



OTTAWA, August 16, 2019

STATEMENT OF REASONS

Concerning an expiry review determination under paragraph 76.03(7)(a) of the
Special Import Measures Act
regarding

**THE DUMPING AND SUBSIDIZING OF
CERTAIN ALUMINUM EXTRUSIONS FROM CHINA**

DECISION

On August 2, 2019, pursuant to paragraph 76.03(7)(a) of the *Special Import Measures Act*, the Canada Border Services Agency determined that the expiry of the Canadian International Trade Tribunal's order made on March 17, 2014, in Inquiry No. RR-2013-003:

- i. is likely to result in the continuation or resumption of dumping of certain aluminum extrusions originating in or exported from China; and
- ii. is likely to result in the continuation or resumption of subsidizing of certain aluminum extrusions originating in or exported from China.

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

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EXECUTIVE SUMMARY

[1] On March 8, 2019, the Canadian International Trade Tribunal (CITT), pursuant to subsection 76.03(3) of the *Special Import Measures Act* (SIMA), initiated an expiry review of its order made on March 17, 2014, in Expiry Review No. RR-2013-003, concerning the dumping and subsidizing of certain aluminum extrusions originating in or exported from the People's Republic of China (China).

[2] As a result of the CITT's notice of expiry review, on March 11, 2019, the Canada Border Services Agency (CBSA) initiated an expiry review investigation to determine, pursuant to paragraph 76.03(7)(a) of SIMA, whether the expiry of the order is likely to result in the continuation or resumption of dumping and/or subsidizing of the subject goods.

[3] The CBSA received 10 responses to its Canadian Producer Expiry Review Questionnaire (ERQ): from Almag Aluminum Inc. (Almag)¹, APEL Extrusions Limited (APEL)², Apex Aluminum Extrusions Ltd. (Apex)³, Can Art Aluminum Extrusion Limited Partnership (L.P.) (Can Art)⁴, Dajcor Aluminum Limited (Dajcor)⁵, Extrudex Aluminum Corp.(Extrudex)⁶, Extrudex Aluminum (Quebec) Inc. (Extrudex Quebec)⁷, Hydro Extrusion Canada, Inc. (Hydro)⁸, Metra Aluminum Inc. (Metra)⁹, Spectra Aluminum Products Ltd./Spectra Anodizing Inc. (Spectra)¹⁰. These companies collectively are referred to as "the Canadian producers" in this report. The submissions made by the Canadian producers included information supporting their position that continued or resumed dumping and subsidizing of certain aluminum extrusions from China is likely if the CITT's order is rescinded.

[4] The CBSA received four responses to the Importer ERQ: from HFI Pyrotechnics Inc.¹¹, Studica Limited¹², TORYLS Inc.¹³, and TSDC Canada Inc.¹⁴ The importers did not express an opinion as to the likelihood of continued or resumed dumping and subsidizing of certain aluminum extrusions from China is likely if the CITT's order is rescinded.

[5] The CBSA did not receive any response to the Exporter ERQ nor did it receive a response to the Foreign Government ERQ from the Government of China (GOC).

¹ Exhibit 23 (PRO) & 24 (NC) – ERQ Response of Almag Aluminium Inc.

² Exhibit 42 (PRO) & 43 (NC) – ERQ Response of APEL Extrusion Limited.

³ Exhibit 28 (PRO) & 29 (NC) – ERQ Response of Apex Aluminum Extrusions.

⁴ Exhibit 30 (PRO) & 31 (NC) – ERQ Response of Can Art Aluminum Extrusion Inc.

⁵ Exhibit 32 (PRO) & 33 (NC) – ERQ Response of Dajcor Aluminum Limited.

⁶ Exhibit 34 (PRO) & 35 (NC) – ERQ Response of Extrudex Aluminum Corp.

⁷ Exhibit 36 (PRO) & 37 (NC) – ERQ Response of Extrudex Aluminum (Quebec) Inc.

⁸ Exhibit 38 (PRO) & 39 (NC) – ERQ Response of Hydro Extrusions Canada Inc.

⁹ Exhibit 40 (PRO) & 41 (NC) – ERQ Response of METRA Aluminum Inc.

¹⁰ Exhibit 26 (PRO) & 27 (NC) – ERQ Response of Spectra Aluminum Products Ltd./Spectra Anodizing Inc.

¹¹ Exhibit 44 (PRO) & 45 (NC) – ERQ Response of HFI Pyrotechnics Inc.

¹² Exhibit 20 (NC) – ERQ Response of Studica Limited.

¹³ Exhibit 21 (PRO) & 22 (NC) – ERQ Response of TORYLS Inc.

¹⁴ Exhibit 25 (NC) – ERQ Response of TSDC Canada Inc.

[6] In addition to responding to the ERQ, the Canadian producers submitted supplementary information¹⁵ prior to the closing of the record. The CBSA also received a joint case brief¹⁶ on behalf of the Canadian producers. The case brief submitted by the Canadian producers included arguments supporting their position that continued or resumed dumping and subsidizing of certain aluminum extrusions from China is likely if the CITT's order is rescinded.

[7] Analysis of information on the administrative record in respect of the GOC's involvement in and influence on the aluminum industry – Section 20 conditions; the primary aluminum capacity and production levels in China; the conditions in the aluminum extrusion industry in China; the export orientation of Chinese aluminum extrusion producers; the trade measures in other jurisdictions; the evidence of circumvention of trade remedy measures/transshipment; the continued presence of Chinese aluminum products in Canada; along with the competitive conditions in the Canadian aluminum extrusions market, indicates a likelihood of continued or resumed dumping into Canada of certain aluminum extrusions originating in or exported from China should the CITT's order be rescinded.

[8] In addition, analysis of information on the administrative record in respect of the continued subsidizing of the primary aluminum industry in China, the continued subsidizing of aluminum extrusion producers in China and the countervailing measures in Canada and in other jurisdictions, indicates a likelihood of continued or resumed subsidizing of certain aluminum extrusions originating in or exported from China should the CITT's order be rescinded.

[9] For the foregoing reasons, the CBSA, having considered the information on the record, made a determination on August 2, 2019, pursuant to paragraph 76.03(7)(a) of SIMA that:

- the expiry of the order in respect of certain aluminum extrusions originating in or exported from China is likely to result in the continuation or resumption of dumping of the goods exported to Canada; and
- the expiry of the order in respect of certain aluminum extrusions originating in or exported from China is likely to result in the continuation or resumption of subsidizing of the goods exported to Canada.

BACKGROUND

[10] On August 18, 2008, pursuant to subsection 31(1) of SIMA, the CBSA initiated investigations respecting the dumping and subsidizing of aluminum extrusions from China following a properly documented complaint received from Almag Aluminum Inc., Apel Extrusions Limited, Can Art Aluminum, METRA Aluminium Inc., Signature Aluminum Canada Inc., Spectra Aluminum Products Ltd. and Spectra Anodizing Inc.

¹⁵ Exhibit 46 (PRO) & 47 (NC) – Close of record documents from the Canadian Producers.

¹⁶ Exhibit 49 (PRO) & 50 (NC) – Case Briefs Filed on Behalf of the Canadian Producers.

[11] On February 16, 2009, the CBSA made final determinations¹⁷ of dumping and subsidizing in accordance with subsection 41(1) of SIMA in respect of aluminum extrusions originating in or exported from China.

[12] On March 17, 2009, the CITT found that the dumping and subsidizing of the goods originating in or exported from China had caused injury to the Canadian domestic industry for aluminum extrusions pursuant to subsection 43(1) of SIMA¹⁸.

[13] On February 10, 2011, the Tribunal determined¹⁹ that MAAX Bath Inc. was entitled to the product exclusions that it had requested, at the time of the original inquiry, for certain aluminum extrusions used in the assembly of shower enclosures.

[14] On September 19, 2011, the CBSA initiated a re-investigation of certain aluminum extrusions to update the normal values and amounts of subsidy. The CBSA received cooperation from four exporters, and issued them company-specific normal values and amounts of subsidy at the conclusion of the re-investigation on February 20, 2012.²⁰ The GOC did not cooperate during the re-investigation.

[15] On June 5, 2013, the CITT, pursuant to subsection 76.03(3) of SIMA, initiated an expiry review of its findings made on March 17, 2009, in Inquiry No. NQ-2008-003, and as amended on February 10, 2011, in Inquiry No. NQ-2008-003R, concerning the dumping and subsidizing of certain aluminum extrusions originating in or exported from China. As a result of the Tribunal's Notice of Expiry Review, on June 6, 2013, the CBSA commenced an investigation to determine whether the expiry of the findings is likely to result in the continuation or resumption of dumping and/or subsidizing of the goods from China.

[16] On October 3, 2013, pursuant to paragraph 76.03(7)(a) of SIMA, the CBSA determined that the expiry of the finding was likely to result in the continuation or resumption of dumping and subsidizing of these goods into Canada.²¹

[17] On March 17, 2014, in Expiry Review No. RR-2013-003, the CITT continued its findings without amendment made on March 17, 2009, in Inquiry No. NQ-2008-003, as amended by its determination made on February 10, 2011, in Inquiry No. NQ-2008-003R, concerning the dumping and subsidizing of certain aluminum extrusions originating in or exported from China.²²

¹⁷ Canada Border Services Agency – *Statement of Reasons* – Certain Aluminum Extrusions - Final Determination; March 3, 2009.

¹⁸ Canadian International Trade Tribunal; *Finding and Reasons*, Aluminum Extrusions; Inquiry No. NQ-2008-003, April 1, 2009.

¹⁹ Canadian International Trade Tribunal; *Finding and Reasons*, Aluminum Extrusions; Inquiry No. NQ-2008-003R, February 10, 2011.

²⁰ Canada Border Services Agency, *Notice of Conclusion of Re-Investigation* – Certain Aluminum Extrusions from China ; February 20, 2012.

²¹ Canada Border Services Agency – *Statement of Reasons*; Aluminum Extrusions; Expiry Review No. RR-2013-003; October 18, 2013.

²² Canadian International Trade Tribunal; *Finding and Reasons*, Aluminum Extrusions; Inquiry No. NQ-2013-003; March 28, 2014.

[18] On January 17, 2019, pursuant to subsection 76.03(2) of SIMA, the CITT issued a notice²³ concerning the expiry of its order, which was scheduled to occur on March 16, 2019. Based on the information filed during the expiry process, the CITT decided that a review of the order was warranted. On March 8, 2019, the CITT initiated an expiry review of its order pursuant to subsection 76.03(3) of SIMA.²⁴

[19] On March 11, 2019, the CBSA commenced an expiry review investigation to determine whether the expiry of the order is likely to result in continued or resumed dumping and/or subsidizing of the goods from China.

PRODUCT DEFINITION

[20] The goods subject to this expiry review investigation are defined as:

“Aluminum extrusions produced via an extrusion process of alloys having metallic elements falling within the alloy designations published by The Aluminum Association commencing with 1, 2, 3, 5, 6 or 7 (or proprietary or other certifying body equivalents), with the finish being as extruded (mill), mechanical, anodized or painted or otherwise coated, whether or not worked, having a wall thickness greater than 0.5 mm, with a maximum weight per metre of 22 kg and a profile or cross-section which fits within a circle having a diameter of 254 mm, originating in or exported from the People’s Republic of China.”

²³ Canadian International Trade Tribunal; Notice of Expiry of Order; Aluminum Extrusions; Expiry No. LE-2018-008; January 17, 2019.

²⁴ Canadian International Trade Tribunal, Notice of Expiry Review; Aluminum Extrusions, Expiry No. RR-2018-008; March 8, 2019.

Products excluded from the Tribunal's Order

- aluminum extrusions produced from either a 6063 or a 6005 alloy type with a T6 temper designation, in various lengths, with a powder coat finish on both the interior and the exterior surfaces of the extrusion, which finish is certified to meet the American Architectural Manufacturers Association AAMA 2603 standard, "Voluntary Specification, Performance Requirements and Test Procedures for Pigmented Organic Coatings on Aluminum Extrusions and Panels", for use in exterior railing systems;
- aluminum extrusions produced from a 6063 alloy type with a T5 temper designation, having a length of 3.66 m, with a powder coat finish, which finish is certified to meet the American Architectural Manufacturers Association AAMA 2603 standard, "Voluntary Specification, Performance Requirements and Test Procedures for Pigmented Organic Coatings on Aluminum Extrusions and Panels", for use as head rails and bottom rails in fabric window shades and blinds where the fabric has a cross-sectional honeycomb or "cellular" construction;
- aluminum extrusions produced from a 6063 alloy type with a T5 temper designation and forming part of the Vario System™ 20, 30, 40, 45 and 60 series line of profiles, or equivalent, having a length of either 4.5 or 5.8 m and a straightness tolerance of +/-1.5 mm or less per 6.0 m of length, for use in those parts of mechanical systems and automated machinery, such as gantry systems and conveyors, where precise linear movement is required;
- aluminum extrusions produced from either a 6063 or a 6463 alloy type, having a length of 3 m, with a hand-applied gold and silver leaf finish, for use as picture frame mouldings;
- aluminum extrusions produced from a 6063 alloy type with either a T5 or a T6 temper designation, having a length of between 20 and 33 ft. (between 6.10 and 10.06 m), with a powder coat finish, which finish is certified to meet the American Architectural Manufacturers Association AAMA 2603 standard ("Voluntary Specification, Performance Requirements and Test Procedures for Pigmented Organic Coatings on Aluminum Extrusions and Panels"), for use in window frames;
- heat sinks imported under tariff item No. 8473.30.90 and weighing 700 g or less; and
- aluminum extrusions produced by China Square Industrial Ltd. from either a 6063 or a 6463 alloy type with a T5 temper designation, with a profile or cross-section which fits within a circle having a diameter of 100 mm, for use by MAAX Bath Inc. in the assembly of its shower enclosures, specifically identified in the Appendix of the Determination and reasons issued by the Canadian International Trade Tribunal on February 10, 2011, in Inquiry No. NQ-2008-003R. The list of these excluded products can be found in the Appendix at the following link:
http://www.citt.gc.ca/en/dumping/inquirie/findings/archive_nq2i003r_e#P166_42819

Additional Product Information²⁵

[21] Extrusion is the process of shaping heated material by forcing it through a shaped opening in a die with the material emerging as an elongated piece with the same profile as the die cavity. For greater clarity, the subject goods do not include goods made by the process of impact extrusion or cold extrusion. Impact (or cold) extrusion is commonly used to make collapsible tubes such as toothpaste tubes or cans usually using soft materials such as aluminum, lead and tin. Usually a small shot of solid material is placed in the die and is impacted by a ram, which causes cold flow in the material. Impact (or cold) extrusion is not performed by the same machinery or using the same inputs as the extrusion operations of the complainants.

[22] Alloys are metals composed of more than one metallic element. Alloys used in aluminum extrusions contain small amounts (usually less than five percent) of elements such as copper, manganese, silicon, magnesium, or zinc which enable characteristics such as corrosion resistance, increased strength or improved formability to be imparted to the major metallic element, aluminum. Aluminum alloys are produced to specifications in “International Alloy Designations and Chemical Composition Limits for Wrought Aluminum and Wrought Aluminum Alloys” published by The Aluminum Association. These specifications have equivalent designations issued by other certifying bodies such as the International Standards Organization (ISO).

[23] All aluminum extrusions are produced as either hollow or solid profiles. Hollow profile extrusions generally cost more to produce and obtain higher prices than solid profile extrusions. Extrusions are often produced in standard shapes such as bars, rods, pipes and tubes, angles, channels and tees but they are also produced in customized shapes.

[24] In addition to “as extruded” or mill finish, extrusions can be finished mechanically by polishing, buffing or tumbling. Extrusions can have anodized finishes applied by means of an electro-chemical process that forms a durable, porous oxide film on the surface of the aluminum. Also, they can be finished with liquid or powder paint coatings utilizing an electrostatic application process.

[25] The ability to produce the full range of profiles is determined by the extrusion and ancillary equipment. The complainants cannot produce extrusions having a wall thickness less than 0.5 mm or a weight greater than 22 kilogram (kg) per metre or a cross-section larger than would be enclosed within a 254 mm diameter circle.

[26] Working or fabricating extrusions includes any operation performed other than mechanical, anodized, painted or other finishing, prior to utilization of the extrusion in a finished product. These can include precision cutting, machining, punching and drilling.

²⁵ Canada Border Services Agency – *Statement of Reasons* – Certain Aluminum Extrusions - Final Determination; March 3, 2009; paras. 34-40.

[27] Aluminum extrusions are widely used in many end-use applications that span numerous market sectors. The main end-use sectors for aluminum extrusions are building and construction, transportation, and engineered products. Uses for aluminum extrusions in the building and construction industry cover a wide range of products, including windows, doors, railings, bridges, light poles, high-rise curtainwalls, framing members, and other various structures. Uses for aluminum extrusions in the transportation industry include parts for automobiles, buses, trucks, trailers, rail cars, mass transit vehicles, recreational vehicles, aircraft, and aerospace. Aluminum extrusions are also used in many consumer and commercial products, including, air conditioners, appliances, furniture, lighting, sports equipment, electrical power units, heat sinks, machinery and equipment, food displays, refrigeration, medical equipment, and laboratory equipment.

CLASSES OF GOODS

[28] In its findings, the Tribunal had separated the subject goods into two classes of goods: standard-shaped and custom-shaped aluminum extrusions. In this *Statement of Reasons*, the term "aluminum extrusions" refers to both classes of goods as a whole.

[29] The information provided in the ERQ responses did not differentiate between the two classes of goods. In addition, the information gathered by the CBSA in its statistical and other research did not reveal any differentiation within the industry regarding the two classes of goods, with news articles and analyses consistently referring to aluminum extrusions as a whole.

[30] Therefore, unless stated otherwise, the analysis respecting the likelihood of continued or resumed dumping and subsidizing applies to both classes of goods as defined by the Tribunal.

CLASSIFICATION OF IMPORTS

[31] The subject goods are usually classified under the following tariff classification numbers:

7604.10.00.30	7604.29.00.19	7608.10.00.90	7610.90.10.00
7604.10.00.40	7604.29.00.21	7608.20.00.00	7610.90.90.10
7604.21.00.10	7604.29.00.29	7610.10.00.10	7610.90.90.20
7604.21.00.90	7604.29.00.30	7610.10.00.20	7610.90.90.30
7604.29.00.11	7608.10.00.10	7610.10.00.30	7610.90.90.90

[32] This listing of tariff classification numbers is for convenience of reference only. The tariff classification number provided may include goods that are not subject goods and subject goods may be imported into Canada under tariff classification numbers other than those provided.

PERIOD OF REVIEW

[33] The period of review (POR) for the CBSA's expiry review investigation is from January 1, 2016 to December 31, 2018.

CANADIAN INDUSTRY

[34] Submissions to the Expiry Review Questionnaire (ERQ) for the aluminum extrusions expiry review investigation were received from 10 domestic producers, which represent the majority of the Canadian industry. These producers estimated their combine production at approximately 70-85% of the total Canadian production of like goods.²⁶ Other known producers are Signature Aluminum Canada Inc. (Signature); Kawneer Company Canada Ltd. (Kawneer); Kaiser Aluminum Corporations (Kaiser), Kromet International Inc. (Kromet) and Pexal Tecalum Canada (Pexal).²⁷

Almag Aluminum Inc.

[35] Almag was founded in 1953 as Almag Aluminum & Magnesium Ltd., manufacturing ornamental doors in Etobicoke, Ontario. In 1959, an extrusion press was purchased and the company began producing aluminum extrusions. In 1993, the son of the founder purchased the assets of Almag Aluminum Ltd and continued operating the business as Almag Aluminum Inc. In 2005 the ownership was re-structured such that Almag Aluminum Inc. is now owned by Jedmar Holdings ltd., a Holding Company controlled by the Founder's son, who is the CEO of Almag. Almag now operates one extrusion and fabrication facility in Brampton, Ontario and through an associated company Almag Aluminum Corp., a warehouse and fabrication facility in Alabama. Almag remains a family-owned business: operated and controlled by the son of the founder.²⁸

APEL Extrusion Limited

[36] APEL began operations with a 4-inch extrusion press in Winnipeg, Manitoba in 1972. The company was established as a joint venture with Alcan Aluminum Ltd. (Alcan) to manufacture and market aluminum extrusions in the prairie provinces and acts as Alcan's sales agent for larger extrusions.

[37] A second extrusion operation was opened in Calgary, Alberta to service the growing Western Canadian market. Upgrades to the 6-inch press in Calgary and the installation of a new paint line allowed for the consolidation of operations into the Calgary facility, resulting in the closure of the Winnipeg operation in 1990.

[38] Alcan largely exited its extrusion business in North America in the late 1970's, selling its interest in APEL to the current private ownership group. Continuous upgrades to its equipment, expansion of its premises and the installation of a new 7-inch press in 2001 has allowed APEL to grow its operations and become a supplier of preference in western Canada.

²⁶ Exhibit 50 (NC) – Case Brief of Canadian Producers; para. 23.

²⁷ *Ibid.*; para. 24.

²⁸ Exhibit 24 (NC) – ERQ Response of Almag Aluminium Inc., Q. 9.

[39] Further equipment enhancements and a major upgrade to its horizontal paint line in 2005 allowed APEL to further improve its capabilities and meet the American Architectural Manufacturers Association (AAMA) paint standard (AAMA2603, 2604, 2605), which facilitated growth for the years to come. A new modern anodizing line and waste water handling system was installed in 2008 to replace the existing, outdated, 20-year-old equipment.

[40] APEL purchased the assets of Postle Aluminum – Oregon in 2010. APEL acquired a 3-year-old UBE press and a leased manufacturing facility in Springfield, Oregon. With this addition, APEL began to market its extrusions and expand its business dealings through the US West Coast. Upgrades to its paint line in Calgary, Canada allowed APEL to begin Powder Coating operations later that same year. Continuing to upgrade its capabilities in 2011, APEL replaced its 40-year-old 6-inch press in Calgary with modern UBE press, complete with Granco Clark ancillaries.

[41] In 2014 APEL purchased a 135,000 square foot building in Coburg Oregon and moved its 7 inch press from Springfield Oregon (leased facility) to Coburg Oregon. In the same year APEL installed a new 9-inch Press in the Coburg Oregon Facility. In 2018 APEL expanded the Coburg Oregon facility by 65,000 square feet and added a new 7-inch press to its current fleet of presses (now five).²⁹

Apex Aluminum Extrusions Ltd.

[42] Apex was founded in 2009. Production began in 2011 and Apex Aluminum was soon delivering product throughout Western Canada. The company produces custom shapes, Standard Tube, Structural Channels, Architectural Angles, Bar and Pipe up to 10 inch by 2 inch in size.³⁰

Can Art Aluminum Extrusion Inc.

[43] Can Art (formerly Daymond Aluminum) was incorporated April 28, 1989. Can Art initially operated one press line at a location in Mississauga, Ontario before relocating to Brampton, Ontario, in 1996 to a larger facility where a second press line was added. In 2001, a new facility in Lakeshore was established housing two new press lines. In 2008, the Lakeshore plant was expanded and a third press line added. In 2012 an anodizing facility was completed in Mississauga, Ontario In 2018, the Brampton facility was expanded and a third press line added. All six press lines can produce the full range of aluminum extrusions subject to this enquiry. The operations at all three plants are now under the ownership of Can Art Aluminum Extrusion L.P. and are part of one corporate entity.³¹

²⁹ Exhibit 43 (NC) – ERQ Response of APEL Extrusion Limited, Q. 9.

³⁰ Exhibit 29 (NC) – ERQ Response of Apex Aluminum Extrusions, Q. 9.

³¹ Exhibit 31 (NC) – ERQ Response of Can Art Aluminum Extrusion Inc.; Q. 9.

Dajcor Aluminum Limited

[44] Dajcor was incorporated under the laws of Ontario in April 2010. It began production on June 1, 2010 at its Chatham Ontario facility. The company produces aluminum extrusions, performs fabrication, including CNC machining, cutting, notching, mitring, deburring, bending, brushing and polishing. The company also does anodizing all under one roof at its 200,000 sq. ft. facility. The company is locally owned.³²

Extrudex Aluminum Corp.

[45] Extrudex Aluminum was founded in 1980 with a determination to manufacture quality aluminum extrusions and provide superior service.

[46] The Company has expanded several times since its inception. In 1984, Extrudex Aluminum moved from its original facility to a larger building; in 1994, a manufacturing operation was purchased in Quebec; in 1998, a new site was constructed in Ohio; and in the year 2000, a new head office and plant was built in Woodbridge, Ontario.

[47] The Extrudex Aluminum group covers over 500,000 sq.ft. with an annual output capacity in excess of 80,000 metric tonnes. The company's extrusion presses range in container size from 7 inch through 13 inch.

[48] A wide variety of surface finishes and colours are available. From basic mill finish (as extruded) to clear and coloured anodizing as well as a wide variety of paint colours in both wet and powder.³³

Extrudex Aluminium (Quebec) Inc.

[49] Extrudex Quebec, a separately-incorporated subsidiary of Extrudex, is a producer of aluminum extrusions located in St-Nicolas, Quebec. The company was established in 1994.³⁴

Hydro Extrusions Canada, Inc..

[50] The Hydro Canada operations (originally owned by Indalex) were founded in the early 1960s in Canada as the core business for the North American downstream metals and building products subsidiary of RTC Corp., the world's largest mining and metal company at that time, according to the company. At its peak in the 1990s and early 2000s, four locations existed across Canada, making Indalex the market leader in custom and standard extrusions. In 2009, Sapa Group acquired certain assets of Indalex, in the United States and Canada as part of a bankruptcy sale. Locations in Calgary, Alberta, and Port Coquitlam, British Columbia, were subsequently closed. In 2013, Norsk Hydro and Orkla (Sapa's parent company) entered into a global joint venture, combining both aluminum extrusion businesses. In 2017, Norsk Hydro became a 100% owner of the joint venture.³⁵

³² Exhibit 33 (NC) – ERQ Response of Dajcor Aluminum Limited; Q. 9.

³³ As per Extrudex's corporate website accessed in July 2019: <http://www.extrudex.com>.

³⁴ *Ibid.*

³⁵ Exhibit 39 (NC) – ERQ Response of Hydro Extrusions Canada Inc.; Q. 9.

METRA Aluminium Inc.

[51] METRA is a privately-owned company located in Laval, Québec. The company started its operations in 1994 following the acquisition of the current plant and equipment from Alcan. METRA has two extrusion presses producing custom shapes and one liquid paint line. METRA is a subsidiary of METRA Holding, of Italy.³⁶

Spectra Aluminum Products Ltd./Spectra Anodizing Inc.

[52] Spectra is a privately-owned company incorporated in June 1978 that provides aluminum extrusion, fabrication, polishing and other value-added services in Canada to customers in Canada, the United States and Europe.³⁷

Other Known Producers:

Kaiser Aluminum Corporation

[53] Kaiser, a United States based producer, has a production facility in London, Ontario. The Canadian producers believes that the production from this company is primarily for the United States market, although this may have changed due to the trade measures imposed by the United States.³⁸

Kawneer Company Canada Ltd.

[54] Kawneer is a part of Arconic's Building and Construction Systems business and is a leading supplier of architectural systems and products.³⁹ The company's North American headquarters are located in Norcross, Georgia, United States. Kawneer has an aluminum extrusions production facility in Lethbridge, Alberta.

Kromet International Inc.

[55] Kromet has a manufacturing facility located in Cambridge, Ontario. The company manufactures finished metal components and assemblies for the appliance, furniture, automotive, urban transit and LED lighting marketplaces.⁴⁰ Kromet also manufactures aluminum extrusions in its Chinese production facility.

³⁶ Exhibit 41 (NC) – ERQ Response of METRA Aluminum Inc.; Q. 8 & 9.

³⁷ Exhibit 27 (NC) – ERQ Response of Spectra Aluminum Products Ltd./Spectra Anodizing Inc.; Q. 9.

³⁸ Exhibit 50 (NC) – Case Arguments of Canadian Producers; para. 26.

³⁹ As per Kawneer's corporate website: https://www.kawneer.com/kawneer/en/info_page/kawneer_overview.asp, as accessed in June 2019.

⁴⁰ As per Kromet's corporate website: <http://www.kromet.com/>, as accessed in June 2019.

Signature Aluminum Canada Inc.

[56] Signature is a producer of aluminum extrusions located in Pickering, Ontario. According to the Canadian producers, Signature Aluminum Canada is owned by Global Aluminum (USA), who is, in turn, a subsidiary of China Zhongwang, the largest producer of aluminum extrusion in China.⁴¹

Pexal Tecalum Canada

[57] Pexal, located in Alma, Quebec, is a Canadian enterprise stemming out of an international partnership with Tecalum, an enterprise located in Spain. Tecalum has been manufacturing aluminum extrusions for more than 40 years.⁴²

⁴¹ Exhibit 50 (NC) – Case Arguments of Canadian Producers; para. 25.

⁴² As per Pexal's corporate website: http://www.pexaltec alum.ca/en/entreprise/pexal_tecalum_canada, as accessed in June 2019.

CANADIAN MARKET

[58] The apparent Canadian market for aluminum extrusions over the POR is indicated in **Table 1** and **Table 2** below. Table 1 reports the sales volume of the apparent Canadian market, while Table 2 reports the corresponding sales value in Canadian Dollars (CAD).

Table 1: **Apparent Canadian Market
Aluminum Extrusions (kilograms)⁴³**

Source	2016	2017	2018
Canadian Producers' Domestic Sales*	175,976,366	176,934,303	188,489,577
China	5,818,312	2,077,878	1,577,560
All Other Countries	101,104,412	109,157,214	120,519,575
Total Imports	106,922,724	111,235,092	122,097,135
Total Market Volume** (kg)	282,899,090	288,169,395	310,586,712

Table 2: **Apparent Canadian Market
Aluminum Extrusions (Value in CAD)⁴⁴**

Source	2016	2017	2018
Canadian Producers' Domestic Sales*	872,347,358	962,274,008	1,116,279,908
China	26,290,483	10,389,320	7,771,250
All Other Countries	609,415,110	669,861,037	769,788,792
Total Imports	635,705,593	680,250,357	777,560,042
Total Market Value in CAN\$	1,508,052,951	1,642,254,365	1,893,839,950

* The Canadian producers' estimate of the 10 respondents' share of total Canadian production of like goods stand at between 70-85%.⁴⁵ The CBSA selected the mid-point (i.e. 77.5%) as its estimate of their share of Canadian production. Pursuant to this assumption, the CBSA determined the Canadian sales volume and value on the basis of the data provided by the 10 Canadian respondents, multiplied by 1/0.775 (i.e. 129%) in order to include sales volume and value of other producers in the apparent Canadian market data.

** FIRM's reporting of volume for Canadian customs purposes included some reports in kilograms and other in units. Therefore, despite the CBSA's attempts to convert data into a consistent unit of measure, there are limits to the CBSA's ability to accurately establish the total volume of the Canadian market for aluminum extrusions.

⁴³ Exhibits 23 (PRO), 26 (PRO), 28 (PRO), 30 (PRO), 32 (PRO), 34 (PRO), 36 (PRO), 38 (PRO), 40 (PRO), 42 (PRO), – ERQ responses from Canadian Producers and appendices, Exhibit 048 (NC) – Final Import Statistics and Enforcement Data.

⁴⁴ *Ibid.*

⁴⁵ Exhibit 50 (NC) – Case Arguments of Canadian Producers; para. 23.

[59] Based on the apparent Canadian market figures in Table 1 and 2 above, the total Canadian market increased by 26% between 2016 and 2018 in terms of value, and by 10% in terms of volume.⁴⁶ The increase mostly occurred in 2018, with an increase of 15% in terms of value and 8% in terms of volume, when compared to 2017. The tables above also suggest that the average unit price of aluminum extrusions in the Canadian market also increased significantly over the POR, with an increase of over 14% in the value per kg for the total market, when comparing 2018 data with 2016.

[60] Consistent with the increase in the total market, the Canadian producers' domestic sales from domestic production increased by 28% between 2016 and 2018 in terms of value, and by 7% in terms of volume. The increase was most pronounced in 2018. The Canadian producers also enjoyed a large increase in their average domestic selling price, with an increase of 20% between 2016 and 2018. Throughout the POR, however, the domestic producers lost some share of the market, based on volume. While the domestic producers' share of the total market was 62.2% in 2016, it was 61.4% in 2017 and 60.7% in 2018.

[61] Total imports also followed a similar pattern during the POR, with an increase of over 22% between 2016 and 2018 in terms of value, and by 14% in terms of volume. Total imports captured an additional 1.5% of market share during this period. Subject imports, on the other hand, dropped by over 70% in terms of value and almost 73% in terms of volume. As such, the increase in imports was evidently from other countries. While the total imports' share of the market increased from 37.8% to 39.3% during the POR, China's share dropped from 2% to 0.5% of the Canadian market in terms of volume. This indicates that imports from countries other than China captured an additional 3% of the total market during the POR, at the expense of both China and the Canadian industry.

[62] Since the finding was made by the CITT, subject imports dropped by over 95% in terms of volume, from 33,500,000 kg in 2007⁴⁷ to just over 1,500,000 kg in 2018. This is despite an increase of 52% in the size of the apparent market between 2007 and 2018⁴⁸.

Imports - China

[63] As mentioned above, the volume of subject imports dropped by over 95% between 2007 (i.e. prior to the finding) and 2018. Subject imports also dropped significantly during the POR, with a reduction of 70% between 2016 and 2018. In terms of market share, subject imports represented 16.4% of the Canadian market in 2007, prior to the finding.⁴⁹ The Chinese extruders' market share was reduced to 2.1% of the market in 2016 and further reduced to 0.5% of the market in 2018.

⁴⁶ As mentioned in the note under table 1, it is reminded that the total market data with respect to volume is somewhat skewed by inconsistent reporting of units in FIRM with respect to imports.

⁴⁷ Canadian International Trade Tribunal; Finding and Reasons, Aluminum Extrusions; Inquiry No. NQ-2008-003, April 1, 2009; paras. 164 and 263.

⁴⁸ *Ibid.*; paras. 191 and 284.

⁴⁹ *Ibid.*; paras. 161, 164 and 263.

ENFORCEMENT DATA

[64] As shown in **Table 3** below, the total amount of anti-dumping and countervailing duties collected on imports of subject goods from China during the POR was just over \$11.4 million, consisting of \$6.3 million in anti-dumping duty and \$5.1 million in countervailing duty. As a percentage of the total value for duty, the anti-dumping and countervailing duties assessed during the POR were equal to 14.2% and 11.5%, respectively.

Table 3:

Enforcement Data – Imports of Subject Goods from China
Quantity, and Anti-dumping and Countervailing Duties Collected during the POR⁵⁰
(Volume in kg and Values in CAD)*

	2015	2016	2017
Quantity	5,818,312	2,077,878	1,577,250
Value	26,290,483	10,389,320	7,771,250
Anti-dumping Duty	2,258,387	3,193,791	872,907
Countervailing Duty	2,638,983	1,800,487	662,004
Total Duties	4,897,370	4,994,278	1,534,911

Imports – Other Countries

[65] Imports from other countries increased faster than the market increase during the POR. In this regard, imports from countries other than China increased by 19.2% between 2016 and 2018 in terms of volume (vs 9.8% for the total market), and by 26.3% in terms of value (vs 25.6% for the total market).

[66] Several producers flagged, in their ERQ responses, an increase in low-priced imports from other Asian non-subject countries such as Malaysia, South Korea, Indonesia, Thailand and Vietnam, which are allegedly resulting in a downward pressure on prices⁵¹. Some producers raised concerns with the possibility that some of these imports may be the result of transshipment or circumvention, and also the result of displacement of Chinese production to other countries.⁵²

⁵⁰ Exhibit 048 (NC) – Finalized Import Statistics and Market Table (CBSA).

⁵¹ ERQ responses to question 25 from Apex, APEL and Spectra; see also Exhibit 50 (NC) – Case Arguments of Canadian Producers; paras. 142-143.

⁵² ERQ responses to question 25-31 from APEL, Can Art, and Spectra.

Market Projections

Demand:

[67] Generally speaking, most Canadian producers are expecting relatively stable/flat demand in the foreseeable future, with growth to be in line with GDP growth.⁵³ Some see volatility due to the current trade environment, particularly with respect to tariffs.⁵⁴

[68] While aluminum extrusions are used in such segments as construction, general industries and automotive, stronger growth is expected in the automotive segment.⁵⁵ Due to environmental regulations aiming at lowering the weight of vehicles in order to lower emissions, the use of aluminum extrusions in vehicle manufacturing is expected to increase significantly.

Supply:

[69] On the supply side, the CBSA expects increased competition in the foreseeable future. As mentioned above, several producers flagged, in their ERQ responses, an increase in low-priced imports from Asian countries, other than China, which are allegedly resulting in a downward pressure on prices.

[70] Further, on the basis of the CBSA's compilation of the producers' data, the domestic industry has been expanding during the POR. Overall domestic capacity increased by 10.5% between 2016 and 2018, with most of the increase occurring between 2017 and 2018. The CBSA notes, however, that the increase in capacity has not resulted in an increase in available capacity during the POR, as production increased at a slightly higher rate of 11.6%.

[71] Overall, all things being equal (i.e. including the CITT's order on aluminum extrusions remaining in place), the CBSA expects the market balance to remain relatively stable in the foreseeable future.

PARTIES TO THE PROCEEDINGS

[72] On March 11, 2019, a notice concerning the CBSA's initiation of the expiry review investigation was sent to Canadian producers and potential importers and exporters of aluminum extrusions, as well as to the GOC. All of these parties were also sent an ERQ.

[73] The ERQs requested information relevant to the CBSA's consideration of the expiry review factors, as listed in subsection 37.2(1) of the *Special Import Measures Regulations* (SIMR).

⁵³ Canadian producers' responses to questions 24-29 of ERQ.

⁵⁴ Canadian producers' responses to question 26 of ERQ.

⁵⁵ ERQ responses from Almag, APEL, Can Art, Dajcor.

[74] Ten Canadian producers: Almag, APEL, Apex, Can Art, Dajcor, Extrudex, Extrudex Quebec, Hydro, Metra, and Spectra, participated in the expiry review investigation and provided ERQ responses. Additional documents were also filed on behalf of the Canadian producers prior to the closing of the record. Four importers; HFI Pyrotechnics Inc., Studica Limited, TORYLS Inc., and TSDC Canada Inc. also participated in the expiry review investigation and provided an ERQ response.

[75] A case brief was received from counsel on behalf of the Canadian producers. No Reply submissions were filed.

[76] No exporter provided a response to the ERQ or otherwise participated in the expiry review. The GOC did not provide a response to the CBSA's ERQ nor did it submit a case brief or reply submission.

INFORMATION CONSIDERED BY THE CBSA

Administrative Record

[77] The information considered by the CBSA for purposes of this expiry review investigation is contained in the administrative record. The administrative record includes the information on the CBSA's exhibit listing, which is comprised of the CITT's administrative record relating to the initiation of the expiry review, the CBSA's exhibits and information submitted by interested parties, including information which the interested parties feel is relevant to the decision as to whether dumping and subsidizing are likely to continue or resume absent the CITT finding. This information may consist of expert analysts' reports, excerpts from trade magazines and newspapers, orders and findings issued by authorities of Canada or of a country other than Canada, documents from international trade organizations such as the World Trade Organization (WTO) and responses to the ERQs submitted by Canadian producers, exporters, and importers.

[78] For purposes of an expiry review investigation, the CBSA sets a date after which no new information submitted by interested parties will be placed on the administrative record or considered as part of the CBSA's investigation. This is referred to as the "closing of the record date" and is set to allow participants time to prepare their case briefs and reply submissions based on the information that is on the administrative record as of the closing of the record date. For this expiry review investigation, the administrative record closed on May 1, 2019.

Procedural Issues

[79] As mentioned above, normally, the CBSA does not consider any new information submitted by participants subsequent to the closing of the record date (i.e., May 1, 2019). However, in certain exceptional circumstances, it may be necessary to permit new information to be submitted. The CBSA considers the following factors in deciding whether to accept new information submitted after the closing of the record date:

- (a) the availability of the information prior to the closing of the record date;
- (b) the emergence of new or unforeseen issues;
- (c) the relevance and materiality of the information;
- (d) the opportunity for other participants to respond to the new information; and
- (e) whether the new information can reasonably be taken into consideration by the CBSA in making the determination.

[80] Participants wishing to file new information after the closing of the record date, either separately or in case arguments or reply submissions, must identify this information so that the CBSA can decide whether it will be included in the record for purposes of the determination.

[81] New information was submitted on behalf of the Canadian producers on May 21, 2019, three weeks past the closing of the record date, requesting that the CBSA accept this information for filing and inclusion to the record for this proceeding. The Canadian producers contended that this information was not available before the closing of the record. It consisted of the United States Department of Commerce's Preliminary Determination Decision Memorandum published on May 17, 2019, which indicated that aluminum extrusions originating in China were circumventing the aluminum extrusions finding in the United States by transshipping through Vietnam. This information was meant to support allegations made in the producers' responses to the RFI and case brief.

[82] In this case, while the CBSA acknowledges that the information regarding the preliminary outcome of the United States Department of Commerce's investigation on this matter was only published after the closing of the record, in considering the materiality of the information and the inability of other participants to respond to the new information, the CBSA declined to add this information to the record, and did not consider the information for the purposes of this expiry review.

POSITION OF THE PARTIES – DUMPING

Parties Contending that Continued or Resumed Dumping is Likely

[83] The participating Canadian producers made representations in their ERQ responses and in their case brief supporting their position that dumping of certain aluminum extrusions from China is likely to continue or resume should the CITT's order expire. Therefore, they argued that the anti-dumping measures should remain in place.

[84] The main arguments made by the Canadian producers can be summarized as follows:

- Primary Aluminum Production Levels and Overcapacity in China
- Vast Production Capacity for Aluminum Extrusions in China
- Decreasing Demand for Aluminum Extrusions and Other Aluminum Products
- Reduced Growth Rate and Slowdown in Downstream Industries
- Export Orientation of Chinese Aluminum Extrusion Producers
- Lower Pricing due to Non-Market Conditions
- Trade Remedy Measures in Other Jurisdictions
- Circumvention of Trade Remedy Measures / Transshipment
- Continued Presence in Canada, Low-Priced Import Competition and Expected Pricing of Subject Goods

Primary Aluminum Production Levels and Overcapacity in China

[85] The Canadian producers alleged that the global aluminum overcapacity has been driven mainly by Chinese producers, who have invested heavily since the year 2000 to increase primary aluminum smelting capacity. The Canadian producers provided evidence that Chinese producers almost tripled their aluminum production since the finding was made by the CITT, to account for about 57% of global output in 2018.⁵⁶ For example, according to the producers, Chalco, a Chinese State-Owned Enterprise (SOE), increased its capacity by 16% in 2018 alone, to become the second largest aluminum producers in the world.⁵⁷

[86] The Canadian producers also provided evidence that Chinese aluminum producers were still expanding their production capacity as well as their output, all while North American producers were decreasing theirs.⁵⁸ The producers alleged that evidence on the record also suggested that the Chinese aluminum producers were projected to further expand their capacity and their production between 2018 and 2021.⁵⁹

⁵⁶ Exhibit 50 (NC) – Case Arguments of Canadian Producers; paras. 59-60.

⁵⁷ *Ibid.*; para. 65.

⁵⁸ *Ibid.*; paras. 63-72.

⁵⁹ *Ibid.*, paras. 60-63.

[87] The Canadian producers argued that this planned expansion was “...heavily supported by the Government of China with the involvement of state-owned enterprises, investments in the form of low-interest loans, preferential access to inputs and other mechanisms.”⁶⁰ The producers cited a number of reports and analysis on this matter, including a report published in early 2019 by the Organization for Economic Co-operation and Development (OECD) regarding the measurement of distortions in international markets in the aluminum value chain.⁶¹

[88] The Canadian producers claimed that the expansion of Chinese aluminum production capacity led to a significant and growing overcapacity in China, a reduction in capacity utilization rates for smelters and increasing aluminum inventories.⁶²

[89] The Canadian producers contended that the global aluminum overcapacity has a direct impact on the propensity of Chinese extruders to dump aluminum extrusions.⁶³

Vast Production Capacity for Aluminum Extrusions in China

[90] The Canadian producers argued that the overcapacity in primary aluminum production has spilled over into downstream aluminum products, including aluminum extrusions.⁶⁴

[91] The Canadian producers described a Chinese aluminum extrusion industry that is highly fragmented, with as many as 850 producers according to some reports.⁶⁵ The Canadian producers alleged that information on the record indicate that these producers have significant excess capacity to produce aluminum extrusions in China, along with low production utilization rate.⁶⁶ They also claimed that the record demonstrates that production and excess capacity are still increasing, and that aluminum extrusions exports from China are also on the rise.⁶⁷ The producers alleged that the available data suggest that Chinese excess capacity is equal to a significant proportion of the total world demand, excluding China, and that its excess production is several times the total apparent Canadian market.⁶⁸

[92] The Canadian producers contended that this situation will only be exacerbated by slowing demand growth in China.⁶⁹

Decreasing Demand for Aluminum Extrusions and Other Aluminum Products

[93] The Canadian producers argued that China continues to expand capacity at a time when demand is declining.⁷⁰

⁶⁰ *Ibid.*, para. 68.

⁶¹ *Ibid.*

⁶² *Ibid.*, para. 69-74.

⁶³ *Ibid.*, para. 58.

⁶⁴ *Ibid.*, para. 75.

⁶⁵ *Ibid.*, paras. 76, 83.

⁶⁶ *Ibid.*, para. 75-81.

⁶⁷ *Ibid.*, para. 75-83.

⁶⁸ *Ibid.*, para. 80-81.

⁶⁹ *Ibid.*, 79, 81.

⁷⁰ *Ibid.*, para. 87 and 89.

[94] The Canadian producers contended that China's compounded annual growth rate for aluminum extrusions demand is forecasted to sharply decline from 2018 and 2028, compared to the previous ten-year period.⁷¹ The producers also suggested that the projected trend is very similar for manufactured aluminum products in general, and also similar to the projected slowdown in industries that consume such aluminum products.⁷²

Reduced Growth Rate and Slowdown in Downstream Industries

[95] The Canadian producers contended that the data regarding decreasing demand in China for aluminum extrusions and other semi-fabricated aluminum products was consistent with recent report from China regarding its slowing economy.⁷³

[96] The producers argued that there were signs of weakness in industries such as automotive and construction in China, which are linked to weakening demand for primary aluminum and aluminum extrusions.⁷⁴

[97] As part of its support for its allegations, the Canadian producers quoted the 2018 Annual Report of PanAsialum Holdings Company Limited, a major Chinese aluminum extrusions producer, which stated that it was having difficulty expanding into different domestic market segments on the basis that "the persisting unfavorable macro factors, including the volatility in each of the market the Group operates and uncertainty over the economic condition in China, has dampened the consumer sentiment and reduced the demand of the Group's products."⁷⁵ The industry also provided economic projection data from the IMF World Economic Outlook, as well as publically available media publications.⁷⁶

[98] The Canadian producers argued that it was reasonable to infer that a slowdown in manufacturing and construction would also translate into decreased demand in China for aluminum extrusions, as forecasted by several analysts.⁷⁷

Export Orientation of Chinese Aluminum Extrusion Producers

[99] The Canadian producers alleged that there were several reports and articles on the record regarding China's increasing reliance on export markets for its aluminum products.⁷⁸

⁷¹ *Ibid.* para. 88.

⁷² *Ibid.*, 86-89.

⁷³ *Ibid.*; para. 90.

⁷⁴ *Ibid.*, paras. 96-101.

⁷⁵ *Ibid.*, para. 100.

⁷⁶ *Ibid.*, paras, 90-98.

⁷⁷ *Ibid.*, para 101.

⁷⁸ *Ibid.*, para. 107.

[100] The producers argued that the GOC implemented measures to discourage exports of primary aluminum and their input, with the aim of promoting exports of higher added-value aluminum products, including aluminum extrusions.⁷⁹ In particular, they referred to the GOC's VAT policy, which provides VAT rebates to downstream aluminum products, but not on primary aluminum and aluminum scrap. The Canadian producers contended that such policy has the effect of depressing the prices of primary aluminum in the Chinese domestic market, providing a significant price advantage to Chinese producers of processed aluminum products. They claimed that such policies have been confirmed by the European Commission in several investigations into aluminum products from China, as well as by other investigating authorities.⁸⁰

[101] The Canadian producers claimed that because of such policies, and in the context of excess production capacities for both aluminum and aluminum extrusions, Chinese aluminum extrusion producers have remained export-oriented and have become even more so in recent years in order to absorb their excess capacity in light of declining domestic demand.⁸¹

Lower Pricing due to Non-Market Conditions

[102] The Canadian producers noted that in its final determination, the CBSA was of the opinion that domestic prices in the aluminum extrusion sector in China are substantially determined by the GOC and that there is sufficient reason to believe that prices are not substantially the same as they would be in a competitive market. They further alleged that as confirmed by American and Australian authorities, and as set out in GOC policies, the GOC continues to be involved in the aluminum industry such that prices are not substantially the same as they would be in a competitive market.⁸²

[103] The Canadian producers referred to studies comparing the spread adjusted between aluminum prices in China and international prices and with respect to the reported prices paid by aluminum extrusion producers. They alleged that Chinese aluminum extrusion producers continue to benefit from the cheap input prices which are the result of the distortions caused by the GOC's policies.⁸³

[104] The producers alleged that evidence on the record links the pricing difference between domestic and international aluminum prices with a steep pick up in Chinese exports of semi-manufactured aluminum products such as the subject goods.⁸⁴ They also claimed that export data shows that the apparent average Chinese export price of aluminum extrusions is lower than the average price from other countries. The producers claimed that their price advantage is as much as 15% over the other exporting countries.⁸⁵

⁷⁹ *Ibid.*, paras. 102-106.

⁸⁰ *Ibid.*, para. 104.

⁸¹ *Ibid.*, paras. 106-108.

⁸² *Ibid.*, paras. 109-111.

⁸³ *Ibid.*, paras. 112-115.

⁸⁴ *Ibid.*, para. 115.

⁸⁵ *Ibid.*, para. 117.

Trade Remedy Measures in Other Jurisdictions

[105] The Canadian producers noted that there were anti-dumping and countervailing measures with respect to aluminum extrusions from China in Australia and in the United States, which have both been renewed, as well as anti-dumping measures on several aluminum products from China, in several jurisdictions.⁸⁶ They also noted that in addition to the already existing measures on aluminum extrusions, the Americans have also recently imposed a tariff of 10% on all imports of aluminum products, including those from China.⁸⁷ The Canadian producers alleged that these barriers to importation of aluminum extrusions from China increase the potential for diversion of subject goods to Canada.⁸⁸

Circumvention of Trade Remedy Measures / Transshipment

[106] The Canadian producers alleged that producers of subject goods from China have been accused of, and in some instance, found to be, engaging in circumvention and transshipment of aluminum extrusions.⁸⁹ In particular, they referred to instances where American and Australian authorities found that Chinese producers were circumventing the aluminum extrusion measures.

[107] The Canadian producers claimed that these reports and findings are indications that producers of subject goods are facing worsening conditions in China and are looking to export their excess production by whatever means available.⁹⁰

Continued Presence in Canada, Low-Priced Import Competition and Expected Pricing of Subject Goods

[108] The Canadian producers contended that Chinese aluminum extruders continue to have a strong presence in the Canadian market, when considering both subject goods and non-subject aluminum extrusions. They claimed that the Chinese producers' imports have been in the range of 10% of all imports and have maintained a 5% market share of the Canadian market.⁹¹ The producers also indicated that the data on the record also confirmed a continued presence of subject goods.⁹²

[109] The Canadian producers argued, however, that subject goods are losing market share to other low-priced Asian sources, such as Malaysia, Thailand and Vietnam. They argued that to regain market share, the subject goods will have to compete with these low-priced offshore sources.⁹³

⁸⁶ *Ibid.*, paras. 119-123, 130.

⁸⁷ *Ibid.*, para. 124.

⁸⁸ *Ibid.*, para. 126.

⁸⁹ *Ibid.*, paras. 131-135.

⁹⁰ *Ibid.*; para. 136.

⁹¹ *Ibid.*, paras. 137-139.

⁹² *Ibid.*, para 140.

⁹³ *Ibid.*, paras 142-143.

[110] The Canadian producers contended that the price of aluminum is a major component of the price at which domestic producers sell their goods. They reiterated that the price of aluminum in China is deeply affected by the various government policies and other influence, as well as by the effect of excessive production and capacity. On that basis, the producers are expecting that the subject goods will be priced at levels that reflect such non-market price considerations and will undercut those offered by the domestic producers.⁹⁴

Parties Contending that Continued or Resumed Dumping is Unlikely

[111] None of the parties contended that continued or resumed dumping of subject goods from China is unlikely if the order is rescinded.

CONSIDERATION AND ANALYSIS – DUMPING

[112] In making a determination under paragraph 76.03(7)(a) of SIMA whether the expiry of the order is likely to result in the continuation or resumption of dumping of the goods, the CBSA may consider factors identified in subsection 37.2(1) of the SIMR, as well as any other factors relevant in the circumstances.

[113] Guided by the aforementioned factors and having considered the information on the administrative record, the following list represents a summary of the CBSA's analysis conducted in this expiry review investigation with respect to dumping:

- GOC's Involvement in and Influence on the Aluminum Industry – Section 20 Conditions
- Primary Aluminum Capacity and Production Levels in China
- Conditions in the Aluminum Extrusion Industry in China
- Export Orientation of Chinese Aluminum Extrusion Producers
- Trade Remedy Measures in Other Jurisdictions
- Evidence of Circumvention of Trade Remedy Measures / Transshipment
- Continued Presence of Chinese Aluminum Products in Canada
- Competitive Conditions in the Canadian Aluminum Extrusion Market

[114] As previously mentioned, the CBSA received ERQ responses from 10 Canadian producers and from four importers. In addition to responding to the ERQ, the Canadian producers submitted supplementary information prior to the closing of the record as well as a joint case brief. The CBSA relied on the information submitted by these parties, as well as the other information on the administrative record for purposes of this expiry review investigation.

⁹⁴ *Ibid.* para. 144.

GOC's Involvement in and Influence on the Aluminum Industry – Section 20 Conditions

[115] Section 20 of SIMA may be applied to determine the normal value of goods where certain conditions prevail in the domestic market of the exporting country. In the case of a prescribed country, under paragraph 20(1)(a) of SIMA, it is applied where, in the opinion of the CBSA, 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 value of goods is not determined based on domestic prices or costs in that country.

[116] For the purposes of the final determination⁹⁵, and again further to the subsequent re-investigation⁹⁶, the CBSA was of the opinion that domestic prices in the aluminum extrusions sector 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.

[117] When section 20 conditions are found to exist, the CBSA normally determines normal values using the selling price, or the total cost and profit, of like goods sold by producers in a surrogate country designated by the CBSA pursuant to paragraph 20(1)(c) of SIMA. Alternately, normal values may be determined under paragraph 20(1)(d) of SIMA, on a deductive basis starting with an examination of the prices of imported goods sold in Canada, from a surrogate country designated by the CBSA. During the investigation, none of the producers from any of the surrogate countries provided information. Furthermore, suitable information on imported goods sold in Canada from a surrogate country was not provided in the importers' responses to the questionnaires. Therefore, sufficient information was not available to the CBSA in order to determine normal values using either of these two methods.

[118] As a result, throughout the enforcement period, the normal values for the exporters that provided a complete and reliable response to the questionnaires have been determined using an alternate methodology under a Ministerial Specification, pursuant to section 29 of SIMA.⁹⁷ The methodology set out in the Ministerial Specification is a surrogate constructed cost methodology based on the monthly average settlement price of primary aluminum as reported on the London Metal Exchange (LME) for the month preceding the date of sale to Canada, plus the cost to convert the aluminum into a finished aluminum extrusion product, plus an amount for administrative, selling and all other costs, plus an amount for profit. These conversion costs and profit amounts were determined based on public information from extruders in India. The normal values determined under the Ministerial Specification also have separate conversion costs to account for cost differences relating to products that are "mill finished" and products that undergo additional finishing, such as anodizing or painting.

⁹⁵ Canada Border Services Agency, *Statement of Reasons Concerning the Final Determination with Respect to the Dumping and Subsidizing of Certain Aluminum Extrusions Originating in or Exported from China*; March 3, 2009.

⁹⁶ Canada Border Services Agency, *Notice of Conclusion of Re-Investigation – Certain Aluminum Extrusions from China*; February 20, 2012.

⁹⁷ Exhibit 17 (PRO) – Supplementary CBSA Exhibits; Ministerial Specification.

[119] The administrative record contains evidence that the domestic prices in the aluminum extrusions sector in China are still 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 government influence resulting in lower cost and prices is a relevant factor in the assessment of the likelihood of continued or resumed dumping by the Chinese aluminum extruders. As set out below, the GOC's policies are believed to result in artificially lowering the costs and prices of aluminum extrusions in China, increasing their output, and promoting an export orientation within Chinese extruders. As mentioned, the normal values for subject goods are currently not based on Chinese domestic prices of like goods or on their costs of production. Considering the evidence that the conditions of section 20 of SIMA are still applicable to the aluminum extrusions sector in China, the normal values for subject goods for the foreseeable future are still likely to be based on prices or costs in a surrogate country. As such, the normal values should reflect costs and prices in a market where competitive conditions exist. The Chinese extruders are believed to be more likely to be competing on the basis of their artificially lower cost and price structures (their cost advantage), while their export prices need to meet a level that is not based on these non-competitive conditions, in order to be selling at a fair non-dumped value.

[120] The principal manner by which the GOC appear to be influencing the price of aluminum extrusions relates to government policies affecting the primary aluminum industry. Primary aluminum is said to account for about 75-86% of the total cost of production for semis⁹⁸, which, as stated by the OECD, "makes competitiveness in the semis segment largely dependent on the cost of procuring raw aluminum."⁹⁹ As noted in a research paper on market distortions in the Chinese non-ferrous metals industry, "While the markets for finished goods and services have been widely liberalized and scarcity-based pricing – not government policy – is guiding the allocation of available resources, the markets for production factors remain subject to substantial state intervention."¹⁰⁰ As detailed below, in the case of the primary aluminum industry, such government interventions include taxation and tariff policies, the subsidizing of inputs and other types of government subsidies, development plans and policy documents, and the GOC's stockpiling policy.

⁹⁸ Semis refer to semi-fabricated aluminum products, such as aluminum extrusions.

⁹⁹ Exhibit 19 (NC) – OECD – Measuring Distortion in International Markets; The Aluminum Value Chain; January 8, 2019; p. 15.

¹⁰⁰ Exhibit 18 (NC) – Final Report – Analysis of Market Distortions in the Chinese Non-Ferrous Metals Industry, THINK!DESK China Research Consulting, April 24, 2017, p. 40.

[121] Among the GOC policies affecting the primary aluminum industries as well as the downstream industries are taxation and tariff policies. In this regard, China employs a regime of export taxes, in combination to an incomplete VAT rebate policy¹⁰¹ for exporters as a mean of discouraging exports of primary aluminum while encouraging exports of semi-fabricated aluminum products such as aluminum extrusions. Specifically, China combines a 15% export tax with zero VAT rebates, which together result in a de facto export tax on primary aluminum exceeding 30%, according to the OECD.¹⁰² Such trade policies discourages exports of primary aluminum, and provides an incentive for smelters to sell their production to domestic semis producers, who benefit from a larger supply at lower prices for their principal input. The policy also encourages exports of downstream products, such as the subject goods, given that exporters of semis are eligible for the VAT refund. As discussed in the section below, China is by far the largest producer of primary aluminum accounting for almost 60% of global production.¹⁰³ Considering that it is also known to have significant excess capacity, the impact of its trade policy is visible when considering that the country accounts for only about 2% of global exports of primary aluminum.¹⁰⁴ Again, this results in artificially increasing the supply of primary aluminum in the domestic market and in artificially lowering the costs for downstream producers.

¹⁰¹ Chinese exporters may be eligible for VAT rebates that range from zero to a full refund of the typical 17% VAT rate, depending on the product they export. For primary aluminum, no refund is provided while a VAT refund is provided on export of aluminum extrusions.

¹⁰² Exhibit 19 (NC) – OECD – Measuring Distortion in International Markets; The Aluminum Value Chain; January 8, 2019; p. 66.

¹⁰³ Exhibit 16 (NC) – Australian Anti-Dumping Commission; Statement of Essential Fact No. 482, Review of Anti-Dumping Measures Applying to Aluminum Extrusions, February 2019, p.73; Exhibit 19 (NC) – OECD – Measuring Distortion in International Markets; The Aluminum Value Chain; January 8, 2019; p. 39.

¹⁰⁴ Exhibit 19 (NC) – OECD – Measuring Distortion in International Markets; The Aluminum Value Chain; January 8, 2019; p. 66.

[122] Another manner by which the GOC influences the primary aluminum industry pricing is by providing significant energy subsidies to smelters. The administrative record contains numerous reports of energy subsidies provided to Chinese smelters. For example, significant amounts of electricity subsidies to smelters were reported by the Australian Anti-Dumping Commission¹⁰⁵, the European Commission¹⁰⁶, the OECD¹⁰⁷, a report submitted to the U.S. – China Economic and Security Review by Capital Trade Incorporated¹⁰⁸, and others¹⁰⁹. Considering that electricity account for about 40% of the cost of smelting, energy subsidies take on a particular importance on the aluminum value chain.¹¹⁰ Chinese smelters also benefit from the purchase of coal at below-market prices, either directly through government ownership of most coal producers, or indirectly through the provision of finance by policy banks or through regulations.¹¹¹

¹⁰⁵ Exhibit 16 (NC) – Australian Anti-Dumping Commission; Statement of Essential Fact No. 482, Review of Anti-Dumping Measures Applying to Aluminum Extrusions, February 2019, pp. 81-82.; and Exhibit 16 (NC) – Analysis of Steel and Aluminum Markets; Report to the Commissioner of the Anti-Dumping Commission, August 2016., p. 55.

¹⁰⁶ Exhibit 15 (NC) – The European Commission’s Staff Working Document on Significant Distortions in the Economy of the People’s Republic of China for the Purposes of Trade Defence Investigations, 19 Dec. 2017, pp. 390-394.

¹⁰⁷ Exhibit 19 (NC) – OECD – Measuring Distortion in International Markets; The Aluminum Value Chain; January 8, 2019; pp. 17, 31, 82, 86-89, 91.

¹⁰⁸ Exhibit 15 (NC) – An Assessment of China’s Subsidies to Strategic and Heavyweight Industries Submitted to the U.S.-China Economic and Security Review Commission By Capital Trade Incorporated, pp. 82-85, 101.

¹⁰⁹ Exhibit 18 (NC) – Final Report – Analysis of Market Distortions in the Chinese Non-Ferrous Metals Industry, THINK!DESK China Research Consulting, April 24, 2017, pp. 78-79, 110-115.

¹¹⁰ Exhibit 19 (NC) – OECD – Measuring Distortion in International Markets; The Aluminum Value Chain; January 8, 2019; p. 86. The same ratio was also reported by Australian authorities in: Exhibit 16 (NC) – Australian Anti-Dumping Commission; Statement of Essential Fact No. 482, Review of Anti-Dumping Measures Applying to Aluminum Extrusions, February 2019, p. 81.

¹¹¹ Exhibit 19 (NC) – OECD – Measuring Distortion in International Markets; The Aluminum Value Chain; January 8, 2019; p. 87.

[123] In addition to energy subsidies, evidence on the record suggests that the GOC is also providing significant subsidies in other forms to smelters, as well as to downstream producers, including aluminum extrusion producers. Such subsidies include financial subsidies (e.g. loans at preferential rates, loan guarantees), tax subsidies and grants. For example, in an analysis, the OECD estimated that substantial amount of benefits were provided through the financial system to such enterprises as China Hongqiao Group, the world's largest aluminum producer, the Aluminum Corporation of China Limited (Chalco), the world's second largest Aluminum producer, the State Power Investment Corporation (SPIC), an aluminum smelter and also one of the major electricity generation company in China, Qinghai Provincial Investment Group Ltd (QPIG), another Chinese smelter, and several others. The OECD estimated that these four companies received as much as USD 4.480 billion, USD 8.302 billion, USD 33.791 billion and USD 2.149 billion, respectively, in financial subsidies provided through the financial system over a five year period.¹¹² ¹¹³ Similarly, the OECD estimated that China Zongwang Holdings Limited (China Zongwang), China's largest producer of aluminum extrusions, received USD 2.554 billion in financial subsidies provided through the financial system between 2013 and 2017.¹¹⁴ By offering loan interest subsidies, loan guarantees and other means of reducing capital costs, government organisations seek to direct investment into key projects and industries.¹¹⁵

[124] The OECD report, along with other reports, also provides evidence of tax concessions, such as lower tax rates under China's Western Development Strategy.¹¹⁶ Such tax concessions are specifically reported to have provided significant benefits to major smelters like Chalco, who has two subsidiaries in Western China.¹¹⁷ It is also reported that China Zongwang is subject to preferential tax rates in light of its "High and New Technology Enterprise" status from the Liaoning Province.¹¹⁸ Further, as discussed in the subsidy section of this report, the record also contains evidence of numerous government grants programs benefiting aluminum extrusion producers.

¹¹² *Ibid.*; p. 118.

¹¹³ The period is either 2013-17 or 2012-16, depending on the company.

¹¹⁴ Exhibit 19 (NC) – OECD – Measuring Distortion in International Markets; The Aluminum Value Chain; January 8, 2019; p. 118.

¹¹⁵ Exhibit 18 (NC) – Final Report – Analysis of Market Distortions in the Chinese Non-Ferrous Metals Industry, THINK!DESK China Research Consulting, April 24, 2017, p. 42.

¹¹⁶ Exhibit 19 (NC) – OECD – Measuring Distortion in International Markets; The Aluminum Value Chain; January 8, 2019; p. 18; Exhibit 15 (NC) – An Assessment of China's Subsidies to Strategic and Heavyweight Industries Submitted to the U.S.-China Economic and Security Review Commission By Capital Trade Incorporated, p. 82.

¹¹⁷ Exhibit 15 (NC) – An Assessment of China's Subsidies to Strategic and Heavyweight Industries Submitted to the U.S.-China Economic and Security Review Commission By Capital Trade Incorporated, p. 82.

¹¹⁸ Exhibit 19 (NC) – OECD – Measuring Distortion in International Markets; The Aluminum Value Chain; January 8, 2019; p. 18.

[125] Overall, according to the OECD study, the total average annual amount of government subsidy to China Hongqiao Group, Chalco, SPIC and QPIG was approximately USD 1.6 billion, USD 1.8 billion, USD 7.1 billion and USD 464 million, annually during the 5-year measurement period.¹¹⁹ Meanwhile, China Zongwang benefited from about USD 586 million in annual subsidies. A THINK!DESK study noted that not only are subsidies mostly provided to SOEs, a large share of the subsidies is provided contingent on compliance with GOC directives.¹²⁰ This is therefore indicative that the SOEs may be considered as public bodies, and, considering the lower aluminum prices in China than on the international market¹²¹, may be indicative that there is a benefit being passed on to users of these inputs, such as aluminum extrusion producers.

[126] The GOC also influences the primary aluminum industry through a number of development plans and policy documents, including the Non-ferrous Metals Industry Development Plan (2016-2020) and the Made in China 2025 initiative. Regarding the Non-ferrous Metals Industry Development Plan (2016-2020), it is written that “As supporting measures, the Plan calls for coordinating fiscal, taxation, financial, and trade policies with industrial policy, promoting bank-enterprise cooperation, increasing financing support to backbone enterprises and major international cooperation projects, adequately utilizing existing government funds, encouraging local governments and social funds to increase input, implementing preferential tax policies for mines, M&A, and restructurings, and establishing insurance compensation systems for new material development.”¹²² The Made in China 2025 initiative is another type of development plan providing guidance and support and targeting the role of technology for economic development. One research group wrote that “The roadmap instructs government departments on all levels to deploy the resources at their disposal to support the development in priority areas. Importantly, the roadmap also guides financial institutions and other supporting service sectors to focus support on corporate activities in the priority areas.”¹²³ They also noted that “The cultivation of a group of national champion enterprises also raises concerns regarding the competitive fairness and market conformity of such an effort.”¹²⁴ According to the OECD, the Made in China 2025 Plan lists ten priority industries, of which several rely on aluminium semis as inputs, and which are to be encouraged by means of dedicated funding and state direction.¹²⁵ The OECD also noted that the “*Announcement on Implementing the Made in China 2025 Strategy in Binzhou City*, published in September 2017, further encourages the gradual expansion of local aluminium firms into aluminium deep processing (semis) and finished products.”¹²⁶

¹¹⁹ *Ibid.*; p. 118.

¹²⁰ Exhibit 18 (NC) – Final Report – Analysis of Market Distortions in the Chinese Non-Ferrous Metals Industry, THINK!DESK China Research Consulting, April 24, 2017, p. 61.

¹²¹ Exhibit 16 (NC) – Australian Anti-Dumping Commission; Statement of Essential Fact No. 482, Review of Anti-Dumping Measures Applying to Aluminum Extrusions, February 2019; p. 95.

¹²² Exhibit 18 (NC) – Doc.101.pdf - King & Spalding LLP; China Issues 13th Five Year Plan for the Non-ferrous Metals Industry, Lingna Yan, October 25, 2016; p. 31.

¹²³ Exhibit 18 (NC) – Final Report – Analysis of Market Distortions in the Chinese Non-Ferrous Metals Industry, THINK!DESK China Research Consulting, April 24, 2017, p. 33.

¹²⁴ *Ibid.* p. 32.

¹²⁵ Exhibit 19 (NC) – OECD – Measuring Distortion in International Markets; The Aluminum Value Chain; January 8, 2019; p. 47 - These include in particular: ‘new energy’ and energy-saving vehicles; aviation and aerospace; advanced rail-transportation equipment; and electrical equipment.

¹²⁶ Exhibit 19 (NC) – OECD – Measuring Distortion in International Markets; The Aluminum Value Chain; January 8, 2019; p. 85.

[127] Further, the notice of the State Council on “Further Strengthening the Elimination of Backward Production Capabilities and Guidelines” include mechanisms to address non-compliance such as i) revoking of pollutant discharge permit; ii) restrictions on financial institutions providing new credit support; iii) restrictions on examination and approval of new investment projects; iv) restrictions on approval of new land for use by the enterprise, and v) restrictions on issuing of new, and cancelling of existing, production licence.¹²⁷ Australian authorities noted that “The Guidelines state that enterprises that do not conform to the industrial policy shall not be provided financial support by financial departments.”¹²⁸ They also noted that the the central role of the National Development and Reform Commission (NDRC) in both the development of directives and the provision of project approvals was also relevant to the question of government influence in the aluminum sector.

[128] The extent of the productive capacity accounted for by Chinese SOEs in the primary aluminum industry is also an indication of the GOC’s direct involvement in the industry. According to information on the record, SOEs account for more than 50% of the total primary aluminum output in China.¹²⁹ There is also evidence that the extent of government ownership may be growing not only via capacity addition, but also via debt-equity swaps, whereby an SOE acting on behalf of the government converts the debt of highly leveraged firms into shares, thus increasing the government ownership in the economy,¹³⁰ and not entirely based on market principle.¹³¹

¹²⁷ Exhibit 16 (NC) – Australian Anti-Dumping Commission; Statement of Essential Fact No. 482, Review of Anti-Dumping Measures Applying to Aluminum Extrusions, February 2019, pp. 78-79.

¹²⁸ *Ibid.* p. 79.

¹²⁹ Exhibit 15 (NC) – The European Commission’s Staff Working Document on Significant Distortions in the Economy of the People’s Republic of China for the Purposes of Trade Defence Investigations, 19 Dec. 2017, p. 388.

¹³⁰ Exhibit 19 (NC) – OECD – Measuring Distortion in International Markets; The Aluminum Value Chain; January 8, 2019; p. 92.

¹³¹ Exhibit 18 (NC) – Final Report – Analysis of Market Distortions in the Chinese Non-Ferrous Metals Industry, THINK!DESK China Research Consulting, April 24, 2017, p. 47.

[129] The extent of government ownership in the aluminum industry can have a distorting effect on the industry. In fact, SOEs are said to be the greatest recipients and providers of government support, especially in the area of financing and in the provision of inputs at less than adequate remunerations.¹³² Further, evidence on the record suggest that the GOC maintains a “...porous and fluid relationship [...] with companies, including through the appointment of key personnel and the day-to-day operations of firms.”¹³³ For example, the OECD noted that SPIC mentioned in its 2016 prospectus that “the Group’s Chairman and President is appointed by the State Council, Directors are accredited by SASAC, the Chairman of Board of Supervision is appointed by the State Council directly and the Vice President is appointed by SASAC.”¹³⁴ Similarly, an investigation by THINK!DESK into the individual background of members of the board of directors and supervisory councils of 65 major enterprises in the non-ferrous market revealed that a large majority of them are closely tied to the GOC.¹³⁵ The EU also noted that “[in] 2017, a Chinese state-owned aluminium producer, China Aluminum International Engineering Corporation Limited (Chalieco), amended its Articles of Association giving more prominence to the role of party cells within the company [...]. It included a whole chapter on the Party Committee, and Article 113 thereof states: *In deciding major corporate issues, the Board shall consult the Party Committee of the Company in advance.*”¹³⁶ As noted by Australian authorities, the SOEs are more likely to be responsive to the directives of the broader GOC.¹³⁷ They also identified several GOC document and guidelines which emphasizes the importance and role of the SOEs in the aluminum industries, such as with respect to the elimination of backward capacity, the control of production levels, the encouragement of mergers, restructuring and relocation, etc.¹³⁸

¹³² Exhibit 19 (NC) – OECD – Measuring Distortion in International Markets; The Aluminum Value Chain; January 8, 2019; p. 89-93; also Exhibit 16 (NC) – Australian Anti-Dumping Commission; Statement of Essential Fact No. 482, Review of Anti-Dumping Measures Applying to Aluminum Extrusions, February 2019, p. 77.

¹³³ Exhibit 19 (NC) – OECD – Measuring Distortion in International Markets; The Aluminum Value Chain; January 8, 2019; p. 91.

¹³⁴ *Ibid.*

¹³⁵ Exhibit 18 (NC) – Final Report – Analysis of Market Distortions in the Chinese Non-Ferrous Metals Industry, THINK!DESK China Research Consulting, April 24, 2017, p. 22-28.

¹³⁶ Exhibit 15 (NC) – The European Commission’s Staff Working Document on Significant Distortions in the Economy of the People’s Republic of China for the Purposes of Trade Defence Investigations, 19 Dec. 2017, p. 388.

¹³⁷ Exhibit 16 (NC) – Australian Anti-Dumping Commission; Statement of Essential Fact No. 482, Review of Anti-Dumping Measures Applying to Aluminum Extrusions, February 2019, p. 78.

¹³⁸ *Ibid.*

[130] Furthermore, there is evidence of stockpiling of aluminum by the GOC, which also has a distorting effect on the industry. For example, stockpiling is said to have allowed production to be maintained during the global financial crisis and avoided the potential closure of some aluminium manufacturers.¹³⁹ The Australian Anti-Dumping Commission has seen reports that continuing stockpiling of aluminium, financed by interest payments from the Strategic Reserves Bureau, occurred in 2016, with as much as one million tonnes of aluminium being purchased at prices above market price. As per Australian authorities, “The likely effect of this market intervention is to ease the pressure on the Chinese aluminium industry to reduce excess capacity and to avoid rationalising the higher-cost manufacturing facilities.”¹⁴⁰ The EU also noted instances where the government purchased aluminum at above market price with the purpose of stabilizing the price of aluminum and mitigating excess capacity.¹⁴¹ The EU also noted that provisions for the continuation of the stockpiling policy are included in the 13th Five Year Plan for Non-Ferrous Metals.¹⁴²

[131] Finally, Australian authorities recently issued a report¹⁴³ regarding the Chinese aluminum extrusion market in which it concluded that Chinese domestic prices of aluminum extrusions 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.

[132] For the reasons discussed above, the CBSA has reason to believe that the GOC is involved in and has influence on the aluminum industry (such that section 20 conditions would apply). Considering that the cost of primary aluminum accounts for 75-86% of the total cost of production for semis, the strong government influences which are artificially depressing the domestic price of aluminum, are having a strong impact on the pricing of the aluminum extrusions, providing an artificial cost advantage to the extruders. Considering the likelihood of the exporters to compete on the export market on the basis of their lower cost structure, in the opinion of the CBSA, they are likely to be exporting at prices that are lower than the prices in a surrogate country where competitive conditions exist, and thus, more likely to be selling at dumped prices, especially in an overcapacity situation.

¹³⁹ Exhibit 16 (NC) – Steel.Aluminium.Report.31.August.2016.pdf; Analysis of Steel and Aluminum Markets Report to the Commissioner of the Anti-Dumping Commission, August 2016, p.56.

¹⁴⁰ *Ibid.*

¹⁴¹ Exhibit 15 (NC) – The European Commission’s Staff Working Document on Significant Distortions in the Economy of the People’s Republic of China for the Purposes of Trade Defence Investigations, 19 Dec. 2017, p. 392.

¹⁴² *Ibid.*

¹⁴³ Exhibit 16 (NC) – Australian Anti-Dumping Commission; Statement of Essential Fact No. 482, Review of Anti-Dumping Measures Applying to Aluminum Extrusions, February 2019.

Primary Aluminum Capacity and Production Level in China

[133] China is the largest global producer of primary aluminum, by far. Data on the record shows that China possesses almost 60% of the world's aluminum production capacity and is responsible for close to 57% of global production. These figures also suggest that China has a total excess capacity equal to 25% of its total capacity.¹⁴⁴

[134] The Chinese aluminum industry has been growing in size at a rapid pace since the early 2000's, at which time China accounted for about 10% of global capacity, and especially in recent years.¹⁴⁵ This rapid growth in China's capacity and production is partly explained by the rapid growth of its economy and the expansion of its manufacturing base, requiring large quantities of aluminum. In fact, China's massive production is almost entirely consumed domestically.¹⁴⁶ However, studies also suggest that non-market forces, especially with respect to government support, are explaining some of the rapid capacity increase. For example, the OECD has suggested that "Non market forces encompasses a wide variety of government interventions that might help explain the persistence of excess capacity in the aluminum industry. [...] Subsidies and subsidized bank loans in particular, have been shown, for example, to prevent the exit of less productive firms hit by unfavorable shocks, turning them into "zombies" that distort competition throughout the rest of the economy."¹⁴⁷ The EU has also noted the role of the GOC's subsidizing of energy cost as a contributor of the increase in production capacity.¹⁴⁸

[135] It seems that while the growth in the Chinese economy and the related growth in the consumption of aluminum has slowed significantly, the expansion of aluminum capacity is continuing at a higher rate. Thus, overcapacity is expanding and is forecasted to continue to expand.

[136] Between 2008 (at the time of the CITT's finding) and 2015, Chinese capacity is said to have doubled.¹⁴⁹ Between 2015 and the end of 2018, capacity grew by another 26%.¹⁵⁰ Indications are that capacity is still growing. Reported projects under construction plus those that are expected would increase capacity by another 20% (although this does not consider any capacity that may be shut down).¹⁵¹

¹⁴⁴ Exhibit 16 (NC) – Misc2.pdf, International Aluminum Institute; Primary Aluminum Production; p.3 and Exhibit 46 (PRO) – 35_CONF Aluminum Market Report- December 2018.pdf; CRU Aluminium Long Market Outlook, December 2018; Table II and Table 3.2.

¹⁴⁵ Exhibit 18 (NC) – Final Report – Analysis of Market Distortions in the Chinese Non-Ferrous Metals Industry, THINK!DESK China Research Consulting, April 24, 2017, p. 106.

¹⁴⁶ Exhibit 46 (PRO) – 35_CONF Aluminum Market Report- December 2018.pdf; CRU Aluminium Long Market Outlook, December 2018; Table II and Table 3.2.

¹⁴⁷ Exhibit 19 (NC) – OECD – Measuring Distortion in International Markets; The Aluminum Value Chain; January 8, 2019; p. 12.

¹⁴⁸ Exhibit 15 (NC) – The European Commission's Staff Working Document on Significant Distortions in the Economy of the People's Republic of China for the Purposes of Trade Defence Investigations, 19 Dec. 2017, p. 396.

¹⁴⁹ *Ibid.*

¹⁵⁰ Exhibit 46 (PRO) – 35_CONF Aluminum Market Report- December 2018.pdf; CRU Aluminium Long Market Outlook, December 2018; Table II and Table 3.2.

¹⁵¹ *Ibid.*; Table 3.3.

[137] Production is also increasing. For instance, Chalco, the world's second largest aluminum producer, an SOE, is said to have boosted its production by 16% in 2018 alone.¹⁵² Production is projected to continue to increase between 2018 and 2020.¹⁵³ Further, production in December 2018 was reported to be up by 11.3% from the same period a year earlier, due to new smelters and a higher utilization rate due to a plunge in the cost of raw material alumina.¹⁵⁴ The same report refers to an expected increase in output in 2019.

[138] Meanwhile, growth in demand for aluminum is slowing. Internationally, demand is reported to be at its weakest in three years, with contraction in Chinese manufacturing over four months in the end of 2018 and early 2019, as well as contraction in Europe, Japan, South Korea, Taiwan and Turkey.¹⁵⁵ Although China's economy is still expected to grow at a rate of 6.3% in 2019 and 6.1% in 2020¹⁵⁶, the concern is that growth in capacity may outpace growth in demand, resulting in increasing the already staggering excess capacity.

[139] The excess capacity of primary aluminum in the Chinese domestic market has a direct implication for aluminum extrusion producers, who benefit from a higher supply of an artificially low-priced major production input. As mentioned earlier, since the cost of primary aluminum accounts for 75-86% of the total cost of production for semis, extruders will continue to benefit from an artificial cost advantage. Considering their own domestic conditions, which are discussed in the section below, Chinese aluminum extruders are more likely to increasingly rely on the export market to sell their goods, and are likely to be competing on the basis of their cost advantage. Given that their own domestic prices or own costs of production are not appropriate benchmarks to determine the normal values of the goods in light of the existence of non-market conditions, competing on the Canadian market on the basis of their artificially lower cost structure, rather than on the basis of prices and costs where competitive conditions exists, increases the likelihood that the goods will be dumped. In fact, the OECD did confirm that "Lower production costs for semis have in turn translated into lower export prices that have made China more competitive in most segments of the semis market."¹⁵⁷

¹⁵² Exhibit 47 (NC) – Attachment 28; Reuters, China's Chalco Leapfrogs Rusal as second-biggest listed aluminum producer, March 29, 2019.

¹⁵³ Exhibit 46 (PRO) – 35_CONF Aluminum Market Report- December 2018.pdf; CRU Aluminium Long Market Outlook, December 2018; Table II and Table 3.2.

¹⁵⁴ Exhibit 16 (NC) – misc1.pdf; Reuters, China December aluminum production surges to record monthly high; January 20, 2019.

¹⁵⁵ Exhibit 16 (NC) – misc1.pdf; Harbor Aluminum, World end-user aluminum demand at its weakest in three years, not yet bullish for LME prices; April 1, 2019.

¹⁵⁶ Exhibit 47 (NC), Attachment 47; IMF World Economic Outlook, April 2019, p. 9.

¹⁵⁷ Exhibit 19 (NC) – OECD – Measuring Distortion in International Markets; The Aluminum Value Chain; January 8, 2019; p. 27.

Conditions of the Aluminum Extrusions Industry in China

[140] The evidence on the record suggests that the Chinese aluminum extrusion industry has also increased its production dramatically in the past 15 years, fuelled by the country's infrastructure and housing boom.¹⁵⁸ It was said that by 2015, China accounted for 64% of the total global production of aluminum extrusions.¹⁵⁹ Information on the record suggests an overcapacity in 2018 that is equivalent to about 68% of global demand, excluding China, and 26% of the total global demand.¹⁶⁰

[141] Based on the data on the record for 2018, China's overproduction level was almost four times the total Canadian demand and over 10% of the global demand excluding China.¹⁶¹

[142] As per information on the record, the growth in domestic demand for extrusions in China is expected to significantly slow in the next 10 years.¹⁶²

[143] Considering the expected slowdown in Chinese demand growth, the existing substantial Chinese overcapacity and excess production may worsen if Chinese capacity growth continues at current rates despite market signals. If Chinese aluminum extrusion producers continue to increase their capacity and production levels at a pace that ignores the shift in growth speed, a distortion between demand and supply will be created in the market, and China will have to heavily rely on export markets to sell their excess production.

Export Orientation of Chinese Aluminum Extrusion Producers

[144] The non-market conditions described above with respect to the Chinese aluminum industry, namely, the policies and vast financial support of the primary aluminum industry, and the trade policies encouraging the exports of downstream aluminum products, have resulted in overcapacity and in a highly export oriented aluminum extrusions market.

[145] In this regard, the OECD has, in a study, linked the government policies to China's excess supply of primary aluminum benefitting Chinese producers of semis (such as aluminum extrusion producers) through lower input cost and to lower export prices that have made China more competitive on the global market. The OECD also noted that for processed articles of aluminum, "lower unit values on exports have made China the largest net exporter by a wide margin, with rapid growth leading to the country now holding around 20% of the global market share."¹⁶³

¹⁵⁸ *Ibid.*; p. 44.

¹⁵⁹ *Ibid.*

¹⁶⁰ Exhibit 46 (PRO) – 35_CONF Aluminum Market Report- December 2018.pdf; CRU Aluminium Long Market Outlook, December 2018; Table 1.4.

¹⁶¹ *Ibid.*; see also Table 1 of this report for the Canadian figures.

¹⁶² Exhibit 46 (PRO) – 35_CONF Aluminum Market Report- December 2018.pdf; CRU Aluminium Long Market Outlook, December 2018; Table 1.4.

¹⁶³ Exhibit 19 (NC) – OECD – Measuring Distortion in International Markets; The Aluminum Value Chain; January 8, 2019; p. 27.

[146] Another study has identified a number of subsidies available and used by producers of aluminum products, that are contingent on export, as a means by which the GOC selectively encourages the exportation of such goods.¹⁶⁴ For example, the study has found that some municipalities will match export revenues with subsidies. Other subsidies will offset domestic transportation cost for export shipments, in order to lower their cost of doing business and increase export trade. The provision of export credit insurance was another form of export subsidy listed by this study.

[147] The record contains evidence that the export orientation of producers of aluminum products has accelerated in recent years. For example, it was reported that from January to November 2018, Chinese global exports were up over 20% from a year earlier, while November exports were up over 41%.¹⁶⁵ The same report also mentioned that the GOC decided to adjust its tax policy to facilitate even more exports of aluminum semis, further raising the VAT rebate on these goods. China's exports and installed capacity were also forecasted to keep rising in 2019. CRU was also forecasting an increase in export, partly due to the increase in the tax rebate.¹⁶⁶

Trade Remedy Measures in Canada and Other Jurisdictions

[148] In addition to the Canadian measures, several jurisdictions have imposed anti-dumping and other trade measures with respect to aluminum extrusions from China, as well as other aluminum products from China.¹⁶⁷

[149] In addition to anti-dumping and countervailing measures in place with respect to aluminum extrusions from China, Australia also has anti-dumping measures on Chinese aluminum road wheels and aluminum zinc coated steel. Similarly, in addition to anti-dumping and countervailing measures in place with respect to aluminum extrusions from China, the United States also has anti-dumping measures on Chinese aluminum foil, aluminum sheet and aluminum oxide. The United States also imposes an additional 10% duties on aluminum products, including aluminum extrusions, pursuant to *Section 232 of the Trade Expansion Act of 1962*.¹⁶⁸ Colombia has anti-dumping on Chinese extruded aluminum profiles. The European Union maintains anti-dumping measures on Chinese Aluminum foil, aluminum radiators and aluminum road wheels. India has anti-dumping duties on Chinese presensitized positive offset aluminum plates, cast aluminum alloy wheels, aluminum foil and aluminum radiators. Mexico has anti-dumping duties on Chinese aluminum cookware.

¹⁶⁴ Exhibit 18 (NC) – Final Report – Analysis of Market Distortions in the Chinese Non-Ferrous Metals Industry, THINK!DESK China Research Consulting, April 24, 2017, pp.103-104.

¹⁶⁵ Exhibit 18 (NC); doc101.pdf; Aluminum: Year in Review and What to Expect in 2019 – Aluminum Insider; p. 4.

¹⁶⁶ Exhibit 47 (NC); 50_LMEWEEK-China aluminium exports to surge on trade war - CRU - Reuters.pdf.

¹⁶⁷ Exhibit 15 (NC) – AE CBSA Exhibits iii – Measures in Force AD; Semi-Annual Reports Under Article 16.4 of the Agreement, WTO.

¹⁶⁸ Exhibit 15 (NC) – Presidential Proclamation on Adjusting Imports of Aluminum into the United States; March 8, 2018.

[150] The anti-dumping measures in place on numerous aluminum products, in numerous jurisdictions, are indicative of a propensity of Chinese exporters to dump aluminum products. The anti-dumping measures and the other trade measures that are specific to aluminum extrusions increase the likelihood of dumped subject goods being exported to Canada in light of the trade barriers that exist in these jurisdictions, including such a large and geographically close market as the United States. While the anti-dumping and countervailing measures currently in place in Canada with respect to the subject goods have prevented a diversion of Chinese aluminum extrusions to Canada, the removal of these measures is likely to result in an increase of shipments to Canada at dumped prices.

Evidence of Circumvention of Trade Remedy Measures / Transshipment

[151] Canadian producers raised concerns with the possibility of transshipments and mislabeling of subject goods to circumvent the CITT's order, and provided evidence that authorities in Australia and the United States have investigated and ruled that some parties were engaging in circumvention of their respective aluminum extrusion measures.¹⁶⁹ Similarly, with respect to China, THINK!DESK reported that “[the] trans-shipment of goods through third countries is used to disguise their origin to the customs authorities in target markets that impose anti-dumping and/or countervailing duties.”¹⁷⁰

[152] The fact that some Chinese aluminum extrusion exporters need to circumvent anti-dumping findings could be an indication that they are unable to export subject goods at non-dumped prices in order to gain market share.

Continued Presence of Chinese Aluminum Products in Canada

[153] As mentioned earlier in this report, the volume of subject imports dropped by over 95% between 2007 (i.e. prior to the finding) and 2018. Subject imports also dropped significantly during the POR, with a reduction of 70% between 2016 and 2018. In terms of market share, subject imports represented 16.4% of the Canadian market in 2007, prior to the finding.¹⁷¹ The Chinese extruders' market share was reduced to 2.1% of the market in 2016 and further reduced to 0.5% of the market in 2018. This significant reduction is indicative of the effect of the measures, and the inability for most exporters to maintain sales at normal values.

¹⁶⁹ Exhibit 50 (NC); Case Arguments of Canadian Producers; paras. 131-136.

¹⁷⁰ Exhibit 18 (NC) – Final Report – Analysis of Market Distortions in the Chinese Non-Ferrous Metals Industry, THINK!DESK China Research Consulting, April 24, 2017, p. 105.

¹⁷¹ Canadian International Trade Tribunal; Finding and Reasons, Aluminum Extrusions; Inquiry No. NQ-2008-003, April 1, 2009; paras. 161, 164 and 263.

[154] Despite the significant drop in importation since the finding was put in place, subject goods continue to have a presence in the Canadian market. During the POR, subject goods totaled almost 9.5 million kg, accounting for about 1.1% of the total market volume. In 2018, these goods were imported at a weighted average price per kg that was about 20% lower than the weighted average for the market. Approximately \$6.3 million in anti-dumping duty was assessed on subject goods, which suggest that these goods were dumped by a weighted average margin of approximately 14%. Although a difference in product mix can explain part of the lower pricing of Chinese exports, it does appear that the remaining Chinese exporters in the Canadian market are still competing on the basis of their artificial cost advantage in order to maintain a presence in Canada, despite the measures in place. The total amount of dumping duty assessed on those goods suggest that many of the exporters that maintained a presence in Canada while the finding is in place are unable to do so at non-dumped prices.

[155] More so, Statistics Canada data suggests that Chinese exporters of aluminum products which fall under the same HS classification numbers as the subject goods, which may include extrusions that do not meet the product definition, or further processed aluminum products, for example, maintained a weighted average share of import of over 11% during the POR.¹⁷² These exporters, which may include producers of goods that meet the product definition, are maintaining a presence in the Canadian marketplace, and may have the contacts and infrastructure in place to export more subject goods should the measures expire. Considering the discussion above, the pricing for such additional supply of subject goods is likely to be at dumped prices.

Competitive Conditions in the Canadian Aluminum Extrusions Market

[156] Generally speaking, most Canadian producers are expecting relatively stable/flat demand in the foreseeable future, with growth to be in line with GDP growth.¹⁷³ Some see volatility due to the current trade environment, particularly with respect to tariff.

[157] On the supply side, the producers expect increased competitive pressure in the foreseeable future¹⁷⁴. Domestically, it was noted that there was ample capacity available and that the new capacity introduced during the past few years is now fully engaged.¹⁷⁵ Based on the data available, the increase in domestic capacity was in line with the growth in market demand. Competition may also continue to increase due to the effect of the section 232 trade measures in the United States, which may lead to the diversion of aluminum goods into Canada, (the imposition of a 10% surtax on aluminum products) and the general uncertainty caused by the current trade environment.

¹⁷² Exhibit 46 (PRO); close of Record Documents by Producers - Attachment 77: Market Table – Aluminum Extrusions 2015 top Q3 2018.

¹⁷³ Canadian producers' responses to questions 24-29 of ERQ.

¹⁷⁴ Based on their responses to questions 26-29 of the Producer ERQ.

¹⁷⁵ As per the combined responses of Canadian producers to Appendix 5 of the Producer ERQ, domestic capacity increased by 10.5% during the POR.

[158] Several producers noted an increase in low price imports from certain Asian countries, other than China. This trend is confirmed by the CBSA's statistical data on volume, which shows an increase of 19.2% in imports from countries other than China between 2016 and 2018, twice the pace of the apparent market growth.¹⁷⁶ At the same time, the average value of imports from countries other than China grew at a significantly lower pace than the average value of aluminum extrusion from other sources, which support the reports of increasing price pressure. For instance, while the average unit value of aluminum extrusions sold domestically by the Canadian producers increased by 19.5% between 2016 and 2018, it increased by only 6% for the other countries (excluding China).¹⁷⁷ The CBSA notes that the unit price for imports from countries other than China were the highest in the market during the POR. However, the differential is rapidly decreasing, possibly the result of increased competition from a number of sources.

[159] It was already noted that the Chinese aluminum extrusion producers are increasingly export focused, with ample capacity available and an artificially low cost advantage. As such, if the CITT's order was no longer in place, it is likely that the Chinese exporters would be competing with the reported new low priced sources of imports on the basis of their cost advantage. It was also established that to the extent that the conditions of section 20 of SIMA continue to apply to the Chinese aluminum extrusions sector in China, the normal values for Chinese extruders are not based on the domestic prices or costing data, but rather on the pricing and costing structure in a surrogate country, where competitive conditions exists. As discussed above, the normal values under section 20 are likely to be higher, and hence, the subject goods are more likely to be dumped.

Determination Regarding Likelihood of Continued or Resumed Dumping

[160] Based on the information on the administrative record in respect of; the GOC's involvement in and influence on the aluminum industry – Section 20 conditions; the primary aluminum capacity and production levels in China; the conditions of the aluminum extrusions industry in China; the export orientation of Chinese aluminum extrusion producers; the trade measures in Canada and in other jurisdictions; the evidence of circumvention / transshipment; the continued presence of Chinese aluminum products in Canada; and the competitive conditions in the Canadian aluminum extrusion market, the CBSA determined that the expiry of the finding is likely to result in the continuation or resumption of dumping into Canada of certain aluminum extrusions originating in or exported from China.

POSITION OF THE PARTIES – SUBSIDIZING

Parties Contending that Continued or Resumed Subsidizing is Likely

Canadian Producers

[161] The participating Canadian producers contend that the subsidizing of certain aluminum extrusions from China is likely to continue or resume should the CITT's order expire. Therefore, they argued that the countervailing measures should remain in place.

¹⁷⁶ See Table 1 and 2 of this report.

¹⁷⁷ See Table 1 and 2 of this report.

[162] The main arguments made by the Canadian producers can be summarized as follows:

- China continues to subsidize its primary aluminum industry;
- China continues to subsidize aluminum extruders; and
- Countervailing measures in other jurisdictions

China Continues to Subsidize its Primary Aluminum Industry

[163] The Canadian producers referenced several studies which found that the GOC has heavily subsidized its primary aluminum industry for many years, at the national and sub-national levels.¹⁷⁸ The producers noted that in the context of aluminum extrusions, primary aluminum accounts for 75-86% of the total cost of production, making competitiveness in the semis (i.e. semi-finished products) market largely dependent on the cost of primary aluminum.¹⁷⁹

[164] One such studies, they claim, is the recently published OECD study titled “*Measuring Distortions in International Markets: the Aluminum Value Chain*”. The Canadian producers noted that the OECD government financial support in the aluminum industry was very much concentrated in China, where it found significant subsidies in the form of energy subsidies (it was noted that electricity account for about 40% of the cost of smelting), tax incentives and concessions, and grants.¹⁸⁰

China Continues to Subsidize Aluminum Extruders

[165] The Canadian producers noted that the OECD study determined that the effect of China’s subsidy programs can be found at all levels of the aluminum value chain.¹⁸¹

[166] They referred to recently completed reviews in Australia and the U.S, in which both authorities found that China’s aluminum extruders benefited from subsidy programs, including the provision of aluminum at less than adequate remuneration, preferential tax policies, tariff and VAT programs, various loan programs, as well as grants, as indications that China continues to subsidized aluminum extruders.¹⁸²

[167] The producers also referred to other publically available information to confirm that aluminum extrusions producers received subsidies, such as the annual report of Pan Asialum Holdings Company Limited.¹⁸³

¹⁷⁸ Exhibit 50 (NC) – Case Arguments of Canadian Producers, para. 146.

¹⁷⁹ *Ibid.*, para. 149.

¹⁸⁰ *Ibid.*, paras. 147-148.

¹⁸¹ *Ibid.*, para. 149.

¹⁸² *Ibid.*, paras. 151-154.

¹⁸³ *Ibid.*, para. 156.

Countervailing Measures in Other Jurisdictions

[168] As discussed above, the Canadian producers argued American and Australian authorities also have countervailing measures in place with respect to aluminum extrusions specifically, while several jurisdictions have countervailing measures in place with respect to other aluminum products from China.¹⁸⁴

Parties Contending that Continued or Resumed Subsidizing is Unlikely

[169] None of the parties contended that continued or resumed subsidizing of subject goods from China is unlikely should the CITT's order expire.

CONSIDERATION AND ANALYSIS – SUBSIDIZING

[170] In making a determination under paragraph 76.03(7)(a) of SIMA as to whether the expiry of the order in respect of goods from China is likely to result in the continuation or resumption of subsidizing of these goods, the CBSA may consider factors identified in subsection 37.2(1) of the SIMR, as well as any other factors relevant in the circumstances.

[171] Guided by the aforementioned factors and having considered the information on the administrative record, the following list represents a summary of the CBSA's analysis conducted in this expiry review investigation with respect to subsidizing:

- the subsidizing of the primary aluminum industry in China;
- the continued subsidizing of aluminum extrusion producers; and
- the countervailing measures in Canada and in other jurisdictions.

The Subsidizing of the Primary Aluminum Producers in China

[172] Evidence on the record suggests that the primary aluminum industry in China benefits from substantial amount of government subsidies and that such subsidies are being passed through to aluminum extrusions producers. The bulk of the subsidies to smelters are believed to consist of energy subsidy, financial subsidy (i.e. through the banking system) and tax subsidies.

¹⁸⁴ *Ibid.*, paras. 151-157.

[173] As mentioned earlier in this report, electricity accounts for about 40% of the cost of smelting. As such, the provision of electricity, or coal for captive electricity production, on preferential terms can translate into significant benefit for smelters. Significant amounts of electricity subsidies to smelters were reported by the Australian Anti-Dumping Commission¹⁸⁵, the European Commission¹⁸⁶, the OECD¹⁸⁷, a report submitted to the U.S. – China Economic and Security Review by Capital Trade Incorporated¹⁸⁸, and others¹⁸⁹. Chinese smelters also benefit from the purchase of coal at below-market prices, either directly through government ownership of most coal producers, or indirectly through the provision of finance by policy banks or through regulations.¹⁹⁰ In an analysis, the OECD estimated the amount of government support for energy and other intermediate to such enterprises as China Hongqiao Group, the world’s largest aluminum producer, Chalco, the world’s second largest Aluminum producer, SPIC, an aluminum smelter and also one of the major electricity generation company in China, QPIG, another Chinese smelter, and several others. The OECD estimated that these four companies received energy benefits valued at as much as USD 3.552 billion, USD 262 million billion, USD 395 million and USD 583 million respectively, over a five year period.¹⁹¹ ¹⁹² According to the OECD, the GOC may subsidizes energy for smelters in one or several of the following manner: i) direct budgetary transfer (for example, the government may reimburse part of a smelter’s energy cost), ii) tax revenue foregone (taxes normally levied on energy use are reduced or eliminated for specific users), iii) other government revenue foregone (for example, a SOE provides electricity to smelters at below-costs), or induced transfer (e.g. government regulations mandate that energy prices be kept below-market for certain users like aluminum smelters).¹⁹³

¹⁸⁵ Exhibit 16 (NC) – Australian Anti-Dumping Commission; Statement of Essential Fact No. 482, Review of Anti-Dumping Measures Applying to Aluminum Extrusions, February 2019, pp. 81-82.; and Exhibit 16 (NC) – Analysis of Steel and Aluminum Markets; Report to the Commissioner of the Anti-Dumping Commission, August 2016., p. 55.

¹⁸⁶ Exhibit 15 (NC) – The European Commission’s Staff Working Document on Significant Distortions in the Economy of the People’s Republic of China for the Purposes of Trade Defence Investigations, 19 Dec. 2017, p. 390-394.

¹⁸⁷ Exhibit 19 (NC) – OECD – Measuring Distortion in International Markets; The Aluminum Value Chain; January 8, 2019; pp. 17, 31, 82, 86-89, 9.1

¹⁸⁸ Exhibit 15 (NC) – An Assessment of China’s Subsidies to Strategic and Heavyweight Industries Submitted to the U.S.-China Economic and Security Review Commission By Capital Trade Incorporated, pp. 82-85, 101

¹⁸⁹ Exhibit 18 (NC) – Final Report – Analysis of Market Distortions in the Chinese Non-Ferrous Metals Industry, THINK!DESK China Research Consulting, April 24, 2017, pp. 78-79, 110-115.

¹⁹⁰ Exhibit 19 (NC) – OECD – Measuring Distortion in International Markets; The Aluminum Value Chain; January 8, 2019; p. 87.

¹⁹¹ *Ibid.*; p. 118.

¹⁹² The period is either 2013-17 or 2012-16, depending on the company.

¹⁹³ Exhibit 19 (NC) – OECD – Measuring Distortion in International Markets; The Aluminum Value Chain; January 8, 2019; p. 86.

[174] The OECD also estimated that substantial amount of benefits were provided to smelters through the financial system. In its report, it indicated that smelters such as China Hongqiao Group, Chalco, SPIC and QPIG resorted to debt as their main source of financing and were very highly leveraged¹⁹⁴. Being highly leveraged, the ability to obtain financing on concessional terms can translate into significant benefits. In total, the OECD estimated that these four companies received as much as USD 4.480 billion, USD 8.302 billion, USD 33.791 billion and USD 2.149 billion, respectively, in financial subsidies provided through the financial system over a five year period.¹⁹⁵ ¹⁹⁶ These companies were identified as benefiting from contractual terms that were better than those being available in private markets, such as preferential rates and longer repayment terms, or by better terms and conditions of private loans through explicit or implicit government guarantees.¹⁹⁷ It was also mentioned that firms such as SPEC and QPIG specifically indicated in bond prospectuses that they benefited from preferential loans from policy banks (which are, by their nature, more likely to be considered as public bodies), among other state-owned banks.

[175] Finally, the OECD report, along with other reports, also provides evidence of tax concessions, such as lower tax rates under China's Western Development Strategy.¹⁹⁸ Such tax concessions are specifically reported to have provided significant benefits to major smelters like Chalco, who has two subsidiaries in Western China.¹⁹⁹

[176] The evidence on the record suggests that at least some of the substantial benefits received by aluminum smelters are being passed on to aluminum extrusions producers. Considering that the cost of primary aluminum accounts for 75-86% of the total cost of production for semis, the total benefit passed through to aluminum extrusion producers can be significant. On one hand, each of the four smelters listed above, which include the two largest aluminum producers in China, are believed to be state-owned. Evidence on the record also suggest that these SOEs are considered public bodies. As such, it can be implied that the benefit provided by the GOC to the state-owned smelters are being passed-through to the aluminum extruders. Further, evidence on the record suggest that state-owned aluminum producers are supplying aluminum to aluminum extrusion producers at less than adequate remuneration, which is further indication of the benefit that is being passed-through from the smelter to the downstream producer. In this regards, at the time of the original investigation, the CBSA determined that SOEs were providing primary aluminum at less than fair market value.²⁰⁰ More recently, Australian authorities have also determined that aluminum extruders were still benefiting from the provision of aluminum by the GOC at less than adequate remuneration.²⁰¹

¹⁹⁴ *Ibid.*; p. 93.

¹⁹⁵ *Ibid.*; p. 118.

¹⁹⁶ The period is either 2013-17 or 2012-16, depending on the company.

¹⁹⁷ Exhibit 19 (NC) – OECD – Measuring Distortion in International Markets; The Aluminum Value Chain; January 8, 2019; p. 96.

¹⁹⁸ *Ibid.*; p. 18; Exhibit 15 (NC) – An Assessment of China's Subsidies to Strategic and Heavyweight Industries Submitted to the U.S.-China Economic and Security Review Commission By Capital Trade Incorporated, p. 82.

¹⁹⁹ Exhibit 15 (NC) – An Assessment of China's Subsidies to Strategic and Heavyweight Industries Submitted to the U.S.-China Economic and Security Review Commission By Capital Trade Incorporated, p. 82.

²⁰⁰ CBSA, *Statement of Reasons* – Certain Aluminum Extrusions Originating in or Exported from the People's Republic of China, March 3, 2009; Appendix 2.

²⁰¹ Exhibit 16 (NC) – Australian Anti-Dumping Commission; Statement of Essential Fact No. 482, Review of Anti-Dumping Measures Applying to Aluminum Extrusions, February 2019, p. 94.

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

[178] As discussed previously regarding the evidence of the aluminum sector in China not operating under competitive conditions, the record contains evidence that the state-owned smelters are meaningfully controlled by the government and that they performed a government function. As example of government exerting control, the OECD noted that SPIC mentioned in its 2016 prospectus that “the Group’s Chairman and President is appointed by the State Council, Directors are accredited by SASAC, the Chairman of Board of Supervision is appointed by the State Council directly and the Vice President is appointed by SASAC.”²⁰² Similarly, an investigation by THINK!DESK into the individual background of members of the board of directors and supervisory councils of 65 major enterprises in the non-ferrous market revealed that a large majority of them are closely tied to the GOC.²⁰³ The EU also noted that “In 2017, a Chinese state-owned aluminium producer, China Aluminum International Engineering Corporation Limited (Chalieco), amended its Articles of Association giving more prominence to the role of Party cells within the company[...]. It included a whole chapter on the Party Committee, and Article 113 thereof states: *‘In deciding major corporate issues, the Board shall consult the Party Committee of the Company in advance.’*”²⁰⁴ As noted by Australian authorities, the SOEs are more likely to be responsive to the directives of the broader GOC.²⁰⁵ They also identified several GOC documents and guidelines which emphasize the importance and role of the SOEs in aluminum industries, such as with respect to the elimination of backward capacity, the control of production levels, the encouragement of mergers, restructuring and relocation, etc.²⁰⁶ Australian authorities recently made the same conclusion that the state-owned smelters are meaningfully controlled by the government and that they performed a government function.²⁰⁷ Further, another study noted that not only are subsidies mostly provided to SOEs, a large share of the subsidies is provided contingent on compliance with GOC directives.²⁰⁸ This is therefore indicative that the SOEs may be considered as public bodies, and, considering the lower aluminum prices in China than on the international market²⁰⁹, may be indicative that there is a benefit being passed on to users of these inputs, such as aluminum extrusion producers.

²⁰² Exhibit 19 (NC) – OECD – Measuring Distortion in International Markets; The Aluminum Value Chain; January 8, 2019; p. 91.

²⁰³ Exhibit 18 (NC) – Final Report – Analysis of Market Distortions in the Chinese Non-Ferrous Metals Industry, THINK!DESK China Research Consulting, April 24, 2017, pp. 22-28.

²⁰⁴ Exhibit 15 (NC) – The European Commission’s Staff Working Document on Significant Distortions in the Economy of the People’s Republic of China for the Purposes of Trade Defence Investigations, 19 Dec. 2017, p. 388.

²⁰⁵ Exhibit 16 (NC) – Australian Anti-Dumping Commission; Statement of Essential Fact No. 482, Review of Anti-Dumping Measures Applying to Aluminum Extrusions, February 2019, p. 78.

²⁰⁶ *Ibid.*

²⁰⁷ Exhibit 16 (NC) – Australian Anti-Dumping Commission; Statement of Essential Fact No. 482, Review of Anti-Dumping Measures Applying to Aluminum Extrusions, February 2019, p. 126.

²⁰⁸ Exhibit 18 (NC) – Final Report – Analysis of Market Distortions in the Chinese Non-Ferrous Metals Industry, THINK!DESK China Research Consulting, April 24, 2017, p. 61.

²⁰⁹ Exhibit 16 (NC) – Australian Anti-Dumping Commission; Statement of Essential Fact No. 482, Review of Anti-Dumping Measures Applying to Aluminum Extrusions, February 2019; p. 95.

The Continued Subsidizing of Aluminum Extrusion Producers

[179] At the time of the original subsidy investigation, 56 potential subsidy programs were investigated and 15 of the potential subsidy programs were determined to have conferred benefits to the cooperative exporters. The programs included grants, preferential tax programs, reduction in land use fees and the provision of aluminum at less than fair market value.²¹⁰ For purposes of the final determination, the amounts of subsidy for the seven cooperative Chinese exporters ranged from 2.59 Renminbi (RMB) per kg to 3.88 RMB per kg, or from 8% to 16% expressed as a percentage of export price. For the non-cooperative exporters, the amount of subsidy has been determined under a ministerial specification, pursuant to subsection 30.4(2) of SIMA. The total amount of subsidy for the non-cooperative was 15.84 RMB per kg, or 60% as a percentage of export price. The final results indicated that 100% of the subject goods imported into Canada were subsidized. The overall weighted average amount of subsidy was equal to 47% of the export price.²¹¹ On February 20, 2012, the CBSA concluded a dumping and subsidy re-investigation. Four exporters were issued specific amounts of subsidy on the basis of the re-investigation, which ranged from 0.75 to 1.84 RMB/kg.

[180] Despite the limited information with respect to current subsidy programs specifically applicable to aluminum extrusion producers and exporters, especially due to the non-participation by the GOC in this expiry review investigation, information on the record provides evidence of the continued availability of subsidy programs for aluminum extruders in China. For instance, the OECD estimated that China Zongwang, China's largest producer of aluminum extrusions, received USD 2.554 billion in financial subsidies provided through the financial system between 2013 and 2017.²¹² It was also reported that China Zongwang is subject to preferential tax rates in light of its "High and New Technology Enterprise" status from the Liaoning Province.²¹³ According to a recently published *Statement of Essential Facts* with respect to a review of its anti-dumping and countervailing on aluminum extrusions from China, Australian authorities determined that the cooperating Chinese exporters received benefits during the period of review under 40 programs²¹⁴, and that another 25 programs were considered countervailable even though benefits were not conferred to the cooperating exporters during the period reviewed.²¹⁵ The majority of the programs consisted of grants (60 of the 65 available countervailable programs), with the others consisting of preferential tax programs, a tariff and VAT exemption program, in addition to the provision of primary aluminum at less than adequate remuneration. The 2017 annual report of aluminum extruder PanAsialum Holdings Company Limited also reports government grants from the GOC. For instance, the producer reported the receipt of subsidies from the Economic and Information Commission of Guangdong Province and the Industry and Information Technology Commission of Guangzhou Municipality, in addition to subsidies from the Wolong District Government.²¹⁶

²¹⁰ CBSA's Statement of Reason – Certain Aluminum Extrusions from China - Final Determination, March 3, 2009; para. 256.

²¹¹ *Ibid.*; para. 258-261.

²¹² Exhibit 19 (NC) – OECD – Measuring Distortion in International Markets; The Aluminum Value Chain; January 8, 2019; p. 118.

²¹³ *Ibid.*; p. 18.

²¹⁴ It is noted that one of these 40 programs, which has not been applicable since April 2009, no longer provide benefits as of April 30, 2019.

²¹⁵ Exhibit 16 (NC) – Australian Anti-Dumping Commission; Statement of Essential Fact No. 482, Review of Anti-Dumping Measures Applying to Aluminum Extrusions, February 2019, Attachment B.

²¹⁶ Exhibit 19 (NC), PanAsialum Holdings Company Limited 2017 Annual Report, p. 86.

[181] Finally, the record also contains evidence of export subsidies provided to aluminum extrusions producers. For example, a THINK!DESK China Research Consulting study has found that some municipalities will match export revenues with subsidies, while other subsidies will offset domestic transportation cost for export shipments, in order to lower their cost of doing business and increase export trade. The provision of export credit insurance was another form of export subsidy listed by this study.²¹⁷

Countervailing Measures in Other Jurisdictions

[182] The existence of countervailing measures in place in Canada, Australia, the EU and in the US concerning aluminum products from China reinforces the argument that Chinese exporters/producers of aluminum extrusions receive countervailable benefits from the GOC and the GOC has placed a great deal of importance on its aluminum industry and subsidized it accordingly.

[183] Canada currently has countervailing measures in place against Chinese aluminum extrusions and photovoltaic modules and laminates (a product that includes aluminum extrusions as input for the frame).²¹⁸ Information on the administrative record indicates that Australia, the EU and the US also have countervailing measures against aluminum products from China. The products that are subject to the Australian countervailing measures include: Aluminum Extrusions, Aluminum road wheels and Aluminum Zinc Coated Steel.²¹⁹ The European Union also has countervailing measures against crystalline silicone photovoltaic modules and key components.²²⁰ The products that are subject to the U.S. countervailing measures include: Aluminum Extrusions, certain aluminum foil, crystalline silicone photovoltaic cells, and certain crystalline silicone photovoltaic products.²²¹

[184] On the basis of the above, there are strong indications that the GOC will likely continue to subsidize its domestic aluminum extrusion producers in the future, both directly and indirectly by subsidizing primary aluminum producers.

Determination Regarding Likelihood of Continued or Resumed Subsidizing

[185] Based on the information on the administrative record in respect of the continued availability of subsidy programs for primary aluminum producers in China which are benefiting aluminum extrusion producers, the continued availability of subsidy programs for aluminum extruders, and the countervailing measures in other jurisdictions, the CBSA determined that the expiry of the order is likely to result in the continuation or resumption of subsidizing of certain aluminum extrusions originating in or exported from China.

²¹⁷ Exhibit 18 (NC) – Final Report – Analysis of Market Distortions in the Chinese Non-Ferrous Metals Industry, THINK!DESK China Research Consulting, April 24, 2017, p.103-104.

²¹⁸ Exhibit 015 (NC) – WTO Semi-annual report under article 25.11 of the Agreement – Canada, G/SCM/N/328/CAN.

²¹⁹ Exhibit 015 (NC) – WTO Semi-annual report under article 25.11 of the Agreement – Australia, G/SCM/N/328/AUS.

²²⁰ Exhibit 015 (NC) – WTO Semi-annual report under article 25.11 of the Agreement – European Union, G/SCM/N/328/UEU.

²²¹ Exhibit 015 (NC) – WTO Semi-annual report under article 25.11 of the Agreement – United States of America, G/SCM/N/328/USA.

CONCLUSION

[186] For the purpose of making a determination in this expiry review investigation, the CBSA conducted its analysis within the scope of the factors found under subsection 37.2(1) of the SIMR. Based on the foregoing consideration of pertinent factors and an analysis of the information on the record, on August 2, 2019, the CBSA made a determination pursuant to paragraph 76.03(7)(a) of SIMA that the expiry of the CITT's order made on March 17, 2014, in Expiry Review No. RR-2013-003, continuing, without amendment, its findings made on March 17, 2009, in Inquiry No. NQ-2008-003, as amended by its determination made on February 10, 2011, in Inquiry No. NQ-2008-003R, in respect of certain aluminum extrusions originating in or exported from China is:

- likely to result in the continuation or resumption of dumping of the goods; and
- likely to result in the continuation or resumption of subsidizing of the goods.

FUTURE ACTION

[187] On August 6, 2019, the CITT commenced its inquiry to determine whether the expiry of the order with respect to the dumping and subsidizing of certain aluminum extrusions from China is likely to result in injury. The CITT's Expiry Review schedule indicates that it will make its decision by January 13, 2020.

[188] If the CITT determines that the expiry of the order with respect to the goods is likely to result in injury, the CITT will make an order continuing the order in respect of those goods, with or without amendment. If this is the case, the CBSA will continue to levy anti-dumping and/or countervailing duties on dumped and/or subsidized importations of the subject goods.

[189] If the CITT determines that the expiry of the order with respect to the goods is not likely to result in injury, the CITT will make an order rescinding the order in respect of those goods. Anti-dumping and/or countervailing duties would then no longer be levied on importations of the subject goods, and any anti-dumping and/or countervailing duties paid in respect of goods that were released after the date that the order was scheduled to expire will be returned to the importer.

INFORMATION

[190] For further information, please contact the officer listed below:

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