust the steel product mix and improve the product quality;
- maintain stable import of iron ore resources and rectify the market order; and
- develop domestic and overseas resources and guarantee the safety of the industry.

[105] There are common measures between the two GOC policies but, in addition, the 2009 Steel Revitalization/Rescue Plan is an acceleration of some major objectives of the 2005 National Steel Policy, in that there continues to be the strict control of new additions to steel production capacity, more stipulated mergers and acquisitions to consolidate the steel industry in China into larger conglomerates and also a focus on product quality.

¹³ Certain Seamless Steel Casing (2008), Certain Oil Country Tubular Goods (2010), Certain Carbon Steel Welded Pipe (2008 & 2011), Certain Pup Joints (2011), Certain Piling Pipe (2012) and Certain Galvanized Steel Wire (2013).

¹⁴ Dumping Exhibit 36 (PRO) – Document No. 25 - 2005-07 NDRC [2005] 35 - Steel Industry Development Policy.

¹⁵ Dumping Exhibit 36 (PRO) – Document No. 55. - 2009-03 SC [2009] 6 - 2009 Steel Industry Restructuring and Revitalization Plan.

[106] There are also provincial versions to the 2009 Steel Revitalization/Rescue Plan. An example of the provincial version of the national plan is the Shandong Province Iron and Steel Industry Restructuring and Revitalization Plan.¹⁶ This 2009 provincial plan mirrors the policy objectives of the national 2009 Steel Revitalization/Rescue Plan, but is tailored to reflect the conditions for the iron and steel industry in Shandong Province.

[107] Further support that the domestic prices are substantially determined by the GOC and are not substantially the same as they would be in a competitive market in the steel industry in China can be found in the GOC's new macro-economic policy entitled, 12th Five-Year Plan: Iron and Steel (2011-2015 Development Plan for the Steel Industry).¹⁷

[108] The 2011-2015 Development Plan for the Steel Industry is the most recent five year plan for the steel industry that was released by the GOC's Ministry of Industry and Information Technology on November 7, 2011. It serves as the guiding document for the development of the Chinese steel industry for the 2011-2015 period and its directives include:

- increased mergers and acquisitions to create larger, more efficient steel companies;
- GOC restrictions on steel capacity expansion;
- upgrading of steel industry technology;
- greater GOC emphasis on high-end steel products; and
- GOC directed relocation of iron and steel companies to coastal areas.

[109] Also included in this plan are minimum requirements for steel production in order to eliminate smaller players in the market. Through this plan, the GOC is continuing its reform and restructuring of the Chinese steel industry. The GOC's target is that by 2015, China's top 10 steel producers will represent 60% of the country's total steel output. According to the 2005 National Steel Plan, the long-range GOC target for mergers and acquisitions is to have the top 10 Chinese steel producers account for 70% of total national steel production by 2020. This plan is the next development stage of GOC directives aimed at achieving this long-range 2020 target.

[110] The 2011-2015 Development Plan for the Steel Industry also addresses ongoing issues in the steel industry with the directive to strictly control expansion of steel production capacity, accelerate the development of higher value steel products and to continue to advance mergers and restructuring.

¹⁶ Dumping Exhibit 36 (PRO) – Document 58 - 2009-04 Shandong [2009] No. 45 - Shandong Provincial Steel Industry Restructuring and Revitalization Plan.

¹⁷ Dumping Exhibit 36 (PRO) – Document 100 - 2011-11 MIIT [2011] 480 - Steel Industry 12th Five Year Development Plan

[111] Therefore the main task of the 2011-2015 Development Plan for the Steel Industry is to control total volume by eliminating obsolete production and controlling new production capacity. The scope of the GOC's reforms in the steel sector in China is to be obtained by industry concentration targets through mergers and acquisitions by the end of 2015. These GOC objectives are likely to conflict with the commercial interests of producers in the long products steel sector, which includes concrete reinforcing bar. These objectives will likely affect production volumes, competition and ultimately prices.

[112] In October 2011, a pilot project was launched by the National Development and Reform Commission (NDRC) to restructure the steel industry in Shandong Province.¹⁸ The main objectives of the restructuring plan is to phase out backward production thereby improving energy conservation, control new production capacity in order to stop blind investment, improve industrial concentration through mergers and plant relocations and increase the production of higher value added steel products. The objective is to establish one large provincial steel company (Shandong Iron and Steel Group) and five regional steel companies (Zibo, Weifang, Laiwu, Linyi, Binzhou).¹⁹ This would be achieved through the merger of state owned and privately owned steel mills through equity swaps or partnership agreements.²⁰ The GOC objective of merging and consolidating the steel industry is likely to conflict with the commercial interests of producers in the long products steel sector, which includes concrete reinforcing bar.

[113] The GOC has also provided value added tax (VAT) export rebates on various steel products to promote their export. In addition, the GOC has also imposed export taxes on various steel products to curtail their export.

[114] In general terms, China's VAT system is similar to a consumption tax, with the end consumer ultimately paying the tax. A manufacturer in China pays 17% VAT on its purchases of raw materials, processes the goods, and then sells the end-products, collecting 17% VAT in the process. The manufacturer then remits the difference between the VAT collected and the VAT paid on the purchases of the raw materials. In this manner, a manufacturer does not incur any VAT related costs on his production materials. However, VAT on export sales is treated differently.

[115] With exports, the exporter still pays the same 17% VAT on their purchases of raw materials, however, when they export the goods, they only receive a VAT refund of a fixed percentage, which is established by the GOC. In addition, the VAT refund cannot exceed the VAT paid on raw materials. Consequently, the VAT refund on exports would offset the VAT paid on the raw materials.²¹

¹⁸ Dumping Exhibit 80 (NC) – Document 23 – Shandong [2012] No. 8 - Implementation of the Restructuring of the Steel Industry in Shandong Province.

¹⁹ Dumping Exhibit 80 (NC) – Document 35 – Shandong Province Steel Industry Restructuring to Start.

²⁰ Dumping Exhibit 80 - (NC) – Document 34 – Shandong Iron and Steel Industry Restructuring News.

²¹ Dumping – Exhibit 78 (PRO) – Document 9 – OECD Steel Trade Policy Measures.

[116] Since 2007, China has eliminated VAT export rebates on some, but not all steel products, resulting in a shift in production towards products that still qualified for this rebate.²² This has the effect of promoting certain types of production while at the same time reducing the level of exports of other steel products, ultimately affecting pricing of these goods.

[117] An important effect of these tax changes is that it increases the cost of exports and reduces their profitability, which in turn reduces the volume of material that is exported and leaves additional capacity to serve the domestic market. While the GOC has stated that many of these policies are intended to address environmental and resource efficiency issues, these measures are changing the demand and supply balance in the domestic market and affecting the domestic prices of affected products.²³

[118] The GOC does not provide any VAT export rebate for steel billets²⁴ or non-alloy rebar, while alloy rebar currently receives a VAT export rebate. Steel billet and non-alloy rebar are both subject to an export tax. The absence of a VAT export rebate, coupled with an export tax, on steel billets further demonstrates the GOC's objective of increasing the domestic supply of unfinished steel products by discouraging their export. A higher supply of steel products such as billets in the domestic market causes a downward pressure on domestic prices of these goods. Further since billet comprises a large percentage of the cost of rebar²⁵, the low cost of billet in China impacts the price of rebar in China.

Analysis of Domestic Prices in China

[119] The CBSA requested domestic market pricing of concrete reinforcing bar from the GOC and producers in China. The GOC did not provide a response to the RFI, but the CBSA did receive information on the domestic market pricing of concrete reinforcing bar from one producer in China.

[120] The complaint provided information from the Steel Business Briefing (SBB), a global independent source of steel pricing information, comparing worldwide concrete reinforcing bar prices for the POI. This information indicated that domestic prices of concrete reinforcing bar in China were consistently lower when compared to pricing in other markets.²⁶

[121] The CBSA was also able to obtain domestic pricing information from MySteel Weekly²⁷ for the concrete reinforcing bar market in China for the POI. The prices reported in MySteel Weekly were in line with what the SBB reported.²⁸

²² Dumping – Exhibit 78 (PRO) – Document 7 – China's Value-added Tax System.

²³ Dumping Exhibit 2(NC) - Complaint, para. 126.

²⁴ Steel billet is used in the manufacture of long products such as plain bars, rebar, rods, tubes, pipes and wire.

²⁵ Dumping Exhibit 2(NC) - Complaint, para. 132.

²⁶ Dumping Exhibit 1(PRO) Complaint, Attachment 29.

²⁷ MySteel Weekly is an independent observer of the Chinese steel market.

²⁸ Dumping Exhibit 67 (PRO) - MySteel Weekly, Issue #, 301, 305, 307, 311, 314, 319, 323, 328, 332, 336, 340, 344, 349, 353 and 357.

[122] The CBSA conducted a price analysis on domestic prices of concrete reinforcing bar. Although domestic price data for concrete reinforcing bar is not publicly available, since this case involves multiple countries, the CBSA was able to obtain domestic sales information from all three subject countries. The analysis shows that prices of concrete reinforcing bar during the POI were significantly lower in China than in the other two subject countries.

[123] Given that concrete reinforcing bar is a commodity product²⁹ freely traded on the world market, this price discrepancy further indicates that domestic prices of concrete reinforcing bar in China are not the same as they would be if they were determined under competitive market conditions.

Relationship between the Long Products Steel Sector and Other Steel Sectors in China

[124] The President of the CBSA has issued opinions in respect of the following steel sectors in China that domestic prices are substantially influenced by the GOC and that they are not substantially the same as they would be if they were determined in a competitive market:

- Wire rod sector - Certain galvanized steel wire (2013)
- Steel pipe sector - Certain piling pipe (2012)
- Oil country tubular goods sector - Certain pup joints (2011)
- Hot-rolled steel plate sector - Certain hot-rolled carbon steel plate and high strength low-alloy steel plate (2010)
- Flat-rolled steel industry sector - Certain flat hot-rolled carbon and alloy steel sheet and strip (2010)
- Welded pipe sector - Certain carbon steel welded pipe (2008 & 2011)
- Oil country tubular goods sector - Certain oil country tubular goods (2010)
- Oil country tubular goods sector - Certain seamless carbon or alloy steel oil and gas well casing (2008)

[125] These numerous opinions indicate that the GOC exerts control over the Chinese steel industry, which encompasses the long products steel sector, including the concrete reinforcing bar industry.

²⁹ Canadian International Trade Tribunal in Inquiry No. NQ 99-002, January 12, 2000, concerning certain concrete reinforcing bar originating in or exported from the Republic of Cuba, the Republic of Korea and the Republic of Turkey. Page 23, Global Economic Factors, “The Tribunal notes that price trends in one part of the world generally influence prices in other parts of the world, especially for a commodity-type product such as rebar, and that the Canadian market is not and cannot be insulated from world price pressures”.

Summary of the Results of the Section 20 Inquiry

[126] The wide range and material nature of the GOC measures have resulted in significant influence on the Chinese steel industry including the long products steel sector, which includes concrete reinforcing bar. Based on the preceding, the President is of the opinion that:

- domestic prices are substantially determined by the GOC; and
- there is sufficient reason to believe that the domestic prices are not substantially the same as they would be in a competitive market.

[127] Based on the above analysis, for the purposes of the final determination, the President affirmed the opinion rendered at the preliminary determination that the conditions described in paragraph 20(1)(a) of SIMA apply in the long products steel sector, which includes concrete reinforcing bar.³⁰

Normal Values – Section 20

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

[129] Normal values for Shandong Shiheng Special Steel Group Co., Ltd. (Shiheng Special Steel) could not be determined on the basis of domestic selling prices in China or on the full cost of goods plus an amount for profits, because the President formed the opinion that domestic prices in the steel long products sector, which includes concrete reinforcing bar, in China are substantially determined by the GOC and there is sufficient reason to believe that the domestic prices are not substantially the same as they would be in a competitive market.

[130] Where domestic prices are substantially determined by the GOC and there is sufficient reason to believe that the domestic prices are not substantially the same as they would be in a competitive market, the CBSA may determine normal values using the selling price, or the total cost and profit, of like goods sold by producers in a surrogate country, pursuant to paragraph 20(1)(c) of SIMA. As mentioned previously, the CBSA did not receive any responses to the surrogate producer RFI. As a result, normal values for producers and exporters of subject goods from China could not be determined pursuant to paragraph 20(1)(c) of SIMA.

[131] Where normal values cannot be determined as per the methodology under paragraph 20(1)(c), SIMA provides an alternative methodology to determine normal values under paragraph 20(1)(d), using re-sales in Canada of like goods imported from a third country. The CBSA determined that this provision could also not be used given that the importers did not provide sufficient re-sale information, in addition to the lack of information from producers in surrogate countries.

³⁰ Preliminary Determination Statement of Reasons for Concrete Reinforcing Bar; September 26, 2014.

[132] Accordingly, given the absence of information, the CBSA, pursuant to section 29 of SIMA, has used an alternative method to determine normal values using a surrogate country methodology based on information from exporters in the Republic of Korea and Turkey who had shipped subject goods to Canada during the period of investigation, and had provided complete information in response to the RFI.

Shandong Shiheng Special Steel Group Co., Ltd. (Shiheng Special Steel)

[133] Shiheng Special Steel is an exporter of subject goods from China during the POI.

[134] Shiheng Special Steel is located in Feicheng City, Shandong Province, China. Their responses to the dumping RFI and section 20 RFI were considered to be complete. Shiheng Special Steel also submitted comments to the CBSA regarding the *Statement of Reasons* issued for the preliminary determination of this investigation.³¹

[135] As the conditions described in paragraph 20(1)(a) of SIMA apply, normal values for Shiheng Special Steel were determined using the surrogate country methodology mentioned above, pursuant to section 29 of SIMA, based on the average of the normal values from the producers in the Republic of Korea and Turkey that provided complete responses to the RFI.

[136] For subject goods exported from Shiheng Special Steel to Canada during the POI, export prices were determined pursuant to section 24 of SIMA, based on the exporter's selling price less all costs, charges and expenses resulting from the exportation of the goods.

[137] The total normal value compared with the total export price results in a margin of dumping of 17.1% for Shiheng Special Steel.

All Other Exporters – Margin of Dumping

[138] For all other exporters, the normal values and related margins of dumping were determined pursuant to section 29 of SIMA, based on the highest amount by which a normal value exceeded an export price (41%), on an individual transaction during the POI as determined for an exporter with a complete submission. Export prices were obtained through CBSA import documentation for the subject goods imported into Canada during the dumping POI.

[139] As such, normal values for all other exporters were determined by advancing the total export price of the goods by 41%, pursuant to section 29 of SIMA.

³¹ Dumping Exhibit 143 (NC) – Comments from Shiheng Special Steel, October 23, 2014

Summary of Results – Dumping

[140] The following table summarizes the results of the dumping investigation by country, respecting all subject goods released into Canada during the POI.

*Margins of Dumping and Volume of Dumped Goods
(January 1, 2013 to March 31, 2014)*

Country	Volume of Dumped Goods as Percentage of Country Imports	Margin of Dumping*	Volume of Country Imports as Percentage of Total Imports	Volume of Dumped Goods as Percentage of Total Imports
China	100%	26.6%	11.5%	11.5%
Republic of Korea	100%	25.1%	8.9%	8.9%
Turkey	100%	6.5%	18.3%	18.3%

* as a percentage of export price

[141] Under paragraph 41(1)(a) of SIMA, the President shall make a final determination of dumping when he is satisfied that the goods have been dumped and that the margin of dumping of the goods of a country is not insignificant. 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. The margins of dumping of concrete reinforcing bar from the above countries are not less than 2% of the export price of the goods and are, therefore, not insignificant.

[142] For purposes of a preliminary determination of dumping, the President is responsible for determining whether the actual and potential volume of dumped goods is negligible. After a preliminary determination of dumping, the Tribunal assumes this responsibility. In accordance with subsection 42(4.1) of SIMA, if the Tribunal determines the volume of dumped goods from a country is negligible, the Tribunal is required to terminate its injury inquiry in respect of those goods.

SUBSIDY INVESTIGATION

[143] 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 WTO Agreement that confers a benefit.

[144] 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.

[145] 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.

[146] The following terms are defined in section 2 of SIMA. A “prohibited subsidy” is either an export subsidy or a subsidy or portion of 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.

[147] 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/or
- (d) the manner in which discretion is exercised by the granting authority indicates that the subsidy is not generally available.

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

[149] Financial contributions provided by state-owned enterprises (SOEs) may also be considered to be provided by government for purposes of this investigation. An 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.

[150] The following presents the results of the investigation into the subsidizing of certain concrete reinforcing bar originating in or exported from China, the Republic of Korea and Turkey.

Results of the Subsidy Investigation – China

[151] At the initiation of the subsidy investigation, the CBSA identified 179 potential subsidy programs in the following seven categories:

- I. Special Economic Zones (SEZ) and other Designated Areas Incentives;
- II. Preferential Loans and Loan Guarantees;
- III. Grants and Grant-equivalents;
- IV. Preferential Income Tax Programs;
- V. Relief from Duties and Taxes on Inputs, Materials and Machinery;
- VI. Goods/Services Provided by the Government at Less than Fair Market Value; and
- VII. Equity Programs.

[152] Details regarding these potential subsidies were provided in the *Statement of Reasons* issued for the initiation and preliminary determination of this investigation. This document is available through the CBSA Web site at the following address: www.cbsa-asfc.gc.ca/sima-lmsi.

[153] A further review during the investigation resulted in two additional programs being identified.

[154] In total, 181 programs were investigated for purposes of this investigation. Information concerning these programs is provided in **Appendix 2**.

[155] In conducting its investigation, the CBSA sent a subsidy RFI to the GOC as well as to potential exporters of certain concrete reinforcing bar located in China that had been identified through CBSA import entry documentation. Information was requested in order to establish whether there had been financial contributions made by any level of government including SOEs possessing, exercising or vested with government authority, and, if so, to establish if a benefit had been conferred on persons engaged in the production, manufacture, growth, processing, purchase, distribution, transportation, sale, export or import of concrete reinforcing bar; and whether any resulting subsidy was specific in nature. The GOC was also requested to forward the RFIs to all subordinate levels of government that had jurisdiction over the exporters. The exporters were directed to forward a portion of the RFI to their input suppliers, who were asked to respond to questions pertaining to their legal characterization as SOEs.

[156] One response to the CBSA's subsidy RFI was submitted by Shiheng Special Steel.

[157] The GOC did not submit a response to the subsidy RFI, and therefore, did not provide the required information relating to financial contribution, benefit and specificity. This significantly impeded the CBSA's investigation as sufficient information has not been furnished to enable the determination of the amount of subsidy in the prescribed manner.

[158] Due to a lack of government response, subsidy amounts for all exporters were determined pursuant to subsection 30.4(2) of SIMA, based on a ministerial specification. However, in consideration of the fact that Shiheng Special Steel provided a complete response to the subsidy RFI, an individual amount of subsidy was determined under the ministerial specification for this specific exporter based on the information provided in its submission.

Shiheng Special Steel

[159] Shiheng Special Steel's response to the CBSA's subsidy RFI detailed individual amounts of subsidy associated with Shiheng Special Steel.

Subsidy Programs Benefitting Shiheng Special Steel

[160] For purposes of the preliminary determination, the CBSA estimated an amount of subsidy equal to 0.6% of the export price for Shiheng Special Steel, based on the financial benefits received from three programs:

- Program 19: Debt Forgiveness
- Program 46: Financial Subsidy
- Program 162: Tax policies for the deduction of research and development expenses

[161] During the final phase of the investigation, the CBSA confirmed that Shiheng Special Steel received benefits from the GOC under one of the aforementioned programs (Program 162) and four other programs. As a result, the amount of subsidy for Shiheng Special Steel was based on the benefits received under the following five actionable subsidy programs:

- Program 32: Assistance for Technology Innovation - R&D Project
- Program 115: Subsidy for the Technology Development
- Program 180: Fund for Urban Public Utilities
- Program 181: Grants under the Information Technology programme of Feicheng
- Program 162: Tax policies for the deduction of research and development expenses

[162] The total amount of subsidy for Shiheng Special Steel is equal to 13.0 Chinese Yuan Renminbi (RMB) per metric tonne (MT), or 0.4%, when expressed as a percentage of the export price.

All Other Exporters - China

[163] For all other exporters that did not provide a response to the CBSA's subsidy RFI, the amount of subsidy was determined pursuant to subsection 30.4(2) of SIMA, based on a ministerial specification on the basis of:

- (i) the amount of subsidy for the five programs, as found at the final determination, for the sole exporter that provided a complete response to the RFI located in China, plus;
- (ii) the average of the amount of subsidy for the five programs referenced in (i), applied to each of the remaining 176 potentially actionable subsidy programs for which sufficient information is not available or has not been provided at the final determination.

[164] The subject goods exported to Canada by all other exporters during the POI were found to be subsidized by an amount equal to 469 RMB per MT, or 14.7%, when expressed as a percentage of the export price.

[165] Based on the preceding, 100% of certain concrete reinforcing bar originating in or exported from China was subsidized. A summary of the amount of subsidy applicable to Shiheng Special Steel is provided in **Appendix 1** while the overall amount of subsidy for China is provided in the table at the end of this section.

Results of the Subsidy Investigation – the Republic of Korea

[166] At the initiation of the subsidy investigation, the CBSA identified 30 potential subsidy programs. Two additional programs were identified during the course of the investigation. The programs are grouped in the following seven categories:

- I. National Excellence in Steel Products Strategy;
- II. Government Owned Banks Providing Subsidies through Various Preferential Export-Contingent Assistance;
- III. Subsidy Programs Administered by the Korea Trade Insurance Corporation;
- IV. Targeted Tax Exemptions, Deductions, and Credits;
- V. Government of Korea Subsidies to Dongbu Steel's Plants in Asan Bay;
- VI. Other Preferential Loans and Financing Assistance; and
- VII. Other Korean Subsidies.

[167] Details regarding these potential subsidies were provided in the *Statement of Reasons* issued for the initiation and preliminary determination of this investigation. This document is available through the CBSA Web site at the following address: www.cbsa-asfc.gc.ca/sima-lmsi.

[168] As a result of further review during the final phase of the investigation, three subsidy programs were determined to have not existed during the POI, and another program was determined to have been terminated prior to the POI. Further review during the final phase of the investigation also resulted in two additional programs being identified.

[169] In total, 32 programs were investigated for purposes of this investigation.

[170] In conducting its investigation, the CBSA sent a subsidy RFI to the GOK as well as to potential exporters of certain concrete reinforcing bar located in the Republic of Korea that had been identified through CBSA import entry documentation. Information was requested in order to establish whether there had been financial contributions made by any level of government including SOEs possessing, exercising or vested with government authority, and, if so, to establish if a benefit had been conferred on persons engaged in the production, manufacture, growth, processing, purchase, distribution, transportation, sale, export or import of concrete reinforcing bar; and whether any resulting subsidy was specific in nature. The GOK was also requested to forward the RFIs to all subordinate levels of government that had jurisdiction over the exporters. The exporters were directed to forward a portion of the RFI to their input suppliers, who were asked to respond to questions pertaining to their legal characterization as SOEs.

[171] Responses to the CBSA's subsidy RFI were submitted by three exporters: Hyundai Steel Company, Hyundai Corporation and GSG.

[172] A complete response to the government subsidy RFI was received from the GOK.

[173] In its response to the government subsidy RFI, the GOK provided general descriptions of the alleged subsidy programs identified by the CBSA and submitted copies of the relevant supporting laws, regulations and policies. Two SRFIs were sent to the GOK to gather additional information and on October 20, 2014, the CBSA conducted on-site verification meetings with various government departments in Seoul, the Republic of Korea. The GOK provided the CBSA with all requested information.

[174] As a result of the GOK providing complete information to the CBSA, the amount of subsidy for the exporters that provided a complete response was determined pursuant to subsection 30.4(1) of SIMA.

[175] From the analysis of the available information, the CBSA has determined that one of the programs that conferred a benefit to a producer or exporter of rebar was determined to be actionable. Information concerning all programs used by exporters of subject goods is provided in **Appendix 2**.

Hyundai Steel Company

[176] Hyundai Steel Company provided a response to the subsidy RFI that was considered to be complete. Hyundai Steel Company was sent one SRFI to gather additional information. From October 21 to October 24, 2014, the CBSA conducted an on-site verification at the premises of Hyundai Steel Company.

[177] Hyundai Steel Company's response to the CBSA's subsidy RFI detailed individual amounts of subsidy associated with Hyundai Steel Company.

Subsidy Programs Benefitting Hyundai Steel Company

[178] For purposes of the preliminary determination, the CBSA estimated an amount of subsidy equal to 0.3% of the export price for Hyundai Steel Company, based on the financial benefits received from the following five programs:

- Program 14: Research or Human Resource Development Expense Tax Deductions Under the Restriction of Special Taxation Act (RSTA) Article 10(1)(3)
- Program 16: Tax Credit for Investment in Energy-Saving Facilities Under RSTA Article 25-2
- Program 22: Targeted Facilities Subsidies through Korea Finance Corporation, Korea Development Bank and Industrial Bank of Korea “New Growth Engine Industry Fund”
- Program 24: Subsidies to Korean Rebar producers located within Industrial Complexes
- Program 31: Industrial Technology Innovation Promotion Program

[179] During the final phase of the investigation, the CBSA confirmed that Hyundai Steel Company received benefits from the GOK under all five programs listed above and one additional program. However, only one of these programs was determined to be actionable, which is further explained in **Appendix 2**. As a result, the amount of subsidy for Hyundai Steel Company was based on the benefits received under the following actionable subsidy program:

- Program 32: Customs Duties Exempted.

[180] The total amount of subsidy for Hyundai Steel Company is equal to 100 Korean Won (KRW) per MT, or 0.0%³², when expressed as a percentage of the export price.

Hyundai Corporation

[181] Hyundai Corporation provided a response to the subsidy RFI that was considered to be complete. Hyundai Corporation was sent one SRFI to gather additional information.

[182] Hyundai Corporation’s response to the CBSA’s subsidy RFI detailed individual amounts of subsidy associated with Hyundai Corporation.

Subsidy Programs Benefitting Hyundai Corporation

[183] For the purposes of the preliminary determination, the CBSA did not have sufficient information on the record to determine a company-specific amount of subsidy. Therefore, the amount of subsidy for Hyundai Corporation was equal to 3.8% of the export price, the same as the All Other Exporters’ amount of subsidy.

³² The amount of subsidy for Hyundai Steel Company is 0.02%, but has been rounded to one decimal point.

[184] During the final phase of the investigation, the CBSA confirmed that Hyundai Corporation did not benefit from the programs being investigated, or that the programs from which they benefited were not specific. However, since Hyundai Corporation exclusively shipped subject goods manufactured by Hyundai Steel Company, and that the two companies were considered to be at arm's length, a pass-through analysis was conducted using Hyundai Steel Company's sale prices to other customers, to determine whether any of the upstream subsidies provided to Hyundai Steel flowed through to Hyundai Corporation. Through this analysis, the CBSA concluded that the entire amount of subsidy was passed through to Hyundai Corporation.

[185] Therefore, the total amount of subsidy attributable to the goods exported by Hyundai Corporation is equal to 100 KRW per MT, or 0.0%³³, when expressed as a percentage of the export price.

G.S. Global

[186] GSG provided a response to the subsidy RFI that was considered to be complete. GSG was sent one SRFI to gather additional information.

[187] GSG's response to the CBSA's subsidy RFI detailed individual amounts of subsidy associated with GSG.

Subsidy Programs Benefitting GSG

[188] For the purposes of the preliminary determination, the CBSA did not have sufficient information on the record to determine a company-specific amount of subsidy. Therefore, the amount of subsidy for GSG was equal to 3.8% of the export price, the same as the All Other Exporters' amount of subsidy.

[189] During the final phase of the investigation, the CBSA confirmed that GSG did not benefit from the programs being investigated, or that the programs from which they benefited were not specific. However, since GSG exclusively shipped subject goods manufactured by Hyundai Steel, and that the two companies were considered to be at arm's length, a pass-through analysis was conducted using Hyundai Steel Company's sale prices to other customers, to determine whether any of the upstream subsidies provided to Hyundai Steel flowed through to GSG. Through this analysis, the CBSA concluded that the entire amount of subsidy was passed through to GSG.

[190] Therefore, the total amount of subsidy attributable to the goods exported by GSG is equal to 100 KRW per MT, or 0.0%³⁴, when expressed as a percentage of the export price.

³³ The amount of subsidy for Hyundai Corporation is 0.02%, but has been rounded to one decimal point.

³⁴ The amount of subsidy for GSG is 0.02%, but has been rounded to one decimal point.

All Other Exporters – the Republic of Korea

[191] The CBSA determined that there were no other exporters of subject goods during the Period of Investigation located in the Republic of Korea. Therefore, the CBSA did not determine an All Other Exporters' amount of subsidy.

Results of the Subsidy Investigation – Turkey

[192] At the initiation of the subsidy investigation, the CBSA identified 43 potential subsidy programs. Six of these subsidy programs were removed at the preliminary determination because the CBSA was satisfied, from the information available, that those programs were not in effect during the POI. The remaining 37 programs are grouped in the following six categories:

- I. Investment Encouragement Program (IEP);
- II. Turk Eximbank Programs;
- III. Regional-based, Organized Industrial Zone (OIZ), and Free Zone Programs;
- IV. Goods/Services provided by the Government of Turkey (GOT) at Less Than Fair Market Value;
- V. Research and Development Programs; and
- VI. Other Programs.

[193] Details regarding these potential subsidies were provided in the *Statement of Reasons* issued for the initiation and preliminary determination of this investigation. This document is available through the CBSA Web site at the following address: www.cbsa-asfc.gc.ca/sima-lmsi.

[194] In conducting its investigation, the CBSA sent a subsidy RFI to the GOT as well as to potential exporters of certain concrete reinforcing bar located in Turkey that had been identified through CBSA import entry documentation. Information was requested in order to establish whether there had been financial contributions made by any level of government including SOEs possessing, exercising or vested with government authority, and, if so, to establish if a benefit had been conferred on persons engaged in the production, manufacture, growth, processing, purchase, distribution, transportation, sale, export or import of concrete reinforcing bar; and whether any resulting subsidy was specific in nature. The GOT was also requested to forward the RFIs to all subordinate levels of government that had jurisdiction over the exporters. The exporters were directed to forward a portion of the RFI to their input suppliers, who were asked to respond to questions pertaining to their legal characterization as SOEs.

[195] Responses to the CBSA's subsidy RFI were submitted by two exporters: Habas and Habas Petrol.

[196] A complete response to the subsidy RFI was received from the GOT.

[197] In its response to the subsidy RFI, the GOT provided general descriptions of the alleged subsidy programs identified by the CBSA and submitted copies of the relevant supporting laws, regulations and policies. Three SRFIs were sent to the GOT to gather additional information and on October 20 and October 21, 2014, the CBSA conducted on-site verification meetings with various government departments in Ankara, Turkey. The GOT provided the CBSA with all requested information.

[198] As a result of the GOT providing complete information to the CBSA, the amount of subsidy for the exporters that provided a complete response was determined pursuant to subsection 30.4(1) of SIMA.

[199] From the analysis of the available information, the CBSA has determined that one of the programs that conferred a benefit to a producer or exporter of rebar was determined to be actionable. Information concerning all programs used by exporters of subject goods is provided in **Appendix 2**.

Habas Sinai ve Tibbi Gazlar Istihsal Endustrisi A.S. (Habas)

[200] Habas provided a response to the subsidy RFI that was considered to be substantially complete. Habas was sent two SRFIs to gather additional information. From October 13 to October 17, 2014, the CBSA conducted on-site verification at the premises of Habas.

[201] Habas' response to the CBSA's subsidy RFI detailed individual amounts of subsidy associated with Habas.

Subsidy Programs Benefitting Habas

[202] For purposes of the preliminary determination, the CBSA estimated an amount of subsidy equal to 2.5% of the export price for Habas, based on the financial benefits received from the following four programs:

- Program 37: Provision of natural gas at less than fair market value
- Program 39: Research and Development – Tax breaks and other assistance
- Program 41: Social Security Grant Program
- Program 42: Deduction from taxable income for export revenue

[203] During the final phase of the investigation, the CBSA confirmed that Habas received benefits from the GOT under six programs. However, only one of these programs was determined to be actionable, which is further explained in **Appendix 2**. As a result, the amount of subsidy for Habas was based on the benefits received under the following actionable subsidy program:

- Program 42: Deduction from taxable income for export revenue

[204] The total amount of subsidy for Habas is equal to 1.36 Turkish Lira (TL) per MT, or 0.1%, when expressed as a percentage of the export price.

Habas Petrol Urunleri Sanayi ve Ticaret A.S. (Habas Petrol)

[205] Habas Petrol, an associated company of Habas, provided a late response to the subsidy RFI on October 27, 2014, the day of the close of record.

[206] The late response received was reviewed and determined to be incomplete. As a result of receiving the RFI submission late in the investigation, the CBSA was unable to send SRFIs or verify the submitted information.

[207] Therefore, the amount of subsidy for Habas Petrol was determined pursuant to subsection 30.4(2) of SIMA based on the All Other Exporters' methodology described below.

All Other Exporters - Turkey

[208] For all other exporters that did not provide a complete response to the CBSA's subsidy RFI, the amount of subsidy was determined pursuant to subsection 30.4(2) of SIMA, based on a ministerial specification on the basis of:

- (i) the amount of subsidy for the one program, as found at the final determination, for the sole exporter that provided a complete response to the RFI located in Turkey, plus;
- (ii) the amount of subsidy for the program referenced in (i), applied to the remaining two potentially actionable subsidy programs for which sufficient information is not available or has not been provided at the final determination.

[209] The subject goods exported to Canada by all other exporters during the POI were found to be subsidized by an amount equal to 4.08 TL per MT, or 0.1%, when expressed as a percentage of the export price.

[210] Based on the preceding, 100% of certain concrete reinforcing bar originating in or exported from Turkey was subsidized. A summary of the amount of subsidy applicable to Habas and Habas Petrol is provided in **Appendix 1** while the overall amount of subsidy for Turkey is provided in the table at the end of this section.

Summary of Results – Subsidy

[211] The following table summarizes the results of the subsidy investigation respecting all subject goods released into Canada during the POI.

*Amount of Subsidy and Volume of Subsidized Goods
(January 1, 2013 to March 31, 2014)*

Country	Volume of Subsidized Goods as Percentage of Country Imports	Amount of Subsidy*	Volume of Country Imports as Percentage of Total Imports	Volume of Subsidized Goods as Percentage of Total Imports
China	100%	6.1%	11.5%	11.5%
Republic of Korea	100%	0.0%**	8.9%	8.9%
Turkey	100%	0.1%	18.3%	18.3%

* expressed as a percentage of export price.

** the amount of subsidy for the Republic of Korea is 0.02% but has been rounded to one decimal point.

[212] In making a final determination of subsidizing under paragraph 41(1)(a) of SIMA, the President must be satisfied that the subject goods have been subsidized and that the amount of subsidy on the goods of a country is not insignificant. According to subsection 2(1) of SIMA, an amount of subsidy that is less than 1% of the export price of the goods is considered insignificant.

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

[214] SIMA does not define or provide any guidance regarding the determination of a “developing country” for purposes of Article 27.10 of the *WTO Agreement on Subsidies and Countervailing Measures*. As an administrative alternative, the CBSA refers to the *Development Assistance Committee List of Official Development Assistance Recipients* (DAC List of ODA Recipients) for guidance.³⁵ As China and Turkey are included in the listing, the CBSA has extended developing country status to China and Turkey for purposes of this investigation.

[215] The amount of subsidy of certain concrete reinforcing bar originating in or exported from China is above 2% and is, therefore, not insignificant. The amount of subsidy of certain concrete reinforcing bar originating in or exported from the Republic of Korea is below 1% and is, therefore, insignificant. The amount of subsidy of certain concrete reinforcing bar originating in or exported from Turkey is below 2% and is, therefore also insignificant.

³⁵ The Organization for Economic Co-operation and Development, DAC List of ODA Recipients from 2011 to 2013, the document is available at: www.oecd.org/dac/stats/DAC%20List%20used%20for%202012%20and%202013%20flows.pdf

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

REPRESENTATIONS CONCERNING THE DUMPING AND SUBSIDY INVESTIGATIONS

[217] Following the close of the record on October 27, 2014, case briefs with respect to the dumping and subsidy investigations were received from counsel representing the Complainants, one exporter in the Republic of Korea, one exporter in Turkey and the GOT. Reply submissions were filed on behalf of the Complainants, one exporter in the Republic of Korea, one exporter in Turkey and the GOT.

[218] The issues raised by participants through the case briefs and reply submissions as well as the CBSA's response to these issues are provided in **Appendix 3**.

DECISIONS

[219] On the basis of the results of the dumping investigation, the President is satisfied that certain concrete reinforcing bar originating in or exported from China, the Republic of Korea and Turkey has been dumped and that the margins of dumping are not insignificant. Consequently, on December 10, 2014, the President made a final determination of dumping pursuant to paragraph 41(1)(a) of SIMA.

[220] On the basis of the results of the subsidy investigation, the President is satisfied that certain concrete reinforcing bar originating in or exported from China has been subsidized and that the amount of subsidy is not insignificant. As a result, on December 10, 2014, the President made a final determination of subsidizing pursuant to paragraph 41(1)(a) of SIMA.

[221] On the basis of the results of the subsidy investigation, the President is satisfied that certain concrete reinforcing bar originating in or exported from the Republic of Korea and Turkey has been subsidized but that the amount of subsidy is insignificant. As a result, on December 10, 2014 the President terminated the subsidy investigation regarding certain concrete reinforcing bar originating in or exported from the Republic of Korea and Turkey pursuant to paragraph 41(1)(b) of SIMA.

[222] **Appendix 1** contains a summary of the margins of dumping and amounts of subsidy relating to the final determinations.

FUTURE ACTION

[223] The provisional period began on September 11, 2014, and will end on the date the Tribunal issues its finding. The Tribunal is expected to issue its decision by January 9, 2015. Provisional duties will continue to apply until this date on imports of subject goods from China, the Republic of Korea and Turkey. However, the provisional duties related to the subsidization of goods originating in or exported from the Republic of Korea and Turkey will no longer apply, and such provisional duty paid or security posted will be returned. For further details on the application of provisional duties, refer to the *Statement of Reasons* issued for the preliminary determinations, which is available on the CBSA's Web site at www.cbsa-asfc.gc.ca/sima-lmsi.

[224] If the Tribunal finds that the dumped and subsidized goods have not caused injury and do not threaten to cause injury, all proceedings relating to these investigations will be terminated. In this situation, all provisional duties paid or security posted by importers will be returned.

[225] If the Tribunal finds that the dumped and subsidized goods have caused injury, the anti-dumping and/or countervailing duties payable on subject goods released by the CBSA during the provisional period will be finalized pursuant to section 55 of SIMA. Imports released by the CBSA after the date of the Tribunal's finding will be subject to anti-dumping duty equal to the margin of dumping and countervailing duty equal to the amount of subsidy.

[226] The importer in Canada shall pay all applicable duties. If the importers of such goods do not indicate the required SIMA code or do not correctly describe the goods in the customs documents, an administrative monetary penalty could be imposed. The provisions of the *Customs Act*³⁶ apply with respect to the payment, collection or refund of any duty collected under SIMA. As a result, failure to pay duty within the prescribed time will result in the application of interest.

[227] In the event of an injury finding by the Tribunal, normal values and amounts of subsidy have been provided to the exporters which provided complete submissions for future shipments to Canada and these normal values and amounts of subsidy would come into effect the day after an injury finding. Information regarding normal values of the subject goods should be obtained from the exporter.

[228] Exporters of subject goods who did not provide sufficient information in the dumping investigation will have normal values established by advancing the export price by 41% based on a ministerial specification pursuant to subsection 29(1) of SIMA. Anti-dumping duty will apply based on the amount by which the normal value exceeds the export price of the subject goods. Similarly, exporters of subject goods from China who did not provide sufficient information in the subsidy investigation will be subject to a countervailing duty amount of 469 RMB per MT, based on a ministerial specification pursuant to subsection 30.4(2) of SIMA.

³⁶ *Customs Act* R.S.C. 1985

RETROACTIVE DUTY ON MASSIVE IMPORTATIONS

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

[230] 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.

PUBLICATION

[231] A notice of these final determinations of dumping and subsidizing will be published in the *Canada Gazette* pursuant to paragraph 41(3)(a) of SIMA. A notice of the termination of the investigation in respect of the Republic of Korea and Turkey will be published in the *Canada Gazette* pursuant to paragraph 41(4)(a) of SIMA.

INFORMATION

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

Mail: SIMA Registry and Disclosure Unit
Trade and Anti-dumping Programs Directorate
Canada Border Services Agency
100 Metcalfe Street, 11th floor
Ottawa, Ontario K1A 0L8
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Web site: www.cbsa-asfc.gc.ca/sima-lmsi



Brent McRoberts
Director General
Trade and Anti-dumping Programs Directorate

Attachments

1. Appendix 1 – Summary of Margins of Dumping and Amounts of Subsidy
2. Appendix 2 – Summary of Findings for Named Subsidy Programs
3. Appendix 3 – Dumping and Subsidy Representations

APPENDIX 1 – SUMMARY OF MARGINS OF DUMPING AND AMOUNTS OF SUBSIDY

Exporter	Margin of Dumping*	Amount of Subsidy*	Amount of Subsidy
China			
Shiheng Special Steel	17.1%	0.4%	13 RMB/MT
All Other Exporters	41.0%	14.7%	469 RMB/MT
Republic of Korea			
Hyundai Steel	13.3%	N/A	N/A
Hyundai Corporation	41.0%	N/A	N/A
GSG	41.0%	N/A	N/A
All Other Exporters	41.0%	N/A	N/A
Turkey			
Habas Sinai	3.8%	N/A	N/A
Habas Petrol	41.0%	N/A	N/A
All Other Exporters	41.0%	N/A	N/A

* expressed as a percentage of the export price.

NOTE: The margins of dumping reported in this table are the margins determined by the CBSA for purposes of the final determination of dumping. These margins do not reflect the amount of anti-dumping duty to be levied on future importations of dumped goods. In the event of an injury finding by the Tribunal, normal values and amounts of subsidy for future shipments to Canada have been provided to the exporters that provided complete responses to the CBSA RFI. These normal values and amounts of subsidy would come into effect the day after an injury finding. Information regarding normal values of the subject goods and amounts of subsidy should be obtained from the exporters. Imports from exporters that did not provide complete information to the CBSA during the dumping investigation will be subject to an anti-dumping duty rate of 41%, expressed as a percentage of the export price, in accordance with a ministerial specification. Imports from exporters located in China that did not provide complete information to the CBSA during the subsidy investigation will also be subject to a countervailing duty rate of 469 RMB per MT, in accordance with a ministerial specification. Please consult the [SIMA Self-Assessment Guide](#) for more detailed information explaining how to determine the amount of SIMA duties owing.

APPENDIX 2 – SUMMARY OF FINDINGS FOR NAMED SUBSIDY PROGRAMS

China

As noted in the body of this document, the GOC did not submit a response to the subsidy RFI, and therefore did not provide the required information relating to the financial contribution, benefit and specificity. This significantly impeded the CBSA's investigation as all information has not been furnished to enable the determination of the amount of subsidy in the prescribed manner. Due to this lack of information, subsidy amounts for all exporters have been determined under a ministerial specification pursuant to subsection 30.4(2) of SIMA based on the best information available to the CBSA. In consideration of the level of cooperation received from the exporter that provided complete response to the subsidy RFI, an individual amount of subsidy has been determined for this exporter using information provided in the exporter's submission.

Subsidy Programs Used by Responding Exporter

The CBSA has used the best information available to describe the potentially actionable subsidy programs used by the responding exporter in the investigation. This includes using information obtained from CBSA research on potential subsidy programs in China, information provided by the responding exporter and descriptions of programs that the CBSA has previously publicly published in recent *Statement of Reasons* relating to subsidy investigations involving China. Since the GOC did not submit a response to the Subsidy RFI, the information available to identify the legal instruments pertaining to the programs is limited and such references may be inaccurate or incomplete.

III. Grants and Grant-equivalents

On the basis of the available information, the following programs under grants and grant-equivalents constitute a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA; i.e., a practice of government that involves a direct transfer of funds. These grants confer a direct benefit to the recipient in the form of a grant and the benefit is equal to the amount of the grant provided.

Due to the lack of a response by the GOC and the lack of details provided by the exporter, there is not sufficient information on the record to determine whether the following grants and grant-equivalents are specific pursuant to subsection 2(7.2) or subsection 2(7.3) of SIMA; nor is there sufficient information to indicate that the subsidy programs are not specific pursuant to the criteria set out in subsection 2(7.1). On the basis of the available information this program does not appear to be generally available to all enterprises in China.

The amount of subsidy respecting each of these programs was calculated under ministerial specification pursuant to subsection 30.4(2) of SIMA, by distributing the benefit amount received by the exporter over the total quantity of goods to which the benefit was attributable.

Program 32: Assistance for Technology Innovation - R&D Project:

During the POI, the exporter who provided a complete response to the RFI received a grant (through its related raw material supplier) for the development of energy saving technology, increasing energy use efficiency, encouragement of technology innovation, and reduction of pollutant emissions. This program was administered by the Financial Bureau of Feicheng.

Program 115: Subsidy for the Technology Development:

During the POI, the exporter who provided a complete response to the RFI received a grant under this program. This program was established in the document titled ‘Document of Feicheng Bureau of Finance F.C.Y.Z. [2013] No. 13, 50, 89, 119 - Notice on Disbursement of Science and Technology Development Fund for Bureau of Science and Technology’. This program was administered by the Science and Technology Bureau of Feicheng.

Program 180: Fund for Urban Public Utilities:

During the POI, the exporter who provided a complete response to the RFI received a grant for participation in social infrastructure construction. This program was established in the document titled ‘T.C.Q.Z. [2013] No. 62’. This program was administered by the Financial Bureau of Tai’an.

Program 181: Grants under the Information Technology Program of Feicheng:

During the POI, the exporter who provided a complete response to the RFI received a grant for using information technology to develop production efficiency. This program was administered by the Financial Bureau of Feicheng.

IV. Preferential Income Tax Programs

On the basis of available information, the following program under Preferential Income Tax Programs constitutes 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 reduced and/or exempted, and confer a benefit to the recipient equal to the amount of the reduction/exemption.

Due to the lack of a response by the GOC and the lack of details provided by the exporter, there is not sufficient information on the record to determine whether the following preferential income tax program is specific pursuant to subsection 2(7.2) or subsection 2(7.3) of SIMA; nor is there sufficient information to indicate that the subsidy programs are not specific pursuant to the criteria set out in subsection 2(7.1). On the basis of the available information this program does not appear to be generally available to all enterprises in China.

The amount of subsidy respecting this program was calculated under ministerial specification pursuant to subsection 30.4(2) of SIMA, by distributing the benefit amount received by the exporter over the total quantity of goods to which the benefit was attributable.

Program 162: Tax policies for the deduction of research and development expenses:

During the POI, the exporter who provided a complete response to the RFI received benefit under this program. This program was established in Article 30(1) of The Enterprise Income Tax Law and Article 95 of the Release of Regulations on the Implementation of Enterprise Income Tax Law of the People's Republic of China by the State Council (Decree 512 of the State Council, 2007).

Other Potentially Actionable Subsidy Programs

The following 176 programs were also included in the current investigation. Questions concerning these programs were included in the RFI sent to the GOC and to all known exporters of the goods in China. The exporter that provided a response to the RFI reported not using these programs during the subsidy POI. Without a complete response to the subsidy RFI from the GOC and all known exporters, the CBSA does not have sufficient information to determine that any of these programs do not constitute actionable subsidies. In other words, the CBSA does not have sufficient information to determine that any of the following programs should be removed from the investigation for purposes of the final determination.

I. Special Economic Zone (SEZ) and Other Designated Areas Incentives

- Program 1: Award for Baotou Rare Earth High and New Technology Industrial Development Zone for Excellent Construction Projects
- Program 2: Fuyang and Hangzhou City Government Grants for Enterprises Operating Technology and Research and Development Centers
- Program 3: Science and Technology Fund - Tianjin Binhai New Area and the Tianjin Economic and Technological Development Area
- Program 4: Corporate Income Tax Exemption and/or Reduction in SEZs and other Designated Areas
- Program 5: Exemption/Reduction of Special Land Tax and Land Use Fees in SEZs and Other Designated Areas
- Program 6: Income Tax Refund where Profits Re-invested in SEZs and other Designated Areas
- Program 7: Preferential Tax Policies for Enterprises with Foreign Investment (FIEs) Established in Special Economic Zones (excluding Shanghai Pudong Area)
- Program 8: Preferential Tax Policies for FIEs Established in the Coastal Economic Open Areas and in the Economic and Technological Development Zones
- Program 9: Tariff and Value-added Tax (VAT) Exemptions on Imported Materials and Equipment in SEZs and other Designated Areas
- Program 10: Tax concessions for Central and Western regions
- Program 11: Local Income Tax Exemption and/or Reduction in SEZs and other Designated Areas
- Program 12: Preferential Costs of Services and/or Goods Provided by Government or State-owned Enterprises (SOEs) in SEZs and Other Designated Areas
- Program 13: VAT Exemptions for the Central Region

II. Preferential Loans and Loan Guarantees

- Program 14: Loan from Local Finance Bureau
- Program 15: Loans and Interest Subsidies provided under the Northeast Revitalization Program
- Program 16: Policy Lending to Particular Industries
- Program 17: Preferential Loans Characterized as a Lease Transaction
- Program 18: Preferential Loans for SOEs
- Program 19: Debt Forgiveness

III. Grants and Grant Equivalents

- Program 20: Export Seller's Credit for High and New Technology Products by China EMIX Bank
- Program 21: Changzhou Qishuyan District Environmental Protection Fund (Jiangsu)
- Program 22: Changzhou Technology Plan (Jiangsu)
- Program 23: Enterprise Innovation Award of Qishuyan District (Jiangsu)
- Program 24: Enterprise Technology Centers (e.g. Tianjin City and Jinnan District)
- Program 25: Environment Protection Award (Jiangsu)
- Program 26: Grant - Jiangsu Province Finance Supporting Fund
- Program 27: "Large and Excellent" Enterprises Grant
- Program 28: "Two New" Product Special Funds of Guangdong Province
- Program 29: Advanced Science/Technology Enterprise Grant
- Program 30: Allowance to Pay Loan Interest (Zhongshan City, Guangdong)
- Program 31: Assistance for Optimizing the Structure of Import/Export of High-Tech Products
- Program 33: Award for Good Performance in Paying Taxes
- Program 34: Awards for the Contributions to Local Economy and Industry Development
- Program 35: Awards to Enterprises Whose Products Qualify for "Well-Known Trademarks of China" or "Famous Brands of China"
- Program 36: Business Bureau 2012 Market Monitoring System of Subsidies
- Program 37: Business Development Overseas Support Fund (Foshan)
- Program 38: Circular on Issuance of Management Methods for Foreign Trade Development Support Fund (Support Fund)
- Program 39: Emission Reduction and Energy-saving Award
- Program 40: Energy Saving Grant 2008
- Program 41: Energy-saving Technology Renovation Fund
- Program 42: Export Assistance Grant
- Program 43: Export Brand Development Fund
- Program 44: Export Credit Subsidy Programs: Export Buyer's Credits
- Program 45: Export Grant 2006, 2007, 2008
- Program 46: Financial Subsidy
- Program 47: Five Points, One Line Strategy in Liaoning Province
- Program 48: Foreign Trade Grant 2008
- Program 49: Fund for SME Bank-Enterprise Cooperation Projects
- Program 50: Funds for Outward Expansion of Industries in Guangdong Province
- Program 51: Funds of Guangdong Province to Support the Adoption of E-Commerce by Foreign Trade Enterprises

- Program 52: Foreign Trade Development Fund Program - Grants
- Program 53: Government Export Subsidy and Product Innovation Subsidy
- Program 54: Government of Shijiazhuang City Export Award
- Program 55: Grant - Financial Subsidies from Wei Hai City GaoCun Town Government
- Program 56: Grant - Large Taxpayer Award
- Program 57: Grant - Patent Application Assistance
- Program 58: Grant - Policy on Value-added Tax for Recyclable Resources
- Program 59: Grant - Provincial Foreign Economy and Trade Development Special Fund
- Program 60: Grant - Provisional Industry Promotion Special Fund
- Program 61: Grant - Resources Conservation and Environment Protection Grant
- Program 62: Grant - Special Fund for Fostering Stable Growth of Foreign Trade in 2009
- Program 63: Grant - State Service Industry Development Fund
- Program 64: Grant - Water Pollution Control Special Fund for Taihu Lake
- Program 65: Grant for key enterprises in equipment manufacturing industry of Zhongshan
- Program 66: Grants for Encouraging the Establishment of Headquarters and Regional Headquarters with Foreign Investment
- Program 67: Grants for International Certification
- Program 68: Grants to Privately-Owned Export Enterprises
- Program 69: Grants Under Regulations for Export Product Research and Development Fund Management
- Program 70: Grants under the Science and Technology programme of Hebei Province
- Program 71: Grants under the Science and technology programme of Jiangsu Province
- Program 72: Guangdong - Hong Kong Technology Cooperation Funding Scheme
- Program 73: Guangdong Supporting Fund
- Program 74: Guaranteed Growth Fund
- Program 75: Hangzhou City Government Grants Under the Hangzhou Excellent New Products/Technology Award
- Program 76: Implementing Measures on the Supporting Fund for Foreign Trade & Economic Development of Jiangxi Province (Implementing Measures)
- Program 77: Important Structural Adjustment Program of Jiangsu Province
- Program 78: Initial Public Offering (IPO) Grants from the Hangzhou Prefecture and the City of Fuyang
- Program 79: Innovative Experimental Enterprise Grant
- Program 80: Innovative Small and Medium-Sized Enterprise Grants
- Program 81: Interim Measures of Fund Management of Allowance for Zhongshan Enterprises to Attend Domestic and Overseas Fair (Zhongshan)
- Program 82: International Market Fund for Small- and Medium-sized Export Companies) [Matching Funds for International Market Development for SMEs]
- Program 83: Jiangxi Provincial Bulk Cement Special Fund: Transformation of Bulk Cement Facilities and Equipment
- Program 84: Jiangxi Provincial Environmental Protection Special Fund
- Program 85: Jiangxi Provincial Wall Material Renovation Special Fund: Special Subsidies for New Wall Materials
- Program 86: Liaoning High-Tech Products & Equipment Export Interest Assistance
- Program 87: Local and Provincial Government Reimbursement Grants on Export Credit Insurance Fees
- Program 88: Miscellaneous Grants

- Program 89: Modern Service Grant
- Program 90: Municipal Government - Exhibition Grant
- Program 91: Municipal Government - Export Grant
- Program 92: Municipal Government - Insurance Fee Grant
- Program 93: National Environmental Protection and Resources Saving Program: Grants for the Optimization of Energy Systems
- Program 94: National Innovation Fund for Technology Based Firms
- Program 95: Outstanding Growth Private Enterprise and Small and Medium-sized Enterprises Development in Jiangyin Fund
- Program 96: Patent award in Guangdong province;
- Program 97: Pension Fund Grants
- Program 98: Product Quality Grant
- Program 99: Provincial Fund for Fiscal and Technological Innovation
- Program 100: Provincial Government - Equipment Grant
- Program 101: Provincial Loan Discount Special Fund for SMEs
- Program 102: Provincial Scientific Development Plan Fund
- Program 103: Refund from Government for Participating in Trade Fair (Foshan)
- Program 104: Reimbursement of Anti-dumping and/or Countervailing Legal Expenses by the Local Governments
- Program 105: Reimbursement of Foreign Affairs Services Expenses (Foshan)
- Program 106: Repaying Foreign Currency Loan by Returned VAT
- Program 107: Research & Development (R&D) Assistance Grant
- Program 108: Science and Technology Award
- Program 109: Small and Medium-sized Enterprise Support Funds
- Program 110: Special Fund for Significant Science and Technology in Guangdong Province
- Program 111: Special Support Fund for Non-State-Owned Enterprises
- Program 112: Special Supporting Fund for Commercialization of Technological Innovation and Research Findings
- Program 113: State Special Fund for Promoting Key Industries and Innovation Technologies
- Program 114: Subsidy for Promoting Energy-saving Buildings
- Program 116: Superstar Enterprise Grant
- Program 117: Support Funds for Construction of Project Infrastructure Provided by Administration Commission of LETDZ
- Program 118: Supporting Fund for Non-refundable Export Tax Loss on Mechanical & Electrical Product and High-tech Product (Jiangmen City)
- Program 119: Taxpayer Grant
- Program 120: Technical Renovation Loan Interest Discount Fund
- Program 121: Technology Project Assistance
- Program 122: Technology to Improve Trade R&D Fund
- Program 123: The State key technology project fund
- Program 124: Venture Investment Fund of Hi-Tech Industry
- Program 125: Water Conservancy Fund Deduction
- Program 126: Water Fund Refund/Exemption 2008
- Program 127: Water Saving Enterprise
- Program 128: Award for Excellent Enterprise
- Program 129: Export Award
- Program 130: Financial Assistance for an Overseas Market Survey

Program 131: Foreign Trade Promotion Award
Program 132: Fund for Supporting Strategic Emerging Industries by Guangdong Governments
Program 133: Medium Size and Small Size Enterprises Development Special Fund
Program 134: Medium Size and Small Size Trading Enterprises Development Special Fund
Program 135: Reduction in Land Use Fees, Land Rental Rates, and Land Purchase Prices
Program 136: Special Supporting Fund for Key Projects of "500 Strong Enterprises in Contemporary Industries" by Guangdong Governments
Program 137: Stamp Tax Exemption on Share Transfers under Non-tradable Share Reform
Program 138: Supporting Fund for Becoming Publicly Listed Company
Program 139: Supporting Fund for the "Working Capital" Loan Interest
Program 140: Supporting Fund for the Development from Guangzhou Local Governments
Program 141: Foreign Trade Development Fund Program - VAT Refunds

IV. Preferential Tax Programs

Program 142: Corporate Income Tax Reduction for New High-Technology Enterprises
Program 143: Deed Tax Exemptions For Land Transferred through Merger or Restructuring
Program 144: Income tax concessions for the enterprises engaged in the comprehensive resource utilisation ('special raw materials')
Program 145: Income Tax Exemption for Investors in Designated Geographical Regions Within Liaoning
Program 146: Income Tax Refund for Re-investment of FIE Profits by Foreign Investors
Program 147: Local income tax exemption and reduction programmes for the productive FIEs
Program 148: Municipal Government - Preferential Tax Program
Program 149: PGOG Tax Offset for R&D
Program 150: Preferential income tax policies for particular regions
Program 151: Preferential Tax Policies for Domestic Enterprises Purchasing Domestically Produced Equipment for Technology Upgrading Purpose
Program 152: Preferential Tax Policies for FIEs and Foreign Enterprises Which Have Establishments or Places in China and are Engaged in Production or Business Operations Purchasing Domestically Produced Equipment
Program 153: Preferential Tax Policies for FIEs which are Technology Intensive and Knowledge Intensive
Program 154: Preferential Tax Policies for Foreign Invested Export Enterprises
Program 155: Preferential Tax Policies for the Research and Development of FIEs
Program 156: Preferential Tax Policies in the Western Regions
Program 157: Preferential Tax Programs for Encouraged Industries or Projects
Program 158: Accelerated Depreciation on Fixed Assets
Program 159: City maintenance and Construction Taxes and education surcharges for Foreign Invested Enterprises
Program 160: Various local tax discounts (Shandong Province, Chongqing City, Guangxi Region Zhuang, Tax privileges to develop central and western regions)
Program 161: VAT and Income Tax Exemption/Reduction for Enterprises Adopting Debt-to-Equity Swaps
Program 163: Tax Preference Available to Companies that Operate at a Small Profit
Program 164: Two free, three half tax exemptions for the productive FIEs

V. Relief from Duties and Taxes on Inputs, Materials and Machinery

- Program 165: Exemption of Tariff and Import VAT for the Imported Technologies and Equipment
- Program 166: Relief from Duties and Taxes on Imported Material and Other Manufacturing Inputs
- Program 167: VAT rebates on domestically produced equipment
- Program 168: VAT refunds to FIEs purchasing domestically produced equipment
- Program 169: VAT deduction on fixed assets in the Central region
- Program 170: Income tax credit for the purchase of domestically manufactured production equipment
- Program 171: Import tariff and VAT exemptions for FIEs and certain domestic enterprises using imported equipment in encouraged industries

VI. Goods/Services provided by the Government at Less Than Fair Market Value

- Program 172: Acquisition of Government Assets at Less than Fair Market Value
- Program 173: Export Restrictions on raw materials (e.g. Coke)
- Program 174: Input Materials Provided by Government at Less than Fair Market Value
- Program 175: Utilities Provided by Government at Less than Fair Market Value

VII. Equity Programs

- Program 176: Debt-to-Equity Swaps
- Program 177: Dividend exemption between qualified resident enterprises
- Program 178: Equity Infusions
- Program 179: Unpaid Dividends

Republic of Korea

As a result of the GOK providing complete information to the CBSA, as well as exporters that provided complete responses to the subsidy RFI, individual amounts of subsidy have been determined pursuant to subsection 30.4(1) of SIMA, for those exporters where sufficient information had been furnished to enable the necessary calculations.

Subsidy Programs Used by Exporters and Producers of Subject Goods

The CBSA has used the best information available to describe the subsidy programs used by the exporters and producers of subject goods during the POI. This includes using information provided by the GOK, information provided by the responding exporters and descriptions of programs provided by the Complainants.

Program 9: Korea Development Bank and Industrial Bank of Korea Short-Term Discounted Loans for Export Receivables:

During the POI, one exporter who provided a response to the RFI participated in this program. This program is administered by the Korea Development Bank and the Industrial Bank of Korea, and provides short-term export loans on export receivables. Based on the evidence on the record, it was determined that this program was not applicable to the subject goods. Therefore this program was not included for purposes of the final determination.

Program 10: Short-Term Export Insurance:

During the POI, one or more exporters who provided a complete response to the RFI participated in this program. This program is administered by the Korea Trade Insurance Corporation (K-SURE), and provides short-term export insurance to exporters. Based on the evidence on the record, it was determined that K-SURE provides export insurance at market rates and competes with other non-government entities. Therefore this program was not included for purposes of the final determination.

Program 14: Research or Human Resource Development Expense Tax Deductions Under RSTA Article 10(1)(3):

During the POI, one exporter who provided a complete response to the RFI benefited from this program, which constitutes 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 reduced and/or exempted, and confer a benefit to the recipient equal to the amount of the reduction/exemption. This program is administered by the National Tax Service, and is a tax credit to all who incur research and development expenses, as well as human resource development in the tax year. It is not limited to any specific industry or geographical area to which the subject goods can be attributed to. Therefore, this program was determined to be not specific pursuant to section 2(7.1) of SIMA, and was not included for purposes of the final determination.

Program 16: Tax Credit for Investment in Energy-Saving Facilities Under RSTA Article 25-2:

During the POI, one or more exporters who provided a complete response to the RFI benefited from this program, which constitutes 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 reduced and/or exempted, and confer a benefit to the recipient equal to the amount of the reduction/exemption. This program is administered by the National Tax Service, and is a tax credit to all who incur energy-saving expenses in the tax year. It is not limited to any specific industry or geographical area to which the subject goods can be attributed to. Therefore, this program was determined to be not specific pursuant to section 2(7.1) of SIMA, and was not included for purposes of the final determination.

Program 17: RSTA Article 26:

During the POI, one or more exporters who provided a complete response to the RFI benefited from this program, which constitutes 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 reduced and/or exempted, and confer a benefit to the recipient equal to the amount of the reduction/exemption. This program is administered by the National Tax Service, and is a tax credit to all who incur expenses related to the hiring of employees in the tax year. It is not limited to any specific industry or geographical area to which the subject goods can be attributed to. Therefore, this program was determined to be not specific pursuant to section 2(7.1) of SIMA, and was not included for purposes of the final determination.

Program 22: Targeted Facilities Subsidies through Korea Finance Corporation, Korea Development Bank and Industrial Bank of Korea “New Growth Engine Industry Fund”:

During the POI, one exporter who provided a complete response to the RFI participated in this program. This program is administered by the KoFC, the KDB and the IBK, which provide loans to companies. However, it was determined that the material terms of the loans were determined by market forces, and were not preferential. Therefore, this program was determined not to have provided a benefit to the exporters and producers of subject goods during the POI, and was not included for purposes of the final determination.

Program 24: Subsidies to Korean Rebar Producers Located within Industrial Complexes:

During the POI, one or more exporters who provided a complete response to the RFI benefited from this program, which constitutes 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 reduced and/or exempted, and confer a benefit to the recipient equal to the amount of the reduction/exemption. This program is administered by the municipal governments of the Industrial Complexes, and is a property tax and land purchase tax exemption or reduction. However, all companies located within the Industrial Complexes receive the same benefit. Therefore, this program was determined to be not specific pursuant to section 2(7.1) of SIMA, and was not included for purposes of the final determination.

Program 28: Sale of Assets of Hanbo Steel to Hyundai Steel:

One exporter who provided a complete response to the RFI purchased assets from Hanbo Steel. In reviewing the submitted information by both the exporter and the GOK, it was determined that the sales of assets of Hanbo Steel was done through a public auction, were sold through a transparent bidding process, were sold to the highest bidders at a price that was above the reserve price. It was also determined that the assets purchased from Hanbo Steel were not used in the production of subject goods. Therefore, this program was determined not to have provided a benefit to the exporters and producers of subject goods, and was not included for purposes of the final determination.

Program 30: Provision of Electricity at Less Than Fair Market Value:

During the POI, one or more exporters who provided a complete response to the RFI purchased electricity from KEPCO. However, based on the information provided by one or more exporters and by the GOK, it was determined that the electricity rates are not specific to an industry or geographical area, and even allow the customers to choose which plan suits their needs, as opposed to a fixed rate determined by KEPCO. Therefore it was determined that this program was not specific pursuant to section 2(7.1) of SIMA, and was not included for purposes of the final determination.

Program 31: Industrial Technology Innovation Promotion Program:

During the POI, one exporter who provided a complete response to the RFI benefited from this program, which constitutes a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA, i.e., practices of the government involve the direct transfer of funds or liabilities or the contingent transfer of funds or liabilities, and confers a benefit to the recipient equal to the funds or liabilities transferred. This program is administered by the Ministry of Trade, Industry and Energy, and provides financial assistance to companies undertaking approved projects. The project for which the exporter received a benefit is not tied to the production or sale of the subject goods, and deals with research and development concerning a certain bi-product of the steel-making process. Due to the nature of the project, this amount is not attributable to the production or sale of the subject goods. Therefore, this program was not included for purposes of the final determination.

Program 32: Exempted Customs Duties:

During the POI, one exporter who provided a complete response to the RFI benefited from this program, which constitutes 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 reduced and/or exempted, and confer a benefit to the recipient equal to the amount of the reduction/exemption. This program is administered under the Customs Act. There are no programs that allow the customs duties to be exempted for importations of equipment, and the GOK confirmed that they are exempted based on a case by case basis. For this reason, this program has been determined to be de facto specific pursuant to subsection 2(7.3) of SIMA, for the manner in which the granting authority exercises discretion.

Exempted customs duties on equipment imported were apportioned over the average useful life of all equipment imported since 2003, and apportioned to the 15 months of the POI, resulting in an amount of subsidy of 100 KRW per MT of production. This resulted in an amount of subsidy of 100 KRW per MT of production.

Turkey

As a result of the GOT providing complete information to the CBSA, as well as exporters that provided complete responses to the subsidy RFI, individual amounts of subsidy have been determined pursuant to subsection 30.4(1) of SIMA, for those exporters where sufficient information had been furnished to enable the necessary calculations.

Subsidy Programs Used by Exporters and Producers of Subject Goods

The CBSA has used the best information available to describe the potentially actionable subsidy programs used by the exporters and producers of subject goods during the POI. This includes using information provided by the GOT, information provided by the responding exporters and descriptions of programs provided by the Complainants.

Program 12: Turk Eximbank – Short-term pre-shipment rediscount program:

During the POI, an exporter who did not provide a response to the RFI benefited from this program, which constitutes 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 reduced and/or exempted, and confer a benefit to the recipient equal to the amount of the reduction/exemption. This program is administered by the Export Credit Bank of Turkey, and is a loan provided to companies for expenses incurred preparing goods for export.

SOEs 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; or
- evidence that a government exercises meaningful control over an entity.

The following factors are present which indicate that the GOT exercises meaningful control over the Export Credit Bank of Turkey:

- Government appointment of directors or chief executives, and/or political influence over choice of appointees;
- The company’s ability to transfer ownership rights is restricted or its equity is in some other way “locked-in”;
- The government approves the entity’s business plans or otherwise exercises oversight over its functions.³⁷

³⁷ Subsidy Exhibit 98 (NC) – Response to SRFI#1 – Government of Turkey – Decree Law Number 233.

Decree law number 3332 outlines the GOTs regulation of the Export Credit Bank of Turkey.³⁸

The Export Credit Bank of Turkey is an SOE that is granted or vested with authority by statute and is meaningfully controlled by the GOT. Therefore, the Export Credit Bank of Turkey can be considered government pursuant to subsection 2(1) of SIMA.

This program is contingent upon export which constitutes a prohibited subsidy. Therefore, this program has been determined to be specific, pursuant to paragraph 2(7.2)(b) of SIMA. This program was not included in the exporter's amount of subsidy, but was included in the determination of the All Other Exporters' rate.

Program 37: Provision of natural gas at less than fair market value:

During the POI, an exporter who provided a complete response to the RFI benefited from this program, which constitutes a financial contribution pursuant to paragraph 2(1.6)(c) of SIMA, i.e., the government provides goods or services, other than general governmental infrastructure, or purchases goods. This program is administered by BOTAS Petroleum Pipeline Corporation (BOTAS), a natural gas provider owned by the GOT, which provides natural gas to companies in Turkey.

SOEs 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; or
- evidence that a government exercises meaningful control over an entity.

The following factors are present which indicate that the GOT exercises meaningful control over BOTAS:

- Government appointment of directors or chief executives, and/or political influence over choice of appointees;
- The company's ability to transfer ownership rights is restricted or its equity is in some other way “locked-in”;
- The government approves the entity's business plans or otherwise exercises oversight over its functions.³⁹

Decree law number 4646 outlines the GOTs regulation of the natural gas market in Turkey and the business activity of BOTAS.⁴⁰

³⁸ Subsidy Exhibit 61 (NC) – Response to the Subsidy RFI - Government of Turkey – Exhibit 13

³⁹ Subsidy Exhibit 98 (NC) – Response to SRFI#1 – Government of Turkey – Decree Law Number 233.

⁴⁰ Subsidy Exhibit 61 (NC) – Response to the Subsidy RFI - Government of Turkey – Exhibit 56

The information provided in the GOT's response to an SRFI indicates that BOTAS is granted or vested with authority by statute and is meaningfully controlled by the GOT. Therefore, BOTAS can be considered government pursuant to subsection 2(1) of SIMA.

BOTAS supplied 77.5% of the natural gas domestically consumed in Turkey in 2013. No sectorial or regional sales information is kept by BOTAS.

Any company which consumes at least 100,000 cubic meters (m³) of natural gas annually can purchase from BOTAS. BOTAS supplies to organized industrial zones (OIZs), distribution companies and companies which produce power. BOTAS does not deviate from the natural gas prices posted on its website.⁴¹ There are three different pricing levels of natural gas offered by BOTAS: companies that consume less than 300,000 m³, companies that consume 300,000 m³ or more, and companies located in OIZs.

The CBSA has determined that this program is specific, pursuant to paragraph 2(7.2)(a) of SIMA, for companies that are located in OIZs as they are offered a preferential rate based on geographical location. However, information on the record indicates that no producers or exporters of subject goods in Turkey are located in an OIZ.

For companies located outside of OIZs, the CBSA is of the opinion that this program is broadly available and not limited to any specific industry or geographical area. The 100,000 m³ minimum annual purchase requirement is a threshold which only small companies would not meet. Additionally, the prices are publicly listed and available to all customers. Therefore, for companies located outside of OIZs, this program was determined to be not specific pursuant to section 2(7.1) of SIMA, and was not included for purposes of the Final Determination.

Program 39: Research and Development – Tax breaks and other assistance:

During the POI, one or more exporters benefited from this program, which constitutes 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 reduced and/or exempted, and confer a benefit to the recipient equal to the amount of the reduction/exemption. This program is administered by the Ministry of Finance and the Scientific and Technological Research Council of Turkey (Tubitak), and allows companies to deduct research and development expenses incurred for approved projects. In order for a company to benefit for the program, the application must be approved by the Ministry of Finance and Tubitak. This program has been determined to be *de facto* specific pursuant to subsection 2(7.3) of SIMA, for the manner in which the granting authority exercises discretion. However, for the responding exporter that benefitted from this program, this amount cannot be attributed to the production or sale of the subject goods, as the project relates to another line of business. Therefore, this program was not included in the exporter's amount of subsidy, but was included in the determination of the All Other Exporters' rate.

⁴¹ Subsidy Exhibit 202 (NC) – Government of Turkey Verification Exhibits

Program 41: Social Security Grant Program:

During the POI, one or more exporters benefited from this program, which constitutes 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 reduced and/or exempted, and confer a benefit to the recipient equal to the amount of the reduction/exemption. This program is administered by the Social Security Institution, and is a reduction of social security premiums available to all companies in Turkey which pay within a legislated timeframe. Therefore, this program was determined to be not specific pursuant to section 2(7.1) of SIMA, and was not included for purposes of the Final Determination.

Program 42: Deduction from taxable income for export revenue:

During the POI, one or more exporters benefited from this program, which constitutes 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 reduced and/or exempted, and confer a benefit to the recipient equal to the amount of the reduction/exemption. This program is administered by the Ministry of Finance, and is a tax deduction based on export revenue. This program is contingent upon export which constitutes a prohibited subsidy. Therefore, this program has been determined to be specific, pursuant to paragraph 2(7.2)(b) of SIMA. Therefore, this program was included in the exporter's amount of subsidy and was included in the determination of the All Other Exporters' rate.

Program 43: Inward processing certificate exemption:

During the POI, one or more exporters benefited from this program, which allows manufacturers/exporters in Turkey to obtain raw materials and intermediate unfinished goods that are used in the production of the exported goods without paying customs duty including Value Added Tax and being subject to commercial policy measures.

Sections 35 and 35.01 of SIMR pertain to the determination of the amount of subsidy when the subsidy takes the form of an exemption or remission of duties and taxes in excess of that permitted under SIMA. These provisions relate to the definition of "subsidy" found in paragraph 2(1)(a) of SIMA. This provision provides that a subsidy does not include the amount of any duty or internal tax imposed on any goods by the government of the country of origin or export which is exempted or relieved because the goods have been exported.

A benefit for this program would only arise in the cases when the exemption or relief is in an amount greater than the amount of duty or taxes that would be paid if the goods had been consumed domestically rather than being exported. Any exempted taxes and duties amount greater than the amount of duty or taxes that would be paid if the goods had been consumed domestically rather than being exported would constitute an export subsidy. This program was investigated and it was determined that the GOT has adequate controls in place to ensure all export commitments are met. Therefore, this program was determined to not be providing a benefit to the exporters and producers of subject goods, and was not included for purposes of the Final Determination.

APPENDIX 3 – DUMPING AND SUBSIDY REPRESENTATIONS

Case briefs were received on behalf of the Complainants (ArcelorMittal and Alta)⁴², the Complainant (Gerdau)⁴³, the GOT⁴⁴ and two exporters, Hyundai Steel Company⁴⁵ and Habas,⁴⁶ by the November 5, 2014 deadline.

Case briefs were also received from Richard Chung International Trade Consultants which is not a party to the investigation. Case briefs for GSG were received past the deadline on November 10, 2014. For these reasons, the case briefs for both parties were not taken into account.

Reply submissions were received on behalf of the Complainants (ArcelorMittal and Alta)⁴⁷, the Complainant (Gerdau)⁴⁸, the GOT⁴⁹ and two exporters, Hyundai Steel Company⁵⁰ and Habas⁵¹, by the November 12, 2014 deadline.

The issues of contention raised by these parties are summarized as follows:

Absence of Importer RFI Responses

Case Briefs

Counsel for the Complainants (ArcelorMittal and Alta) argued that all of the importers who purchase goods from an exporter must respond to the Importer RFI in order for specific normal values and export prices to be issued to the exporter.

Reply Submissions

Counsel for Habas noted that the requirement of Importer RFI responses to issue specific normal values has never been imposed by the CBSA in previous investigations. Counsel also argued that Habas has provided all necessary information to the CBSA and should receive specific normal values and export prices.

⁴² Dumping Exhibit 163 & Subsidy Exhibit 214 (NC) – Complainant Case Brief (ArcelorMittal and Alta)

⁴³ Dumping Exhibit 168 & Subsidy Exhibit 218 (NC) – Complainant Case Brief (Gerdau)

⁴⁴ Subsidy Exhibit 217 (NC) – Government of Turkey Case Brief

⁴⁵ Dumping Exhibit 160 (NC) – Hyundai Steel Company Case Brief, Subsidy Exhibit 209 (NC) – Hyundai Steel Company Case Brief

⁴⁶ Dumping Exhibit 163 (NC) – Habas Case Brief, Subsidy Exhibit 212 (NC) – Habas Case Brief

⁴⁷ Dumping Exhibit 171 & Subsidy Exhibit 221 (NC) – Complainant Reply Brief (ArcelorMittal and Alta)

⁴⁸ Dumping Exhibit 171 & Subsidy Exhibit 223 (NC) – Complainant Reply Brief (Gerdau)

⁴⁹ Subsidy Exhibit 222 (NC) – Government of Turkey Reply Brief

⁵⁰ Dumping Exhibit 177 (NC) & Subsidy Exhibit 227 (NC) – Hyundai Steel Company Reply Brief

⁵¹ Dumping Exhibit 175 (NC) & Subsidy Exhibit 225 (NC) – Habas Reply Brief

CBSA's Response to Case Briefs and Reply Submissions

Where exporters provided complete responses to the RFI, and the information was verified, the CBSA is satisfied that the information used in determining normal values and export prices is accurate.

Like Goods

Case Briefs

Counsel for the Complainant (Gerdau) argued that there are no domestic sales of like goods in Turkey, since the Canadian Standards and Turkish Standards for rebar are different.

Reply Submission

Counsel for Habas argued that its like good classifications are reasonable.

CBSA's Response to Case Briefs and Reply Submissions

The CBSA used Habas' like good classifications where appropriate to determine normal values pursuant to section 15 of SIMA. For products for which there were no domestic sales of like goods, normal values were determined pursuant to paragraph 19(b) of SIMA.

Amount for Profit (Turkey)

Case Briefs

Counsel for the Complainants (ArcelorMittal and Alta) argued that in determining an amount for profits for producers in Turkey to determine a normal value pursuant to paragraph 19(b) of SIMA, where subsections 11(1)(b)(i) to (vi) of the *Special Import Measures Regulations* (SIMR) are not applicable, the CBSA must apply the ordinary meaning to "a reasonable amount for profits". Counsel noted that the global management consulting firm McKinsey & Company has prepared a report indicating that for long-term sustainability, steel mills require an average EBITDA margin of 17%.⁵² Counsel submitted that this profit of 17% is reasonable and should be used to determine an amount for profits. Alternatively, counsel argued that the amount for profits for producers in Turkey should be the average of the three producers in Turkey with financial statements on the record.⁵³

Counsel for Habas argued that with the information provided during the final phase of the investigation the CBSA would be able to determine an amount for profits pursuant to subsections 11(1)(b)(i) or (ii) of the SIMR.

⁵² Dumping Exhibit 156 (NC) – Attachment 20

⁵³ Dumping Exhibit 88 (PRO) – Turkey - Amount for Profit

Reply Submissions

Counsel for the Complainants (ArcelorMittal and Alta) argued that the amount of profit earned by Habas is not reasonable. Counsel also argued that the amount for profits should be determined based on the average of the three producers in Turkey with financial statements on the record.⁵⁴

Counsel for Habas argued that an amount for profit must be determined using the six-step hierarchy described in subsections 11(1)(b)(i) to (vi) of the SIMR. Counsel argued that Habas provided the CBSA with sufficient information to determine an amount for profits using subparagraph 11(1)(b)(i) or (ii) of the SIMR.

CBSA's Response to Case Briefs and Reply Submissions

Habas' information was verified and the CBSA is satisfied with the information. An amount for profits was determined pursuant to subsection 11(1)(b)(ii) of the SIMR for Habas. Normal values for all other producers and exporters in Turkey were determined pursuant to section 29 of SIMA. As such, an amount for profits was not determined.

Amount for Profit (China)

Case Briefs

Counsel for the Complainants (ArcelorMittal and Alta) argued that in determining an amount for profits for producers in China to determine a normal value pursuant to paragraph 19(b) of SIMA, where subsections 11(1)(b)(i) to (vi) of the SIMR are not applicable, the CBSA must apply the ordinary meaning to "a reasonable amount for profits". Counsel noted that the global management consulting firm McKinsey & Company has prepared a report indicating that for long-term sustainability, steel mills require an average EBITDA margin of 17%.⁵⁵ Counsel submitted that this profit of 17% is reasonable and should be used to determine an amount for profits. Alternatively, counsel argued that the profit margin for SMIC⁵⁶, a publicly traded steel producer in China should be used to determine an amount for profits for producers in China.

CBSA's Response to Case Briefs

Normal values for producers and exporters in China were determined pursuant to section 29 of SIMA. As such, an amount for profits was not determined.

⁵⁴ Dumping Exhibit 88 (PRO) – Turkey - Amount for Profit

⁵⁵ Dumping Exhibit 156 (NC) – Attachment 20

⁵⁶ Dumping Exhibit 2 (NC) – Attachment 14

Amount for Profit (Republic of Korea)

Case Briefs

Counsel for the Complainants (ArcelorMittal and Alta) argued that in determining an amount for profits for producers in the Republic of Korea to determine a normal value pursuant to paragraph 19(b) of SIMA, where subsections 11(1)(b)(i) to (vi) of the SIMR are not applicable, the CBSA must apply the ordinary meaning to “a reasonable amount for profits”. Counsel noted that the global management consulting firm McKinsey & Company has prepared a report indicating that for long-term sustainability, steel mills require an average EBITDA margin of 17%.⁵⁷ Counsel submitted that this profit of 17% is reasonable and should be used to determine an amount for profit. Alternatively, counsel argued that the profit margin for POSCO⁵⁸, a large steel producer in the Republic of Korea should be used to determine an amount for profits for producers in the Republic of Korea.

Reply Submissions

Counsel argued that Hyundai Steel Company provided the CBSA with sufficient information to determine an amount for profits using subparagraph 11(1)(b)(i) or (ii) of the SIMR.

CBSA’s Response to Case Briefs and Reply Submissions

Normal values for the exporter in the Republic of Korea that provided a complete submission were determined pursuant to section 15 of SIMA. Normal values for all other producers and exporters in the Republic of Korea were determined pursuant to section 29 of SIMA. In both cases, an amount for profits was not determined.

General Selling and Administrative Expense for Habas

Case Briefs

Counsel for Habas argued that the general selling and administrative expense (GS&A) used at the preliminary determination was inappropriate as it double-counted ocean freight and other direct selling expenses. Counsel argues that the revised GS&A calculation submitted as a result of the verification should be used to determine amounts of GS&A on the goods.

⁵⁷ Dumping Exhibit 156 (NC) – Attachment 20

⁵⁸ Dumping Exhibit 2 (NC) – Attachment 15

Reply Submissions

Counsel for the Complainants (ArcelorMittal and Alta) argued that the revised GS&A cannot be reconciled to the financial statements and should not be used to determine normal values.

Counsel for the Complainant (Gerdau) argued that Habas' revised GS&A calculation should not be used to determine normal values, since they do not take into account certain expenses.

CBSA's Response to Case Briefs and Reply Submissions

Habas' information was verified and the CBSA is satisfied with the information. The CBSA has determined an amount of GS&A for Habas pursuant to paragraph 11(1)(c) of the SIMR.

Date of Sale for Habas

Case Briefs

Counsel for Habas argued that the contract date should be considered as the date of sale since all terms are agreed upon in the contract with the exception of the sizes of the rebar. Habas also argued that the sizes of the rebar do not alter the contract.

Reply Submissions

Counsel for the Complainants (ArcelorMittal and Alta) argued that the size breakdown is a material term of the contract. As such, counsel argued that the date of sale should be invoice date, not the contract date.

Counsel for the Complainant (Gerdau) argued that the value and volume of a transaction must be determined before a sale can take place. The date of sale is the date in which both of these terms have been set.

CBSA's Response to Case Briefs and Reply Submissions

In this case, the CBSA considers the contract date to be the date of sale as the material terms of the sale do not change after that date.

Weight to be used in Determination of the Export Price

Case Briefs

Counsel for the Complainants (ArcelorMittal and Alta) argued that theoretical weight should be used when determining the export price per MT, since that is the weight that is agreed to in the contract and the theoretical weight is listed on the customs invoice.

Reply Submissions

Counsel for Habas argued that the actual weight should be used when determining the export price per MT. Counsel noted that although contracts are negotiated on a theoretical basis, the contract takes into account tolerances for weight variance. Counsel also noted that normal values are based on actual weight, since Habas' costs are reported on actual weight and domestic sales are made on actual weight. Therefore, counsel argued the export price should be determined on actual weight to permit a proper comparison between the normal values and export prices.

CBSA Response to Case Briefs and Reply Submissions

The CBSA's position is that using the actual weight accurately reflects the commercial reality of the sales, and allows for a proper comparison of normal values and export prices.

Normal Values for Producers and Exporters in China

Case Briefs

Counsel for the Complainants (ArcelorMittal and Alta) argued that normal values for producers and exporters in China should be determined using the price of rebar from China imported into the United States of America (US). Alternatively, counsel argued that normal values should be calculated using a surrogate methodology based on the info of exporters from the Republic of Korea only, since China and the Republic of Korea are geographically proximate countries and they have access to similar sources of raw materials.

CBSA Response to Case Briefs

The CBSA did not receive any responses from producers in the surrogate countries. As such, the information received from the exporters in the Republic of Korea and Turkey represents the best information available in determining a normal value using a surrogate country methodology.

Turkey's designation as a Developing Country

Case Briefs

Counsel for the Complainants (ArcelorMittal and Alta) noted that Canada has graduated Turkey from the General Preferential Tariff (GPT) regime as of January 1, 2015. As a result, counsel argued that Turkey should be treated as a developed country.

Reply Submissions

Counsel for Habas noted that developing status has never been determined using GPT eligibility. Counsel also noted that the CBSA's current policy is to use the OECD Development Assistance Committee list of recipients to determine whether a country should be granted developing status for the purposes of an investigation. Counsel argued that Turkey is on this list and should be

considered a developing country. Additionally, counsel noted that Turkey will be withdrawn from GPT on January 1, 2015, which is after the POI.

The Government of Turkey argued that Turkey will be withdrawn from GPT on January 1, 2015, which is after the POI, and should therefore be treated as a developing country for these investigations.

CBSA Response to Case Briefs and Reply Submissions

As indicated above, SIMA does not define or provide any guidance regarding the determination of a “developing country” for purposes of Article 27.10 of the WTO *Agreement on Subsidies and Countervailing Measures*. The CBSA refers to the DAC List of ODA Recipients for guidance.⁵⁹ As Turkey is included in the listing, the CBSA has extended developing country status to Turkey for purposes of this investigation.

Normal Values for Shiheng Special Steel

Case Briefs

Counsel for the Complainants (ArcelorMittal and Alta) argued that the submission of Shiheng Special Steel is incomplete and unverified. Counsel also argued that section 20 conditions exist in the Chinese rebar industry. For both reasons, counsel argued that Shiheng Special Steel should not receive specific normal values.

CBSA’s Response to Case Briefs

Normal values for producers and exporters in China were determined pursuant to section 29 of SIMA using a surrogate country methodology.

Submissions of Habas

Case Briefs

Counsel for the Complainants (ArcelorMittal and Alta) argued that the dumping and subsidy submissions of Habas are incomplete and unreliable. For this reasons, counsel argued that Habas should not receive specific normal values or an amount of subsidy.

Reply Submissions

Counsel for Habas argued that the submissions of Habas are complete and have been verified by the CBSA.

⁵⁹ The Organization for Economic Co-operation and Development, DAC List of ODA Recipients from 2011 to 2013, the document is available at: www.oecd.org/dac/stats/DAC%20List%20used%20for%202012%20and%202013%20flows.pdf

CBSA Response to Case Briefs and Reply Submissions

The CBSA considers the submissions of Habas to be complete and verified. As such, normal values were determined for Habas pursuant to section 15 and 19 of SIMA, and an amount of subsidy was determined pursuant to subsection 30.4(1) of SIMA.

Habas' Normal Value Adjustment for the Inward Processing Regime

Case Briefs

Counsel for the Complainants (ArcelorMittal and Alta) argued that the adjustment request relating to exemption of duties and taxes on the importation of inputs by Habas pursuant to section 10 of SIMR should be rejected.

Reply Submission

Counsel for Habas maintained that it is entitled to this adjustment which has been verified by the CBSA.

CBSA Response to Case Briefs and Reply Submissions

The CBSA has determined that Habas is not entitled to this adjustment since no duties or taxes are borne by the like goods.

Submissions of Habas Petrol

Case Briefs

Counsel for the Complainants (ArcelorMittal and Alta) argued that the dumping and subsidy submissions of Habas Petrol are late and unverified. Therefore, no company specific normal values and amount of subsidy should be determined.

Counsel for the Complainant (Gerdau) argued that the costs incurred by Habas Petrol must be accounted for in the cost of production of the goods sold by Habas Petrol.

Counsel for Habas argued that Habas Petrol is not the exporter for SIMA purposes. Late responses to the dumping and subsidy RFIs were submitted by Habas Petrol since it did not believe it was necessary to provide responses to the RFIs.

Reply Submissions

Counsel for Habas argued that Habas is the exporter for SIMA purposes.

Counsel for the Complainant (Gerdau) argued that Habas Petrol should be considered the exporter for SIMA purposes for the goods sold by Habas Petrol and costs incurred by Habas Petrol should be accounted for in the cost of production of the goods.

CBSA Response to Case Briefs and Reply Submissions

The CBSA considers Habas Petrol the exporter for SIMA purposes. The response received by Habas Petrol was late and incomplete. Therefore, normal values were determined pursuant to section 29 of SIMA, and an amount of subsidy was determined pursuant to section 30.4(2) of SIMA.

Submissions of Hyundai Steel Company

Case Briefs

Counsel for the Complainants (ArcelorMittal and Alta) argued that the dumping and subsidy submissions of Hyundai Steel Company are incomplete and unreliable. For this reason, counsel argued that Hyundai Steel Company should not receive specific normal values or an amount of subsidy.

Reply Submissions

Counsel for Hyundai Steel Company argued that the submissions of Hyundai Steel Company are complete and have been verified by the CBSA.

CBSA Response to Case Briefs and Reply Submissions

The CBSA considers the submissions of Hyundai Steel Company to be complete and verified. As such, normal values were determined for Hyundai Steel Company pursuant to section 15 of SIMA, and an amount of subsidy was determined pursuant to subsection 30.4(1) of SIMA.

Submissions of Hyundai Corporation

Case Briefs

Counsel for the Complainants (ArcelorMittal and Alta) argued that the dumping and subsidy submissions of Hyundai Corporation are incomplete and unreliable. Therefore, no company specific normal values and amount of subsidy should be determined.

CBSA Response to Case Briefs

The CBSA considers the dumping submission of Hyundai Corporation to be incomplete. As such, normal values were determined for Hyundai Corporation pursuant to section 29 of SIMA. Conversely, the CBSA considers the subsidy submission of Hyundai Corporation to be complete and verified. As such, an amount of subsidy was determined pursuant to section 30.4(1) of SIMA.

Submissions of GSG

Case Briefs

Counsel for the Complainants (ArcelorMittal and Alta) argued that the dumping and subsidy submissions of GSG are incomplete and unreliable. Therefore, no company specific normal values and amount of subsidy should be determined.

CBSA Response to Case Briefs

The CBSA considers the dumping submission of GSG to be incomplete. As such, normal values were determined for GSG pursuant to section 29 of SIMA. Conversely, the CBSA considers the subsidy submission of GSG to be complete and verified. As such, an amount of subsidy was determined pursuant to section 30.4(1) of SIMA.

Designation of the Exporter for Subject Goods from the Republic of Korea

Case Briefs

The counsel of Hyundai Steel Company argued that it is the only exporter for SIMA purposes of subject goods from the Republic of Korea during the POI.

Reply Submissions

The counsel of the Complainants (ArcelorMittal and Alta) argued that there is evidence on the record indicating that Hyundai Steel Company is not the only exporter for SIMA purposes of subject goods from the Republic of Korea during the POI.

The counsel of the Complainants (Gerdau) argued that there is evidence on the record indicating that Hyundai Steel Company is not the only exporter for SIMA purposes of subject goods from the Republic of Korea during the POI.

CBSA Response to Case Briefs and Reply Submissions

The CBSA has determined that there are three exporters of subject goods from the Republic of Korea during the POI.

Section 20 Conditions

Case Briefs

Counsel for the Complainants (ArcelorMittal and Alta) argued that section 20 conditions exist for the rebar industry in China.

Counsel for the Complainant (Gerdau) argued that section 20 conditions exist for the rebar industry in China.

CBSA Response to Case Briefs

As mentioned in the section 20 inquiry portion of this report, the CBSA is of the opinion that section 20 conditions exist in the Chinese steel long products sector, of which rebar is a part.

Amount of Subsidy for Shiheng Special Steel

Case Briefs

Counsel for the Complainants (ArcelorMittal and Alta) argued that the subsidy submission of Shiheng Special Steel is unreliable and unverified. Counsel also noted that the GOC did not provide a response to the CBSA's Subsidy RFI. For both reasons, counsel argued that Shiheng Special Steel should not receive a company-specific amount of subsidy.

CBSA Response to Case Briefs

As mentioned above, due to a lack of government response, subsidy amounts for all exporters located in China were determined pursuant to subsection 30.4(2) of SIMA, based on a ministerial specification. However, in consideration of the fact that Shiheng Special Steel provided a complete response to the subsidy RFI, an individual amount of subsidy was determined under the ministerial specification for this specific exporter based on the information provided in its submission.

Submission of the Government of the Republic of Korea

Case Briefs

Counsel for the Complainants (ArcelorMittal and Alta) argued that the submission of the GOK is incomplete.

Reply Submissions

Counsel for Hyundai Steel Company argued that the GOK submitted all requested information and was verified by the CBSA.

CBSA Response to Case Briefs and Reply Submissions

The CBSA considers the submission of the GOK to be complete and verified.

Subsidy Programs in the Republic of Korea

Case Briefs

The following representations regarding subsidy programs in the Republic of Korea have been made:

Program 9 – Short-Term Discounted Loans for Export Receivables:

Counsel for the Complainants (ArcelorMittal and Alta) argued that this program is countervailable and that the benefit is equal to the difference between the discounted interest rate and the commercial interest rate. Counsel also argued an exporter benefitted from this program and did not provide sufficient information regarding interest rates.

Program 10 – Short-Term Export Insurance:

Counsel for the Complainants (ArcelorMittal and Alta) argued that this program is specific as it is contingent on export.

Program 14: Research or Human Resource Development Expense Tax Deductions Under the Restriction of Special Taxation Act (RSTA) Article 10(1)(3):

Counsel for Hyundai Steel Company argued that this program is not specific. Counsel notes that this determination was made in a United States Court of International Trade (USCIT) decision.⁶⁰

Program 16 – Tax Credit for Investment in Energy-Saving Facilities:

Counsel for the Complainants (ArcelorMittal and Alta) argued that this program is specific as it is only available to certain industries.

Counsel for Hyundai Steel Company argued that this program is a tax credit that is generally available to all companies in the Republic of Korea. Therefore, counsel argued it is not specific.

Program 17 – RSTA Article 26:

Counsel for the Complainants (ArcelorMittal and Alta) argued that this program is specific as it is only available to certain industries.

Program 22- Targeted Facilities Subsidies through Korea Finance Corporation:

Counsel for the Complainants (ArcelorMittal and Alta) argued that this program is specific as it is only available to certain industries.

⁶⁰ Subsidy Exhibit 166 (NC) – Pgs. 8-9

Counsel for Hyundai Steel Company argued that the loans available under this program are available to all qualifying companies in the Republic of Korea, regardless of industry. Therefore, counsel argued it is not specific.

Program 24 – Subsidies to Korean Rebar producers located within Industrial Complexes:

Counsel for the Complainants (ArcelorMittal and Alta) argued the benefits that Hyundai Steel Company received under this program are attributable to rebar production.

Counsel for Hyundai Steel Company argued that the benefits available under this program are available to all qualifying companies in the Republic of Korea, regardless of industry. Therefore, counsel argued it is not specific.

Program 28 – Sales of Assets of Hanbo Steel to Hyundai Steel:

Counsel for Hyundai Steel Company argued that the purchase of these assets was made through a public auction. As such, counsel argued that these assets were purchased at fair market value.

Program 30 – Provision of Electricity at Less than Fair Market Value:

Counsel for Hyundai Steel Company maintained that it purchases its electricity at fair market value. As such, counsel argued that there is no benefit received.

Program 31 – Industrial Technology Innovation Promotion Program:

Counsel for the Complainants (ArcelorMittal and Alta) argued that this program is specific as it is only available to certain industries.

Counsel for Hyundai Steel Company argued that the grants available under this program are available to all qualifying companies in the Republic of Korea. Therefore, counsel argued it is not specific.

Reply Submissions

The following representations regarding subsidy programs in the Republic of Korea have been made in the reply submissions:

Program 16 – Tax Credit for Investment in Energy-Saving Facilities:

Counsel for the Complainants (ArcelorMittal and Alta) maintained that this program is limited to certain types of facilities and is therefore specific to certain industries.

Counsel for Hyundai Steel Company argued that this program is not specific to any industry.

Program 17 – RSTA Article 26:

Counsel for Hyundai Steel Company argued that this program is not specific to any industry.

Program 22- Targeted Facilities Subsidies through Korea Finance Corporation:

Counsel for the Complainants (ArcelorMittal and Alta) maintained that this program is specific to certain industries identified by the GOK.

Counsel for Hyundai Steel Company argued that this program is not specific.

Program 24 – Subsidies to Korean Rebar producers located within Industrial Complexes:

Counsel for the Complainants (ArcelorMittal and Alta) argued that this program is specific to companies that are located in industrial complexes.

Counsel for Hyundai Steel Company argued that this program is not related to rebar production.

Program 31 – Industrial Technology Innovation Promotion Program:

Counsel for the Complainants (ArcelorMittal and Alta) argued that this program is only offered to steel companies and universities. Therefore, it is specific.

Counsel for Hyundai Steel Company argued that there is no benefit under this program since Hyundai Steel Company provided services for the fee that it received.

CBSA Response to Case Briefs and Reply Submissions

The CBSA position regarding each subsidy program used by exporters and producers of subject goods are explained in **Appendix 2**.

Subsidy Period for the Republic of Korea

Case Briefs

In response to Hyundai Steel Company's statement in its submission that subsidies received in the last three months of the POI should be disregarded as no subject goods were produced during that time, the Counsel for the Complainants (ArcelorMittal and Alta) argued that all subsidies received during the POI should be taken into account in determining and amount for subsidy for Hyundai Steel Company.

Reply Submissions

The counsel for Hyundai Steel Company argued that subject goods were produced from November 2012 to December 2013, so only subsidies received during these months should be taken into account.

CBSA Response to Case Briefs and Reply Submissions

The CBSA took all subsidies received during the POI into account in the determination of an amount of subsidy for Hyundai Steel Company.

Monitoring or Subsidy Programs by the Government of the Turkey

Case Briefs

Counsel for the Complainants (ArcelorMittal and Alta) argued that the GOT has inadequate monitoring for a number of subsidy programs resulting in unreported benefits.

Reply Submissions

The Government of Turkey noted that information about the subsidy usage of all producers which exported subject goods to Canada was provided.

CBSA Response to Case Briefs and Reply Submissions

The CBSA is satisfied that the information provided by the GOT is reliable.

Subsidy Programs in Turkey

Case Briefs

The following representations regarding subsidy programs in the Turkey have been made:

Programs 1-6 – Investment Encouragement Program:

Counsel for the Complainants (ArcelorMittal and Alta) argued that there are inconsistencies in the information regarding the availability of these programs.

The GOT noted that these subsidies are not available to rebar producers as the relevant legislation specifically identifies steel producers as not being eligible.

Programs 7-21 – Turkish Eximbank Programs:

The GOT argued that only one of the 15 programs in this category was used during the POI by a producer or exporter of subject goods. As such, the GOT argued that the remainder of the programs should be removed from the investigation. The GOT also argued that Program 21 is not actionable as the premiums paid by users cover the cost of the program.

Programs 22-36 – Regional-based, Organized Industrial Zone, and Free Zone Programs:

The GOT notes that no producer or exporter of subject goods is located in an OIZ or a Free zone. As such, the GOT argued that these programs should be removed from the investigation. The GOT also argued that Program 27 is not actionable as the premiums paid by users cover the cost of the program.

Program 37 – Provision of Natural Gas at Less Than Fair Market Value:

Counsel for the Complainants (ArcelorMittal and Alta) notes that a publicly available report states that natural gas in Turkey is provided to companies at less than fair market value.⁶¹ Additionally, counsel argued that BOTAS is an SOE under government control and sells natural gas at a price below the import purchase price. Counsel also notes that the United States Department of Commerce (USDOC) found the program specific since a disproportionately large amount of the subsidy is used by the power production sector and that Habas received a countervailable subsidy.⁶²

Counsel for Habas argued that there are no specific criteria to be met to purchase natural gas from BOTAS, and rates for natural gas are publicly posted on the company's website. Counsel argued that the subsidy is sufficiently "broadly available" throughout the economy as not to benefit a limited group of producers or a specific product. Counsel notes the concept of "broadly available" in relation to specificity is supported by USDOC jurisprudence.⁶³ Counsel also argued that in determining a benchmark for natural gas in Turkey, the CBSA should consider the price at which natural gas is sold by private companies in Turkey as fair market value. Alternatively, if an external benchmark will be used, counsel argued that the CBSA should use the gas prices of GTIS provided on the record.⁶⁴ Counsel also argued that the benchmark at the date the contract is signed should be used for the life of the contract.

The GOT argued that any customers in any industries or sectors regardless of its geographical region can purchase natural gas from BOTAS. The GOT also argued that BOTAS applies the same natural gas tariffs to all of its customers without making any distinction between sectors or regions, and that BOTAS's natural gas prices are publicly available on its website. Therefore, the GOT argued that the program cannot be determined to be specific.

Program 38 – Provision of Coal at less than fair market value:

Counsel for the Complainants (ArcelorMittal and Alta) noted that the USDOC has recently found that this program is countervailable.⁶⁵

The GOT argued that this program is not specific and no producer or exporter of subject goods has benefited from this program during the POI.

⁶¹ Subsidy Exhibit 204 (NC) – Attachment 30

⁶² Subsidy Exhibit 204 (NC) – Attachment 36

⁶³ WTO, Report of the Panel, United States – Subsidies on Upland Cotton, WT/DS267/R

⁶⁴ Subsidy Exhibit 189 (NC) – SVE 17 and 19

⁶⁵ Subsidy Exhibit 204 (NC) – Attachment 36

Program 39 – Research and Development – Tax Breaks and Other Assistance:

Counsel for the Complainants (ArcelorMittal and Alta) argued that the information provided by the GOT for this program is insufficient to determine specificity.

Counsel for Habas argued that the benefits received under this program are not related to the production or sale of rebar. Counsel also argued that this program is not specific as any company can apply to have a project approved for research and development support. Additionally, counsel argued that the benefit for this program should be allocated using production of all steel products as the denominator.

The GOT argued that the criteria used to approve projects for research and development support are publicly available and applicable to all enterprises in Turkey. Therefore, the GOT argued that this program is not specific.

Program 40 – Research and Development - Product Development Support – UFT:

The GOT noted that no application to this program has been accepted since 2010.

Program 41 – Social Security Grant Program:

Counsel for the Complainants (ArcelorMittal and Alta) argued that the information provided by the GOT for this program is insufficient to determine specificity.

Counsel for Habas argued that this deduction is available to any company in Turkey and is therefore, not specific. Counsel also argues that the benefit for this program should be allocated using production of all steel products as the denominator.

The GOT argued that this discount of social security premiums is available to all companies in Turkey. Therefore, the GOT argued that this program is not specific.

Program 42 – Deduction from taxable income for export revenues:

Counsel for the Complainants (ArcelorMittal and Alta) argued that this program is a prohibited subsidy as it is contingent on export.

Counsel for Habas argued that the benefit for this program should be allocated using production of all steel products as the denominator.

Program 43 – Inward Processing Certificate Exemption:

Counsel for the Complainants (ArcelorMittal and Alta) argued that a benefit would exist for this program if there was an excessive relief of duties on the imported inputs. Counsel also argued that Habas has inadequate monitoring of this program. Additionally, counsel argued that this program is specific as it is contingent on export.

Counsel for Habas argued that this program is not actionable, since the relief of customs duty and VAT does not exceed the amount that would be owed on the goods re-exported.

The GOT noted that a subsidy for this program arises when the exemption is in an amount greater than the amount of duty or taxes that would be paid if the goods had been consumed domestically rather than being exported. The GOT argued that there is a system in place to ensure the program operates in line with the WTO ASCM. As such, the GOT argued that this program does not constitute a subsidy.

Reply Submissions

The following representations regarding subsidy programs in Turkey have been made in the reply submissions:

Programs 1-6 – Investment Encouragement Program:

Counsel for the Complainants (ArcelorMittal and Alta) argued that the GOT arguments are not supported by evidence on the record and should be disregarded.

Programs 7-21 – Turkish Eximbank Programs:

Counsel for the Complainants (ArcelorMittal and Alta) argued that the arguments regarding Program 21 are not supported by evidence on the record and should be disregarded.

Programs 22-36 – Regional-based, Organized Industrial Zone, and Free Zone Programs:

Counsel for the Complainants (ArcelorMittal and Alta) argued that the arguments regarding Program 27 are not supported by evidence on the record and should be disregarded.

Program 37 – Provision of Natural Gas at Less Than Fair Market Value:

Counsel for the Complainants (ArcelorMittal and Alta) argued that Habas sells electricity and can be considered a secondary power producer. Counsel also argued that specificity can relate to an industry or group of industries. Counsel argued that primary and secondary power producers can be considered a group of industries. As such, counsel argued that this program is specific. Counsel also argued that in determining a benchmark for natural gas, the market prices in Europe and Russia should be used, because the prices of natural gas in Turkey are distorted due to BOTAS dominating the market and selling at unprofitable prices. Additionally, counsel argues that the monthly benchmarks should take into account currency fluctuations as it reflects the commercial reality of the purchases.

Counsel for the Complainant (Gerdau) noted that preferential pricing is available to large companies and companies located in OIZs. Counsel argued that the program is specific as a result of the price discrimination. Counsel also argued that the natural gas benchmark used by the CBSA at the preliminary determination is reasonable as natural gas is a world-wide commodity product. Additionally, counsel argued that Habas is a power producer company since it sells the excess power it produces.

Counsel for Habas argued that the report referenced by the Complainants is not based on substantive evidence and cannot be used as a benchmark for natural gas prices. Counsel notes that companies can purchase natural gas from privately owned natural gas suppliers in Turkey at lower prices than from BOTAS. Additionally, counsel argued that Habas is a steel producer and should not be considered part of the power producing industry.

The GOT argued that this program is not specific to rebar producers. The GOT also argued that any customer in Turkey can sign a contract with BOTAS regardless of industry.

Program 38 – Provision of coal at less than fair market value:

Counsel for the Complainants (ArcelorMittal and Alta) maintained that the USDOC has recently determined that this program is specific.⁶⁶

Program 39 – Research and Development – Tax Breaks and Other Assistance:

Counsel for the Complainants (ArcelorMittal and Alta) argued that although the benefits do not relate to rebar, Habas as a whole, benefitted from this program, including its rebar production. Counsel also argued that the original denominator used is appropriate for the allocation of the benefit as billet yield loss does not relate to this program.

Counsel for the Complainant (Gerdau) argued that although this program is not specific to rebar, it acts to lower Habas' overall costs. Therefore, counsel argued that it is still applicable to rebar.

Program 41 – Social Security Grant Program:

Counsel for the Complainants (ArcelorMittal and Alta) argued that complete information was not provided to determine whether or not this program is specific. Counsel also argued that the new denominator provided by Habas should not be used to allocate the benefit.

Program 42 – Deduction from taxable income for export revenues:

Counsel for the Complainants (ArcelorMittal and Alta) argued that the new denominator provided by Habas should not be used to allocate the benefit.

Program 43 – Inward Processing Certificate Exemption:

Counsel for Habas argued that this program was reviewed by the CBSA and it was determined that there was no excessive relief of duties.

The GOT maintained that it strictly inspects to ensure that export commitments are kept by users of this program. This program is in compliance with Annex III of the WTO ASCM.

⁶⁶ Subsidy Exhibit 204 (NC) – Attachment 36

Counsel for the Complainants (ArcelorMittal and Alta) maintained that Habas received excessive relief of duties.

CBSA Response to Case Briefs and Reply Submissions

The CBSA position regarding each subsidy program used by exporters and producers of subject goods can be found in **Appendix 2**.

All Other Exporter Amount of Subsidy in Turkey

Case Briefs

The GOT argued that they were fully cooperative in the investigation and provided all requested information. As such, the GOT argued that the CBSA erred when applying the average amount of subsidy to all other programs. The GOT also argued that some of the programs are clearly unrelated to rebar and should not have been included in the calculation of the all other rate.

Reply Submissions

Counsel for the Complainant (Gerdau) argued that the CBSA cannot assume non-responding exporters do not benefit from subsidies.

CBSA Response to Case Briefs and Reply Submissions

In determining the All Other Exporters' amount of subsidy for Turkey, the CBSA eliminated all subsidy programs from which it was satisfied that producers and exporter of subject goods did not receive benefits.