



DWP 2017 IN

OTTAWA, January 12, 2018

STATEMENT OF REASONS

**Concerning the Initiation of Investigations into the dumping and the subsidizing of
CERTAIN DRY WHEAT PASTA ORIGINATING IN OR EXPORTED FROM
THE REPUBLIC OF TURKEY**

DECISION

Pursuant to subsection 31(1) of the *Special Import Measures Act*, the Canada Border Services Agency initiated investigations on December 28, 2017 respecting the alleged injurious dumping and subsidizing of certain dry wheat pasta originating in or exported from the Republic of Turkey.

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

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SUMMARY

[1] On November 7, 2017, the Canada Border Services Agency (CBSA) received a written complaint from the Canadian Pasta Manufacturers Association of Ottawa, Ontario, (hereinafter, “the complainant” or “CPMA”),¹ alleging that imports of certain dry wheat pasta (DWP) originating in or exported from the Republic of Turkey (Turkey) are being dumped and subsidized. The complainant alleged that the dumping and subsidizing have caused injury and are threatening to cause injury to the Canadian industry producing like goods.

[2] On November 28, 2017, pursuant to paragraph 32(1)(a) of the *Special Import Measures Act* (SIMA), the CBSA informed the complainant that the complaint was properly documented.² The CBSA also notified the Government of Turkey (GOT) that a properly documented complaint had been received.³ The GOT was also provided with the non-confidential version of the subsidy complaint and were invited for consultations pursuant to Article 13.1 of the *WTO Agreement on Subsidies and Countervailing Measures*, prior to the initiation of the subsidy investigation.

[3] On December 22, 2017, consultations were held between the Government of Canada and the GOT in Ottawa. During the consultations, the GOT made representations with respect to the evidence presented in the non-confidential version of the subsidy complaint. The CBSA considered the representations made by the GOT in its analysis.

[4] The complainant provided evidence to support the allegations that certain DWP from Turkey has been dumped and subsidized. The evidence also discloses a reasonable indication that the dumping and subsidizing have caused injury and are threatening to cause injury to the Canadian industry producing like goods.

[5] On December 28, 2017, pursuant to subsection 31(1) of SIMA, the CBSA initiated investigations respecting the dumping and subsidizing of certain DWP from Turkey.

INTERESTED PARTIES

Complainant

[6] The complainant, is CPMA of Ottawa, Ontario. The contact information of the complainant is:

Canadian Pasta Manufacturers Association
86 Armstrong Street
Ottawa, Ontario, K1Y 2V7

¹ Exhibits 1 (PRO) & 2 (NC), Certain DWP Complaint & Exhibit 3 (NC), Certain DWP Subsidy Complaint.

² Exhibit 22 (PRO), Notice of Properly Documented Complaint – CPMA.

³ Exhibit 23 (PRO), Notice of Properly Documented Complaint – Embassy Notice – Turkey.

[7] The CPMA comprises three members who produce DWP in Canada, namely Italtasta Limited (Italtasta), Primo Foods Inc. (Primo) and Grisspasta Products Ltd. (Grisspasta). The contact information of the three producers is as follows:

Italtasta
116 Nuggett Court
Brampton, Ontario, L6T 5A9

Primo
56 Huxley Road
Toronto, Ontario, M9M 1H2

Grisspasta
805 Boulevard Guimond
Longueuil, Quebec, J4G 1M1

[8] The complainant members account for the majority of production of like goods in Canada (i.e. greater than 50%).⁴

Other Producers

[9] The complainant identified two additional Canadian producers of like goods in its complaint, namely Catelli Foods Corporation of Etobicoke, Ontario and Prairie Harvest Canada Ltd. of Edmonton, Alberta.⁵

[10] The CBSA also identified three additional potential Canadian producers of like goods through its own research, namely Pasta Romana Foods Inc. of Montreal, Quebec, Old Fashioned Noodle Products of Winnipeg, Manitoba, and Jared Pacific Inc. of Mississauga, Ontario.⁶

Exporters

[11] The CBSA identified 51 potential exporters located in Turkey and three potential exporters/vendors, located outside of Turkey, of the subject goods⁷ from CBSA import documentation and from information submitted in the complaint⁸. The potential exporters located in Turkey were asked to respond to the CBSA's Exporter Dumping Request for Information (RFI) and to the CBSA's Exporter Subsidy RFI.⁹ All other potential exporters located outside Turkey were requested to respond to only the Exporter Dumping RFI.¹⁰

⁴ Exhibit 1 (PRO), Certain DWP Complaint, Appendix 4.

⁵ Exhibit 2 (NC), Certain DWP Complaint, paragraphs 74 & 75.

⁶ Dry Pasta Manufacturing – Government of Canada,
<http://www.ic.gc.ca/app/ccc/sld/cmpny.do?lang=eng&profileid=1921&naics=311823>.

⁷ Exhibit 4 (PRO), Notice of Initiation of Investigations - CITT, Tab 17.

⁸ Exhibit 2 (NC), Certain DWP Complaint, Appendix 2.

⁹ Exhibit 7 (NC), Notice of Initiation of Investigations – Exporters.

¹⁰ Exhibit 7 (NC), Notice of Initiation of Investigations – Exporters.

Importers

[12] The CBSA identified 34 potential importers of the subject goods¹¹ from CBSA's Facility for Information Retrieval Management (FIRM), from import documentation and from information submitted in the complaint¹². All of the potential importers were asked to respond to the CBSA's Importer RFI.¹³

Governments

[13] Upon initiation of the investigations, the GOT was sent the CBSA's Government Subsidy RFI requesting information concerning the alleged subsidy programs available to producers/exporters of subject goods located in Turkey.¹⁴

[14] For the purposes of these investigations, the GOT refers to all levels of government, i.e., federal, central, provincial/state, regional, municipal, city, township, village, local, legislative, administrative or judicial, singular, collective, elected or appointed. It also includes any person, agency, enterprise, or institution acting for, on behalf of, or under the authority of, or under the authority of any law passed by, the government of that country or that provincial, state or municipal or other local or regional government.

PRODUCT INFORMATION

Definition

[15] For the purposes of these investigations, subject goods are defined as:

All dry wheat-based pasta, not stuffed or otherwise prepared, and not containing more than two percent eggs, whether or not enriched, fortified, organic, whole wheat or containing milk or other ingredients, originating in or exported from the Republic of Turkey, excluding refrigerated, frozen or canned pasta.

Additional Product Information¹⁵

[16] The subject goods broadly includes all white pasta, standard pasta, regular pasta, whole wheat pasta and organic pasta in the durum wheat semolina family of pasta. The subject goods can also be enriched or fortified, and may contain milk or other optional ingredients such as chopped vegetables, vegetable purees, vegetable powders, milk, gluten, diastases, vitamins, coloring and flavorings.

¹¹ Exhibit 4 (PRO), Notice of Initiation of Investigations - CITT, Tab 17.

¹² Exhibit 2 (NC), Certain DWP Complaint, Appendix 3.

¹³ Exhibit 13 (NC), Notice of Initiation of Investigations – Importers.

¹⁴ Exhibit 5 (PRO), Notice of Initiation of Investigations – Embassy.

¹⁵ Exhibit 2 (NC), Certain DWP Complaint, paragraphs 8-10.

[17] The subject goods include long shapes (generally referred to as vermicelli and including spaghetti, spaghettini, capelli, linguini, vermicelli, angel hair, fettuccini and pasta nests), short lengths (generally referred to as macaroni and including elbow macaroni, penne, rigatoni, rotini, fusilli and ziti) and specialty shapes (including bows, shells, cannelloni, manicotti, lasagna and wagon wheels).

[18] The subject goods are imported in various types and sizes of packaging. The packaging can include fiberboard, cardboard cartons, polyethylene bags or polypropylene bags in a wide range of sizes. The most common sizes are 200g, 375g, 400g, 454g, 500g, 750g, 800g, 900g, 1kg, 10lb, 20lb, 30lb, 40lb, 50lb, "Box Specialty" and "Bulk Tote". In Canada, it is common for DWP to be packaged by the producer.

Production Process¹⁶

[19] The subject goods are produced world-wide using materially similar production processes.

[20] While technology, particularly the usage of large DWP producing machines, does affect production efficiencies, all DWP is produced in the same manner: by mixing finely ground semolina flour with warm water.

[21] Semolina flour is produced from milling durum wheat. Semolina flour, and by extension durum wheat, is the ingredient that represents the single largest input cost in the production of the subject goods.

[22] After mixing semolina flour with warm water, the dough is kneaded mechanically until it becomes firm and dry. The dough is then passed into a laminator to be flattened into sheets, then compressed by a vacuum mixer machine to clear out air bubbles and excess water from the dough. Next, the dough is processed in a steamer to kill any bacteria it may contain.

[23] The dough is then ready to be shaped into different types of DWP. Depending on the type of DWP to be made, the dough can either be cut or extruded through dies. The pasta is set in a drying tank under specific conditions of heat (natural gas), moisture, and time depending on the type of pasta. The DWP is then packaged.

Classification of Imports

[24] The subject goods are normally imported under the following tariff classification numbers:

1902.19.21.30	1902.19.29.30	1902.19.93.00
1902.19.22.30	1902.19.91.00	1902.19.99.30
1902.19.23.30	1902.19.92.30	

¹⁶ Exhibit 2 (NC), Certain DWP Complaint, paragraphs 16-20.

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

LIKE GOODS AND SINGLE CLASS OF GOODS

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

[27] While DWP comes in a variety of sizes and shapes, it is nevertheless a commodity-type product. The complainant submits that the imported and domestic DWP have the same physical characteristics, are used for the same purpose, are sold through the same channels of distribution, and are used by the same end users as the subject goods imported from Turkey. The goods produced in Canada and Turkey are fully interchangeable and subject goods from Turkey compete directly with like goods produced by Canadian producers.¹⁷

[28] After considering questions of use, physical characteristics and all other relevant factors, the CBSA is of the opinion that domestically produced DWP are like goods to the subject goods. Further, the CBSA is of the opinion that subject goods and like goods constitute only one class of goods.

THE CANADIAN INDUSTRY

[29] The complaint includes data on domestic production and on domestic sales of certain DWP for domestic consumption. As previously stated, the member producers of the complainant account for the majority of known domestic production of like goods.

[30] On November 28, 2017, the CBSA contacted all five “other producers”¹⁸ to notify them of the properly documented complaint of certain DWP and to request information on Canadian production of like goods and whether they support, oppose, or are neutral to the complaint. At the time of initiation, the CBSA did not receive any responses from the producers.

¹⁷ Exhibit 2 (NC), Certain DWP Complaint, paragraph 104.

¹⁸ Exhibits 27-33 (PRO), Notice of Properly Documented Complaint – Catelli, Prairie Harvest, Pasta Romana, Jared Pacific Inc., and Old Fashioned Noodle Products.

Standing

[31] Subsection 31(2) of SIMA requires that the following conditions for standing be met in order to initiate an investigation:

- a. the complaint is supported by domestic producers whose production represents more than 50% of the total production of like goods by those domestic producers who express either support for or opposition to the complaint; and
- b. the production of the domestic producers who support the complaint represents 25% or more of the total production of like goods by the domestic industry.

[32] Based on an analysis of information provided in the complaint, the complainant accounts for the majority of known domestic production of the like goods. Thus, the CBSA is satisfied that the standing requirements pursuant to subsection 31(2) of SIMA have been met.

CANADIAN MARKET

[33] The complainant, using information from Statistics Canada¹⁹, estimated the total volume of imports of DWP originating from all countries from January 1, 2014 to September 30, 2017. Additionally, the complainant estimated the volume of Canadian production from non-CPMA member producers through its knowledge of the Canadian market²⁰ and from third-party market surveys²¹.

[34] The CBSA conducted an analysis of imports of the goods based on actual import documentation and based on commercial intelligence provided in the complaint. The CBSA findings supported the trend detailed by the complainant.

[35] As previously stated, on November 28, 2017, the CBSA contacted all five “other producers”²² to notify them of the properly documented complaint of certain DWP and to request information on Canadian production of like goods and whether they support, oppose, or are neutral to the complaint. At the time of initiation, the CBSA did not receive any responses from the producers. As a result, the CBSA estimated the total volume of Canadian production based on information provided in the complaint.

[36] Detailed information regarding the volume and value of imports of certain DWP and domestic production cannot be divulged for confidentiality reasons. The CBSA, however, has prepared the following tables to show the import share of certain DWP in Canada in addition to the share of the Canadian apparent market, as estimated by the CBSA.

¹⁹ Exhibit 2 (NC), Certain DWP Complaint, Appendix 21.

²⁰ Exhibit 2 (PRO), Certain DWP Complaint, paragraph 28.

²¹ Exhibit 2 (PRO), Certain DWP Complaint, Appendices 5 & 6.

²² Exhibits 27-33 (PRO), Notice of Properly Documented Complaint – Catelli, Prairie Harvest, Pasta Romana, Jared Pacific Inc., and Old Fashioned Noodle Products.

Table 1

**CBSA'S ESTIMATE OF IMPORT SHARE²³
(BASED ON VOLUME)**

Country	2014	2015	2016	Jan. 1, 2017 to Sept 30, 2017	Oct 1, 2016 to Sept 30, 2017
Turkey	2.2%	6.5%	12.0%	11.1%	11.9%
All Other Countries	97.8%	93.5%	88.0%	88.9%	88.1%
Total Imports – All Countries	100%	100%	100%	100%	100%

Table 2

**CBSA'S ESTIMATE OF THE APPARENT CANADIAN MARKET²⁴
(BASED ON VOLUME)**

	2014	2015	2016	Jan. 1, 2017 to Aug. 31, 2017
Domestic Industry	54.1%	50.6%	52.1%	47.2%
Turkey	1.0%	3.2%	5.7%	5.9%
All Other Countries	44.9%	46.2%	42.2%	46.9%
Total Imports – All Countries	45.9%	49.4%	47.9%	52.8%
Total Market Volume	100%	100%	100%	100%

*Some percent totals may not add to 100% due to rounding.

EVIDENCE OF DUMPING

[37] The complainant alleged that certain DWP from Turkey have been injuriously dumped into Canada. Dumping occurs when the normal value of the goods exceeds the export price to importers in Canada.

[38] Normal values are generally based on the domestic selling price of like goods in the country of export where competitive market conditions exist or as the aggregate of the cost of production of the goods, a reasonable amount for administrative, selling and all other costs, and a reasonable amount for profits.

²³ Exhibit 4 (PRO), Notice of Initiation of Investigations – CITT, Tab 8.

²⁴ Exhibit 4 (PRO), Notice of Initiation of Investigations – CITT, Tab 8.

[39] The export price of goods sold to importers in Canada is generally the lesser of the exporter's selling price and the importer's purchase price, less all costs, charges and expenses resulting from the exportation of the goods.

[40] Estimates of normal values and export prices by both the complainant and the CBSA are discussed below.

Normal Values

Complainant's Estimates

[41] The complainant was unable to obtain any information regarding domestic selling prices of DWP in Turkey, therefore they were unable to estimate normal values using the methodology of section 15 of SIMA.²⁵ Accordingly, the complainant estimated normal values based on paragraph 19(b) of SIMA.²⁶ Paragraph 19(b) of SIMA uses a constructed cost method of arriving at normal values based on the aggregate of (i) the cost of production of the goods, (ii) a reasonable amount for administrative, selling and all other costs, and (iii) a reasonable amount for profits.

[42] In estimating normal values to reflect the methodology in paragraph 19(b) of SIMA, the complainant relied upon the cost of durum wheat in Turkey according to the Turkish Grain Board (TMO), production costs of Canadian producers of DWP adjusted for differences in the cost of labour between Canada and Turkey, a reasonable amount for administrative, selling and all other costs from Primo and Italtasta adjusted for the differences in the cost of labour between Canada and Turkey, and a reasonable amount for profits from an average of the three members of the CPMA.

[43] The complainant estimated normal values by Canadian producer (Primo or Italtasta), by a method of allocating expenses (on sales or cost of goods sold) and by time period (2016 or January to September 2017).²⁷ The complainant's estimates of normal value do not vary by type of DWP and are stated in Canadian dollars per kilogram.

[44] The normal values presented by the complainant were developed with the following components:

- Estimated cost of durum wheat in Turkey
- Estimated cost of milling semolina in Turkey
- Estimated cost of all ingredients of DWP produced in Turkey
- Estimated total cost of production of DWP in Turkey
- Adjustment for difference in the cost of labour between Canada and Turkey
- Estimated amount for administrative, selling and all other costs for producers in Turkey
- Estimated amount for profits for producers in Turkey

²⁵ Exhibit 2 (NC), Certain DWP Complaint, paragraph 135.

²⁶ Exhibit 2 (NC), Certain DWP Complaint, paragraph 137.

²⁷ Exhibit 1 (PRO), Certain DWP Complaint, Appendices 61-62 & 90-95.

Estimated cost of durum wheat in Turkey

[45] DWP is produced by mixing finely ground semolina flour with warm water.²⁸ Semolina is milled from durum wheat.²⁹ According to the complainant, durum wheat is the single largest cost component in DWP production.³⁰

[46] The price of durum wheat in Turkey is influenced by the GOT through decisions of the Council of Ministers in Turkey and through the purchases and sales of grain by the TMO.³¹ The TMO is administered by the Ministry of Trade of Turkey. The complaint includes copies of the published wheat prices of the TMO from 2014 to March 2017, which includes the most recent information available.³²

[47] According to the TMO, the rate of customs duty on the import of milled or durum wheat is 130%.³³ The TMO may allow imports of wheat duty free when the government of Turkey decides imports are necessary due to supply and demand conditions for wheat within Turkey.

[48] Due to the control exerted on the price of wheat in Turkey by the GOT through the Council of Ministers and the TMO, it is reasonable to use the durum wheat prices published by the TMO in estimating the cost of durum wheat of producers of DWP in Turkey.

[49] The complainant provided a table of TMO prices³⁴ for durum wheat per kilogram in Turkey that included prices in 2016 and 2017, converted to Canadian dollars using the average exchange rate³⁵ for the year for Turkish Lira to Canadian dollars. In estimating the cost of wheat to producers of DWP in Turkey, the complainant selected the lowest price published by the TMO in a given year.

Estimated cost of milling semolina in Turkey

[50] According to evidence provided by the complainant, all DWP factories in Turkey produce the semolina required for their production of DWP.³⁶

[51] According to the complainant, Primo is the only producer of DWP in Canada that mills its own semolina.³⁷ The complainant estimated the cost of semolina in Turkey in 2016 and 2017 by dividing the estimated cost of durum wheat in Turkey for the year by Primo's cost of durum wheat as a percent of the cost of semolina it milled in 2016.

²⁸ Exhibit 2 (NC), Certain DWP Complaint, paragraph 17.

²⁹ Exhibit 2 (NC), Certain DWP Complaint, paragraph 18.

³⁰ Exhibit 2 (NC), Certain DWP Complaint, paragraph 18 & 143.

³¹ <http://www.tmo.gov.tr/Main.aspx?ID=232>.

³² Exhibit 2 (NC), Certain DWP Complaint, paragraph 146 & appendices 38-41.

³³ Exhibit 2 (NC), Certain DWP Complaint, Appendix 31.

³⁴ Exhibit 1 (PRO), Certain DWP Complaint, paragraph 146.

³⁵ Exhibit 2 (NC), Certain DWP Complaint, Appendices 53-56.

³⁶ Exhibit 2 (NC), Certain DWP Complaint, paragraph 139.

³⁷ Exhibit 2 (NC), Certain DWP Complaint, paragraph 88.

Estimated cost of all ingredients of DWP produced in Turkey

[52] The production of DWP includes semolina and other ingredients such as vitamins.³⁸

[53] The complainant estimated the cost of all ingredients for DWP produced in Turkey in 2016 and 2017 by dividing the estimated cost of semolina in Turkey for the year by Primo's costs of semolina as a percent of its cost of all ingredients in 2016.

Estimated total cost of production of DWP in Turkey

[54] In addition to the cost of ingredients, there are other costs of production for DWP including labour, packaging and overhead.³⁹

[55] Using information from Primo, the complainant estimated the cost of production in Turkey by dividing the estimated cost of all ingredients of DWP produced in Turkey by the percent that such costs represented of Primo's cost of production for DWP in 2016.⁴⁰ Labour-related components of production costs were adjusted to reflect wage differences between Canada and Turkey as detailed below.

Adjustment for difference in the cost of labour between Canada and Turkey

[56] The complainant made an adjustment to costs in its estimates of normal values to account for the difference between its labour costs and the cost of labour in Turkey.⁴¹ To make the adjustment, the complainant used information from the Conference Board of the United States (affiliated with the Conference Board of Canada) in a report titled "*International Comparisons of Hourly Compensation Costs in Manufacturing and Sub-Manufacturing Industries*" (the Board Report).⁴²

[57] The Board Report includes hourly compensation costs in USD by country for the years 1996 to 2015. According to the report, hourly compensation costs in Canada in 2015 were USD\$30.94 and in Turkey were USD\$5.81. Using these figures, the complainant calculated that hourly compensation costs in Turkey were 81.22% lower than in Canada in 2015, and reduced the labour components for cost in its estimates of normal values by that amount.⁴³

³⁸ Exhibit 2 (NC), Certain DWP Complaint, paragraph 8.

³⁹ Exhibit 2 (NC), Certain DWP Complaint, paragraph 8.

⁴⁰ Exhibit 2 (NC), Certain DWP Complaint, paragraphs 151-152.

⁴¹ Exhibit 2 (NC), Certain DWP Complaint, paragraphs 153-155.

⁴² Exhibit 2 (NC), Certain DWP Complaint, Appendix 57.

⁴³ Exhibit 2 (NC), Certain DWP Complaint, paragraph 154.

Estimated amount for administrative, selling and all other costs for producers in Turkey

[58] The complainant could not find public information available to support an estimate for administrative, selling and all other costs in Turkey. Instead, the complainant provided calculations for 2016 and for January to September 2017 for the administrative, selling and all other costs of Primo⁴⁴ and Italpasta⁴⁵; calculations for such expenses were adjusted for the differences in labour costs in Turkey versus Canada by identifying the labour components of non-production expenses and reducing such labour components by the factor it had identified in the information from the Conference Board when adjusting the labour component of production costs⁴⁶.

[59] Administrative, selling and all other costs were allocated by the complainant to the cost of the goods with separate estimates by percent of gross sales and by percent of cost of goods sold.

Estimated amount for profits for producers in Turkey

[60] The complainant was not able to obtain financial statements for DWP producers in Turkey.⁴⁷ In estimating normal values, the complainant added amounts for profits using the three-year profit average of Primo, Italpasta and Grisspasta for 2014-2016. The three-year profit average for the companies was calculated by the complainant as a percent of total gross sales and applied to each normal value model on the basis of total cost per kilogram of DWP.

[61] The complaint provided publicly available financial statements for 2016 of DWP producer Barilla Holding S.p.A. (Barilla) of Italy.⁴⁸ However, the complainant did not use information from Barilla to estimate amounts for profits for DWP producers in Turkey. The reason provided by the complainant for not using the Barilla information is that Barilla manufacturers food products in addition to DWP and does not segregate its financial statements by product line.⁴⁹

Normal value models selected by the complainant to estimate the margin of dumping

[62] Although the complainant provided different normal value estimates, the complainant submitted that the estimated normal values produced by Primo under the cost of goods sold allocation for 2016 and 2017 provide the best estimate of normal values for estimating the margin of dumping because Primo is the only fully integrated producer in Canada that mills its own semolina as do all of the producers of DWP in Turkey, according to the complainant.⁵⁰

⁴⁴ Exhibit 1 (PRO), Certain DWP Complaint, Appendix 66 for 2016 and in Appendices 90 and 94 for Jan-Sep 2017.

⁴⁵ Exhibit 1 (PRO), Certain DWP Complaint, Appendix 67 for 2016 and in Appendices 91 and 95 for Jan-Sep 2017.

⁴⁶ Exhibit 2 (NC), Certain DWP Complaint, Appendix 57.

⁴⁷ Exhibit 2 (NC), Certain DWP Complaint, paragraph 158.

⁴⁸ Exhibit 2 (NC), Certain DWP Complaint, Appendix 60.

⁴⁹ Exhibit 2 (NC), Certain DWP Complaint, paragraph 158.

⁵⁰ Exhibit 2 (NC), Certain DWP Complaint, paragraphs 167 & 180.

CBSA's Estimates

[63] For the purposes of initiation, the CBSA estimated normal values for the period of October 1, 2016 to September 30, 2017 in the following manner.

[64] The CBSA conducted its own research and was unable to find domestic pricing information on like goods from producers of DWP located in Turkey.

[65] In the absence of information on domestic prices of DWP in Turkey, the CBSA accepted parts of the complainant's methodology for estimating normal values. The CBSA made adjustments to account for its own research and analysis.

Cost of production

[66] The CBSA found the complainant's estimates of the cost of durum wheat in Turkey to be reasonable as they used prices of durum wheat in Turkey publicly available from the TMO.

[67] The CBSA found the complainant's estimates of milling semolina in Turkey, of all other ingredients in Turkey, and of the total cost of production of DWP in Turkey to be reasonable as the complainant based such costs on information from a fully integrated Canadian producer, Primo. According to the complainant, production processes are common within the industry across the world⁵¹, and the complainant made adjustments for differences in labour costs between Canada and Turkey⁵².

[68] The CBSA found the complainant's adjustment for differences in labour costs between Canada and Turkey to be reasonable as the complainant made such adjustments to both labour in production costs and labour in corporate expenses and used a well-known information source, the Conference Board, for information on hourly compensation around the world.

[69] The CBSA accepted the complainant's estimated cost of production of DWP in Turkey based on the information from Primo in the complaint, which included the cost of durum wheat, the cost of milling semolina, the cost of all ingredients, the total cost of production, and an adjustment to account for the difference in the cost of labour between Canada and Turkey.

[70] The complaint included cost estimates based on information from Canadian producers Primo and Italpasta. The CBSA chose to base its estimate of the cost of production on information from Primo because it is the only fully integrated DWP producer in Canada in that it mills its own semolina. Since information from the complainant suggests that all producers in Turkey are fully integrated, Primo is a better match for estimating the cost of production, than Italpasta which purchases semolina from independent mills.

⁵¹ Exhibit 2 (NC), Certain DWP Complaint, paragraphs 16-20.

⁵² Exhibit 2 (NC), Certain DWP Complaint, paragraphs 153-155.

Administrative, Selling and All Other Costs of DWP Producers in Turkey

[71] The complainant provided estimates of administrative, selling and other costs that included an amount for “trade spending”. The CBSA estimated administrative, selling and other costs based on information provided by the complainant. However, due to the nature of trade spending, it is included in the price for some sales to customers in particular market segments while not being included in the price for sales to customers of other market segments. Therefore, the CBSA did not include an amount for trade spending in the estimate of administrative, selling and all other costs, but instead deducted trade spending, where appropriate from the selling prices, when estimating export prices.⁵³

Amounts for Profits for Producers in Turkey

[72] The complainant estimated a profit on gross sales using the average of profits reported by Primo, Italpasta and Grisspasta for 2014-2016. The CBSA estimated an amount for profits using information presented by the complainant, but re-calculated the percentage to be as a percent of total cost instead of gross sales; in addition, the CBSA selected the average profit made by Primo, Italpasta and Grisspasta for 2016 instead of the three year average provided by the complainant as the information from 2016 is the most recent.

CBSA’s Estimate of Normal Values

[73] The CBSA estimated normal values on a constructed cost plus profit approach to reflect the methodology in paragraph 19(b) of SIMA by aggregating the estimated cost of production, a reasonable amount for administrative, selling and all other costs, and a reasonable amount for profits.

Export Price

Complainant’s Estimates

[74] The export prices estimated by the complainant are based on price quotations from suppliers of DWP from Turkey. The price quotations are from May and June 2016, and January, February and April 2017. The price quotations to the complainant were FOB port in Turkey and did not include ocean freight, but included inland freight in Canada. The complaint did not deduct an amount for inland freight in Canada when estimating export prices.

CBSA’s Estimates

[75] The export price of subject goods is generally determined in accordance with section 24 of SIMA as being the lesser of the importer's purchase price or the exporter's selling price less all costs, charges and expenses resulting from exporting the goods to Canada.

⁵³ Exhibit 4 (PRO), Notice of Initiation of Investigations – CITT, Tab 8.

[76] In estimating export prices for DWP from Turkey, the CBSA used the value for duty and quantity reported in the FIRM data for each individual shipment imported during the period of October 1, 2016 to September 30, 2017. Some FIRM data was adjusted by the CBSA after reviewing the import entry documentation to account for non-subject goods and incorrect quantities reported in FIRM.

[77] In estimating export prices, the CBSA made a deduction from FIRM prices for freight and trade spending, where appropriate.

Estimated Margins of Dumping

[78] The CBSA estimated the margin of dumping by comparing the weighted average estimated normal values with the weighted average estimated export prices for Turkey. Based on this analysis, it is estimated that certain DWP imported into Canada from Turkey was dumped. The estimated margin of dumping is reported in the table below.

TABLE 3
ESTIMATED MARGIN OF DUMPING

Country	Estimated Margin of Dumping as % Export Price
Turkey	26.5%

EVIDENCE OF SUBSIDIZING

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

[80] Pursuant to subsection 2(1.6) of SIMA, a financial contribution exists where:

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

[81] A state-owned enterprise (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 4) some combination thereof.

[82] If a subsidy is found to exist, it may be subject to countervailing measures if it is specific. A subsidy is considered to be specific when it is limited, in law or in fact, to a particular enterprise or is a prohibited subsidy. An “enterprise” is defined under SIMA as also including a “group of enterprises, an industry and a group of industries.” Any subsidy which is contingent, in whole or in part, on export performance or on the use of goods that are produced or that originate in the country of export is considered to be a prohibited subsidy and is, therefore, specific according to subsection 2(7.2) of SIMA for the purposes of a subsidy investigation.

[83] In accordance with subsection 2(7.3) of SIMA, notwithstanding that a subsidy is not specific in law, a subsidy may also be considered specific in fact, having regard as to whether:

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

[84] For purposes of a subsidy investigation, the CBSA refers to a subsidy that has been found to be specific as an “actionable subsidy,” meaning that it is countervailable.

[85] The complainant alleged that subject goods originating in or exported from Turkey have been subsidized and that exporters of subject goods from Turkey have benefitted from actionable subsidies provided by the GOT.

[86] The complainant identified 8 subsidy programs which may have conferred benefits to the producers/exporters of subject goods in Turkey, and that have in turn resulted in the actionable subsidizing of exports of subject goods to Canada.⁵⁴

[87] In alleging that actionable subsidies were applicable to the subject goods imported from Turkey, the complainant relied on publicly available information, including recent WTO documentation as well as publications issued by the GOT.⁵⁵

[88] The CBSA reviewed the documentation submitted in the complaint, together with Turkey's most recent *New and Full Notification Pursuant to Article 25 of the WTO Agreement on Subsidies and Countervailing Measures*⁵⁶, a recent administrative review of the countervailing order on DWP from Turkey by the United States Department of Commerce⁵⁷, and CBSA's subsidy investigation of *Certain Reinforcing Bar Originating in or Exported from the Republic of Turkey (2014)*⁵⁸. Generally speaking, the reference material examined by the CBSA provided support for the complainant's allegation that the subject goods from Turkey have been subsidized.

[89] Overall, the CBSA identified 8 subsidy programs which may confer a benefit to DWP producers in Turkey.

[90] The CBSA concluded that the evidence, as provided by the complainant and complemented by the CBSA, provides strong support that 8 countervailable subsidy programs are available to the Turkish DWP producers/exporters and that several of these programs are likely providing benefits to these companies.

[91] Further, the CBSA's analysis revealed that the alleged subsidy programs constitute a potential financial contribution by the GOT and a benefit thereby conferred onto the recipient in accordance with the definition of "subsidy" in subsection 2(1) of SIMA. In addition, the programs were further examined and were considered to be potentially specific either in law or in fact within the meaning of subsections 2(7.2) and 2(7.3) of SIMA.

[92] Please refer to **Appendix 1** for a list of the eight subsidy programs to be investigated by the CBSA.

[93] If more information becomes available during the investigation process, and this information indicates that programs not listed may have provided benefits to exporters/producers of subject goods during the POI, the CBSA will pursue the investigation of these programs and request complete information from the GOT and exporters/producers of subject goods.

⁵⁴ Exhibit 2 (NC), Certain DWP Complaint, paragraphs 40-49.

⁵⁵ Exhibit 2 (NC), Certain DWP Complaint, Appendix 72.

⁵⁶ Committee on Subsidies and Countervailing Measures - Subsidies - New and full notification pursuant to article XVI:1 of the GATT 1994 and article 25 of the A[...]ntervailing Measures – Turkey.

⁵⁷ <https://www.federalregister.gov/documents/2016/12/15/2016-30151/pasta-from-turkey-final-results-of-countervailing-duty-administrative-review-2014>.

⁵⁸ <http://www.cbsa-asfc.gc.ca/sima-lmsi/i-e/ad1403/ad1403-i14-fd-eng.html>.

Estimated Amount of Subsidy

Complainant's Estimates

[94] The complainant did not estimate the total amount of subsidy due to an absence of information. However, the complainant did state that based on one of the subsidy programs alone, the de minimis threshold specified in SIMA was exceeded, as the one program amounted to approximately six percent of the per kg import value into Canada.⁵⁹

CBSA's Estimates

[95] The CBSA estimated the amount of subsidy conferred on the producers of the subject goods from Turkey by comparing the estimated full costs of the subject goods, which includes cost of material, cost of labour, cost of overhead and a reasonable amount of GS&A, with their weighted average export prices, as estimated above in the evidence of dumping section.

[96] It is the CBSA's understanding that subsidies have the effect of lowering the full cost of the goods, including the cost of production and GS&A, which allows exporters to pass-through the subsidy benefits in reducing the selling price of those goods to Canada. Therefore, the CBSA is satisfied that the exporter's ability to sell subject goods to Canada at prices substantially below their estimated full costs supports the complainant's allegations that subsidies are being conferred on the imported goods.

[97] The CBSA's analysis of the information indicates that subject goods imported into Canada during the period of January 1, 2016 to September 30, 2017, were subsidized. The estimated amount of subsidy, as a percentage of the export price, found for Turkey is summarized in the table below.

TABLE 4

ESTIMATED AMOUNT OF SUBSIDY

Country	Estimated Amount of Subsidy as a % of Export Price
Turkey	9.94%

EVIDENCE OF INJURY

[98] The complainant alleged that certain DWP have been dumped and subsidized and that such dumping and subsidizing have caused material injury and are threatening to cause material injury to the domestic industry producing like goods.

⁵⁹ Exhibit 2 (NC), Certain DWP Complaint, paragraphs 187 & 212.

[99] SIMA refers to material injury caused to the domestic producers of like goods in Canada. The CBSA has concluded that certain DWP produced by the domestic industry are like goods to the subject goods from Turkey.

[100] In support of their allegations, the complainant provided evidence of loss of market share, reduced production levels, lost sales and price depression, reduced employment, and reduced profitability of the domestic industry.

Loss of Market Share and Reduced Production Levels

[101] The complainant alleged that there has been a significant increase in the absolute volume of imports of subject goods from Turkey. The complainant stated that imports of subject goods from Turkey relative to total imports from all countries increased from 3% in 2014 to 20% in 2016.⁶⁰ The complainant also stated that imports from Turkey relative to the total Canadian market increased since 2014.⁶¹

[102] The complainant alleges that there is a direct causal relationship between the increasing imports of dumped and subsidized DWP from Turkey and the reduction in Canadian production of like goods. The complainant states that, from 2014 to 2016, imports of subject goods increased 681% in absolute terms. Meanwhile, the complainant states that domestic production has decreased from 2014 to 2016 and alleges that this reduction is substantial as it represents lost sales, reduced throughput, and an increase in production costs.⁶²

[103] The CBSA's estimates of import volumes are detailed in the Canadian Market section of this *Statement of Reasons*. Based on the import data found in FIRM, relative to total imports from all countries, imports of subject goods from Turkey increased from 2.2% in 2014 to 12.0% in 2016. Additionally, imports from Turkey from January 2017 to September 2017 represent 11.1% of all imports of DWP to Canada.

[104] The CBSA finds the claim of lost market share and reduced production levels to be reasonable and well supported.

Price Depression and Lost Sales

[105] The complainant states that the pricing pressure from dumped and subsidized imports of DWP from Turkey has caused material injury to the domestic industry by undercutting the price of DWP sold in the Canadian market, preventing price increases that otherwise would have likely occurred, and depressing the price of competing Canadian DWP.⁶³

⁶⁰ Exhibit 2 (NC), Certain DWP Complaint paragraph 215.

⁶¹ Exhibit 2 (NC), Certain DWP Complaint, paragraph 217.

⁶² Exhibit 2 (NC), Certain DWP Complaint, paragraph 221.

⁶³ Exhibit 2 (NC), Certain DWP Complaint, paragraph 224.

[106] The complainant submitted evidence showing that the average selling prices from Turkey, from 2014 to the first nine months of 2017, are substantially lower than those of the complainant members and from all other countries.⁶⁴ Although average selling prices from complainant members cannot be disclosed for confidentiality reasons, public information provided by the complainant shows that the average selling price per kilogram in Canada by exporters from Turkey was lower than exporters from all other countries by 40.0% in 2014, 39.0% in 2015, 51.8% in 2016, and 54.2% in Jan-Sept 2017.

[107] The complainant stated that the price effects of low-priced DWP from Turkey are cascading throughout the Canadian market.⁶⁵ The complainant submits that imports of DWP from Turkey have caused a substantial adverse impact on the Canadian industry for DWP sales in the retail private label sub-segment.⁶⁶ In addition to any lost sales, the Canadian domestic industry was forced to severely lower prices in order to maintain accounts.⁶⁷

[108] The CBSA's estimate of the average selling prices from Turkey, based on the import data found in FIRM from 2014 to the first nine months of 2017, show that prices from Turkey are lower than the complainant members and exporters from other countries.⁶⁸ The average selling price per kilogram in Canada by exporters from Turkey was lower than exporters from all other countries by 47.3% in 2014, 36.4% in 2015, 58.1% in 2016, and 53.9% in Jan-Sept 2017.

[109] Based on the information provided in the complaint, the CBSA finds the claim of the price depression and lost sales to be well supported and sufficiently linked to the allegedly dumped and subsidized goods.

Reduced Employment

[110] The complainant stated that one of the complainant members was forced to layoff employees due to the injurious impact of the dumped and subsidized imports of DWP from Turkey.⁶⁹

[111] The CBSA finds the claim of reduced employment to be reasonable and well supported.

Reduced Profitability of the Domestic Industry

[112] The complainant submitted that the injurious impact of the dumped and subsidized imports of DWP from Turkey have reduced profitability for at least one of the member producers of the complainant from 2014 to September 2017.⁷⁰ In supporting this allegation, the complainant provided income statements for all three complainant members.⁷¹

⁶⁴ Exhibit 2 (NC), Certain DWP Complaint, paragraphs 225 & 228.

⁶⁵ Exhibit 2 (NC), Certain DWP Complaint, paragraph 239.

⁶⁶ Exhibit 2 (NC), Certain DWP Complaint, paragraphs 230-232.

⁶⁷ Exhibit 2 (NC), Certain DWP Complaint, paragraph 236.

⁶⁸ Exhibit 4 (PRO), Notice of Initiation of Investigations - CITT, Tab 8.

⁶⁹ Exhibit 2 (NC), Certain DWP Complaint, paragraph 236.

⁷⁰ Exhibit 2 (NC), Certain DWP Complaint, paragraphs 244-252.

⁷¹ Exhibit 1 (PRO), Certain DWP Complaint, Appendices 7-16, 84 & 85.

[113] The CBSA finds the claim of reduced profitability to be reasonable and well supported.

CBSA's Conclusion – Injury

[114] There is a reasonable indication that material injury has occurred to the DWP industry in Canada. The nature of the injury incurred by the complainant is well-documented in terms of loss of market share, reduced production levels, lost sales and price depression, reduced employment, and reduced profitability of the domestic industry. The CBSA finds that the injury can be reasonably attributed to the allegedly dumped and subsidized goods from Turkey.

THREAT OF INJURY

[115] The complainant alleged that the dumped and subsidized goods from Turkey threaten to cause further material injury to the Canadian domestic industry. The complainant submitted that the threat posed by certain DWP is evident in a number of factors which are likely to have an impact in the next 12 to 18 months.⁷²

Increased Volume of Subject Goods in the Canadian Market

[116] The complainant alleged that the rapid increase in the volume of dumped and subsidized goods at a rate of 681% from 2014 to 2016, at prices that undercut domestically produced like goods, indicate a likelihood of substantially increased imports, and pose a threat of further injury to the Canadian industry.⁷³ Absent protection, the complainant submits that it is certain that dumped and subsidized imports of low-priced DWP from Turkey will continue to exert strong downward pressure on the pricing of like goods in Canada. This will likely result in the continuation of lost sales and material price depression. This, in turn, will continue to result in material injury to the Canadian domestic industry.⁷⁴

[117] As illustrated in the Canadian Market section of the *Statement of Reasons*, the CBSA's import data also shows significant increases to Turkish imports, from 2014 to 2016, maintaining the upward trend in 2017.

[118] Based on the CBSA's analysis of import data, the CBSA finds the complainant's allegation of threat of injury posed by an increase in the rate of DWP imports to be reasonable and well supported.

⁷² Exhibit 2 (NC), Certain DWP Complaint, paragraph 256.

⁷³ Exhibit 2 (NC), Certain DWP Complaint, paragraphs 257 & 258.

⁷⁴ Exhibit 2 (NC), Certain DWP Complaint, paragraph 260.

Turkey's DWP Industry is Export Dependent

[119] The complainant submitted that DWP producers in Turkey have increased production by 215% from 2009 to 2015⁷⁵ while Turkish domestic consumption has only increased by 32% during that same period.⁷⁶ In 2015, the complainant submits that 58% of all DWP production in Turkey was exported⁷⁷ while exports grew by 24% from 2015 to 2016⁷⁸. It further submitted that a member of the Board of Turkey's Pasta Industrialists Association stated that DWP producers from Turkey have a target of exporting 2 million tons of DWP by 2023 and aim to be the "largest pasta exporter in the world".⁷⁹

[120] Based on the year after year growth of Turkish domestic DWP production at rates greater than domestic consumption, increases of DWP exports from Turkey and the stated goal of the Turkish DWP industry to increase exports by 2023, the complainant believes that Turkey will continue to export dumped and subsidized DWP into Canada.

[121] The CBSA's analysis of the information contained in the complaint revealed market conditions which the CBSA recognizes may result in Turkish producers of DWP continuing to target certain export markets, including Canada. As such, the CBSA finds the complainant's allegations of the threat of injury posed by market conditions in Turkey to be reasonable and well supported.

The Imposition of Anti-dumping and Countervailing Measures in a Country Other Than Canada

[122] The complainant stated that the United States Department of Commerce had issued anti-dumping and countervailing duties against Turkish DWP in 1996, which has also been reviewed three times by the U.S. International Trade Commission⁸⁰ and is still in force.⁸¹

[123] The complainant submits that the absence of anti-dumping and countervailing duty protection in Canada, coupled with the presence of such protection in the United States, creates a strong incentive for Turkish producers to continue to increase exports of the subject goods to Canada.⁸²

⁷⁵ Exhibit 2 (NC), Certain DWP Complaint, paragraph 261.

⁷⁶ Exhibit 2 (NC), Certain DWP Complaint, paragraph 122.

⁷⁷ Exhibit 2 (NC), Certain DWP Complaint, paragraph 262.

⁷⁸ Exhibit 2 (NC), Certain DWP Complaint, paragraph 261.

⁷⁹ Exhibit 2 (NC), Certain DWP Complaint, paragraph 263.

⁸⁰ Exhibit 2 (NC), Certain DWP Complaint, paragraph 265.

⁸¹ <http://web.ita.doc.gov/ia/CaseM.nsf/136bb350f9b3efba852570d9004ce782/44d6037085148961852579ea00544ac1!OpenDocument>

⁸² Exhibit 2 (NC), Certain DWP Complaint, paragraph 266.

[124] The CBSA acknowledges the presence of trade remedy actions in the United States which may impact the export of DWP from Turkey. Further, the CBSA recognizes that these restrictions may have a significant impact on the Canadian market. The CBSA finds the complainant's allegations of the threat of injury posed by foreign trade remedy action to be reasonable and well supported.

The Imposition of a Tariff Quota by the European Union

[125] The complainant also submits that the European Union (EU) currently imposes a tariff quota on certain pasta imports from Turkey. There is an annual quota of 20,000 MT for certain pasta products from Turkey.⁸³

[126] The complainant states that the existence of such EU trade restrictions creates further incentive for Turkish producers to increase exports to countries, such as Canada, that do not impose trade protection against dumped and subsidized imports of DWP from Turkey.⁸⁴

[127] The CBSA acknowledges the presence of a tariff quota in the EU which may impact the export of DWP from Turkey to other countries and may have a significant impact on the Canadian market. The CBSA finds the complainant's allegations of the threat of injury posed by foreign tariff quotas to be reasonable and well supported.

Nature and Amount of Subsidy and Margin of Dumping⁸⁵

[128] The complainant states that the magnitude of alleged dumping of the subject goods is concerning and demonstrates a real threat to the domestic industry. The complainant also notes that the subsidy programs available to exporters and producers of subject goods in Turkey are contingent on exports and therefore pose a threat of injury to the domestic.

[129] The CBSA has found that sufficient evidence exists to support the fact that the subject goods are being dumped and subsidized, and that the margin of dumping and amount for subsidy are not insignificant. The CBSA recognizes that the dumping and subsidizing of subject goods could significantly impact the trade of subject goods.

CBSA's Conclusion – Threat of Injury

[130] The complaint contained reasonable evidence that the import volume of subject goods from Turkey is likely to continue to remain significant, and likely to increase in the future, considering the market conditions in Turkey. The significant volume of imports from Turkey at prices that substantially undercut Canadian domestic producer prices will continue to depress or suppress domestic prices and threaten to capture market share from the Canadian producer. The CBSA is of the opinion that the complaint contained reasonable evidence that such imports are likely to cause material injury in the foreseeable future.

⁸³ Exhibit 2 (NC), Certain DWP Complaint, paragraph 267.

⁸⁴ Exhibit 2 (NC), Certain DWP Complaint, paragraph 268.

⁸⁵ Exhibit 2 (NC), Certain DWP Complaint, paragraphs 269 & 270.

CAUSAL LINK – DUMPING/SUBSIDIZING AND INJURY

[131] The CBSA finds that the complaint has sufficiently linked the injury it has suffered to the alleged dumping and subsidizing of DWP imported into Canada from Turkey. The injury that the complainant members have suffered, in terms of lost market share, reduced production levels, lost sales and price depression, reduced employment, and reduced profitability is related directly to the price advantage the apparent dumping and subsidizing have produced between the subject imports and the Canadian produced goods.

[132] The CBSA also finds that the complainant provided sufficient evidence that there is a reasonable indication that continued alleged dumping and subsidizing of DWP imported into Canada threaten to cause injury to the Canadian industry producing like goods.

CONCLUSION

[133] Based on information provided in the complaint, other available information, and the CBSA's internal import documentation, the CBSA is of the opinion that there is evidence that certain DWP originating in or exported from Turkey have been dumped and subsidized, and there is a reasonable indication that such dumping and subsidizing have caused and are threatening to cause injury to the Canadian industry. As a result, pursuant to subsection 31(1) of SIMA, dumping and subsidy investigations with respect to certain DWP from Turkey were initiated on December 28, 2017.

SCOPE OF THE INVESTIGATIONS

[134] The CBSA is conducting investigations to determine whether the subject goods have been dumped and/or subsidized.

[135] The CBSA has requested information from all potential exporters and importers to determine whether or not subject goods imported into Canada during the POI of December 1, 2016 to November 30, 2017, were dumped. The information requested will be used to determine the normal values, export prices and margins of dumping, if any.

[136] The CBSA has also requested information from all potential producers/exporters in Turkey and the GOT to determine whether or not subject goods imported into Canada during the POI of January 1, 2016 to November 30, 2017, were subsidized. The information requested will be used to determine the amounts of subsidy, if any.

[137] All parties have been clearly advised of the CBSA's information requirements and the time frames for providing their responses.

FUTURE ACTION

[138] The CITT will conduct a preliminary inquiry to determine whether the evidence discloses a reasonable indication that the alleged dumping and subsidizing of the goods have caused or are threatening to cause injury to the Canadian industry. The CITT must make its decision on or before the 60th day after the date of the initiation of the investigations. If the CITT concludes that the evidence does not disclose a reasonable indication of injury to the Canadian industry, the investigations will be terminated.

[139] If the CITT finds that the evidence discloses a reasonable indication of injury to the Canadian industry and the CBSA's preliminary investigations reveal that the goods have been dumped and/or subsidized, the CBSA will make preliminary determinations of dumping and/or subsidizing within 90 days after the date of the initiation of the investigations, by March 28, 2018. Where circumstances warrant, this period may be extended to 135 days from the date of the initiation of the investigations.

[140] Under section 35 of SIMA, if, at any time before making preliminary determinations, the CBSA is satisfied that the volume of goods of a country is negligible, the investigation(s) will be terminated with respect to goods of that country.

[141] Imports of subject goods released by the CBSA on and after the date of preliminary determinations of dumping and/or subsidizing, other than goods of the same description as goods in respect of which a determination was made that the margin of dumping of, or the amount of subsidy on, the goods is insignificant, may be subject to provisional duty in an amount not greater than the estimated margin of dumping or the estimated amount of subsidy on the imported goods.

[142] Should the CBSA make preliminary determinations of dumping and/or subsidizing, the investigations will be continued for the purpose of making final decisions within 90 days after the date of the preliminary determinations.

[143] After the preliminary determinations, if, in respect of goods of a particular exporter, the CBSA's investigations reveal that imports of the subject goods from that exporter have not been dumped or subsidized, or that the margin of dumping or amount of subsidy is insignificant, the investigation(s) will be terminated in respect of those goods.

[144] If final determinations of dumping and/or subsidizing are made, the CITT will continue its inquiry and hold public hearings into the question of material injury to the Canadian industry. The CITT is required to make a finding with respect to the goods to which the final determinations of dumping and/or subsidizing apply, not later than 120 days after the CBSA's preliminary determinations.

[145] In the event of an injury finding by the CITT, imports of subject goods released by the CBSA after that date will be subject to anti-dumping duty equal to the applicable margin of dumping and countervailing duty equal to the amount of subsidy on the imported goods. Should both anti-dumping and countervailing duties be applicable to subject goods, the amount of any anti-dumping duty may be reduced by the amount that is attributable to an export subsidy.

RETROACTIVE DUTY ON MASSIVE IMPORTATIONS

[146] When the CITT conducts an inquiry concerning injury to the Canadian industry, it may consider if dumped and/or subsidized goods that were imported close to or after the initiation of investigations constitute massive importations over a relatively short period of time and have caused injury to the Canadian industry.

[147] Should the CITT issue such a finding, anti-dumping and countervailing duties may be imposed retroactively on subject goods imported into Canada and released by the CBSA during the period of 90 days preceding the day of the CBSA making preliminary determinations of dumping and/or subsidizing.

[148] In respect of importations of subsidized goods that have caused injury, however, this provision is only applicable where the CBSA has determined that the whole or any part of the subsidy on the goods is a prohibited subsidy, as explained in the previous “Evidence of Subsidizing” section. In such a case, the amount of countervailing duty applied on a retroactive basis will be equal to the amount of subsidy on the goods that is a prohibited subsidy.

UNDERTAKINGS

[149] After a preliminary determination of dumping by the CBSA, an exporter may submit a written undertaking to revise selling prices to Canada so that the margin of dumping or the injury caused by the dumping is eliminated.

[150] Similarly, after the CBSA has rendered a preliminary determination of subsidizing, a foreign government may submit a written undertaking to eliminate the subsidy on the goods exported or to eliminate the injurious effect of the subsidy, by limiting the amount of the subsidy or the quantity of goods exported to Canada. Alternatively, exporters with the written consent of their government may undertake to revise their selling prices so that the amount of the subsidy or the injurious effect of the subsidy is eliminated.

[151] An acceptable undertaking must account for all or substantially all of the exports to Canada of the dumped or subsidized goods. Interested parties may provide comments regarding the acceptability of undertakings within nine days of the receipt of an undertaking by the CBSA. The CBSA will maintain a list of parties who wish to be notified should an undertaking proposal be received. Those who are interested in being notified should provide their name, telephone, mailing address and e-mail address to one of the officers identified in the “Information” section of this document.

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

PUBLICATION

[153] Notice of the initiation of these investigations is being published in the Canada Gazette pursuant to subparagraph 34(1)(a)(ii) of SIMA.

INFORMATION

[154] Interested parties are invited to file written submissions presenting facts, arguments, and evidence that they feel are relevant to the alleged dumping and subsidizing. Written submissions should be forwarded to the attention of the SIMA Registry and Disclosure Unit.

[155] To be given consideration in this phase of these investigations, all information should be received by the CBSA by Monday, February 5, 2018.

[156] Any information submitted to the CBSA by interested parties concerning these investigations is considered to be public information unless clearly marked "confidential". Where the submission by an interested party is confidential, a non-confidential version of the submission must be provided at the same time. This non-confidential version will be made available to other interested parties upon request.

[157] Confidential information submitted to the CBSA will be disclosed on written request to independent counsel for parties to these proceedings, subject to conditions to protect the confidentiality of the information. Confidential information may also be released to the CITT, any court in Canada, or a WTO dispute settlement panel. Additional information respecting the Directorate's policy on the disclosure of information under SIMA may be obtained by contacting one of the officers identified below or by visiting the CBSA's website.

[158] The schedule of investigations and a complete listing of all exhibits and information are available at: www.cbsa-asfc.gc.ca/sima-lmsi/i-e/menu-eng.html. The exhibits listing will be updated as new exhibits and information are made available.

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

Mail: SIMA Registry and Disclosure Unit
Trade and Anti-dumping Programs Directorate
Canada Border Services Agency
100 Metcalfe Street, 11th floor
Ottawa, Ontario K1A 0L8
Canada

Telephone: Kevin Lambertsen 613-954-0689
Jody Grantham 613-954-7405
Dana Diab 613-957-0025

Fax: 613-948-4844

E-mail: simaregistry@cbsa-asfc.gc.ca

Website: www.cbsa-asfc.gc.ca/sima-lmsi



Doug Band
Director General
Trade and Anti-dumping Programs Directorate

ATTACHMENT

1. Appendix 1 – Description of Identified Programs

APPENDIX 1 – DESCRIPTION OF IDENTIFIED PROGRAMS

Evidence provided by the complainant and obtained by the Canada Border Services Agency suggests that the Government of Turkey may have provided support to exporters/producers of subject goods in the following manner.

- Program 1:** Turkish Export Subsidies for Agricultural Products
- Program 2:** Inward Processing Regime
- Program 3:** Investment Encouragement Program
- Program 4:** Turk Eximbank Credit Programs
- Program 5:** Small and Medium Enterprises Support for Pasta Producers
- Program 6:** Deduction from Taxable Income for Export Revenue
- Program 7:** Resource Utilization Support Fund Levy Exemption on Export-Related Loans
- Program 8:** Fuel Subsidy for Exports

Determination of Subsidy and Specificity

Available information indicates that the programs identified above may constitute a financial contribution pursuant to subsection 2(1.6) of the *Special Import Measures Act* (SIMA). The available information indicates that financial contributions may exist due to: the direct transfer of funds or liabilities or the contingent transfer of funds or liabilities from the Government of Turkey; amounts that would otherwise be owing and due to these governments are reduced or exempted, and would confer a benefit to the recipient equal to the amount of the reduction/exemption; and these governments may provide goods or services, other than general governmental infrastructure.

Further, the benefits provided may be limited to certain types of enterprises or limited to enterprises located in certain geographic areas and may be considered specific pursuant to paragraph 2(7.2)(a) of SIMA. Other programs may be considered specific pursuant to subsection 2(7.3) of SIMA in that the manner in which discretion is exercised by the granting authority indicates that the subsidy may not be generally available.