



PETR 2017 IN

OTTAWA, September 1, 2017

STATEMENT OF REASONS

Concerning the Initiation of Investigations into the dumping and the subsidizing of

**CERTAIN POLYETHYLENE TEREPHTHALATE RESIN FROM
THE PEOPLE'S REPUBLIC OF CHINA, THE REPUBLIC OF INDIA,
THE SULTANATE OF OMAN AND THE ISLAMIC REPUBLIC OF PAKISTAN**

DECISION

Pursuant to subsection 31(1) of the *Special Import Measures Act*, the Canada Border Services Agency initiated investigations on August 18, 2017 respecting the alleged injurious dumping and the alleged injurious subsidizing of certain polyethylene terephthalate resin originating in or exported from the People's Republic of China, the Republic of India, the Sultanate of Oman and the Islamic Republic of Pakistan.

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 June 29, 2017, the Canada Border Services Agency (CBSA) received a written complaint from Compagnie Selenis Canada (Selenis Canada), of Montreal, Québec, (hereinafter, “the Complainant”), alleging that imports of certain polyethylene terephthalate resin (PET resin) originating in or exported from the People’s Republic of China (China), the Republic of India (India), the Sultanate of Oman (Oman), the Islamic Republic of Pakistan (Pakistan) and the Republic of Turkey (Turkey) (hereafter “the named countries”) are being dumped, and that certain PET resin from China, India, Oman and Pakistan are being 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 July 20, 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. The CBSA also notified the governments of China, India, Oman, Pakistan and Turkey that a properly documented complaint had been received. The governments of China, India, Oman and Pakistan were also provided with the non-confidential version of the subsidy portion of the complaint and were invited for consultations pursuant to Article 13.1 of the *Agreement on Subsidies and Countervailing Measures*, prior to the initiation of the subsidy investigation.

[3] On August 14, 2017, consultations were held between the Government of Canada and the Government of Oman via conference call. During the consultations, the Government of Oman made representations with respect to its views on the evidence presented in the non-confidential version of the subsidy portion of the complaint. On August 17, 2017, the Government of Oman provided written representations where it addressed the alleged subsidy programs. The CBSA considered the representations made by the Government of Oman in its analysis.

[4] On August 15, 2017, consultations were held between the Government of Canada and the Government of Pakistan in Ottawa. During the consultations, the Government of Pakistan made representations with respect to its views on the evidence presented in the non-confidential version of the subsidy portion of the complaint. On August 16, 2017, the Government of Pakistan provided written representations where it addressed each of the alleged programs. The CBSA considered the representations made by the Government of Pakistan in its analysis. No other governments requested consultations prior to the initiation of the subsidy investigation.

[5] The Complainant provided evidence to support the allegations that certain PET resin from the named countries have been dumped and subsidized. With the exception of certain PET resin from Turkey, 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. With respect to certain PET resin from Turkey, the CBSA is of the opinion that the evidence does not disclose a reasonable indication that the dumping of those goods has caused or is threatening to cause injury to the Canadian industry. For this reason, the CBSA is not initiating a dumping investigation in respect of certain PET resin from Turkey.

[6] On August 18, 2017, pursuant to subsection 31(1) of SIMA, the CBSA initiated investigations respecting the dumping and subsidizing of certain PET resin from China, India, Oman and Pakistan.

INTERESTED PARTIES

Complainant

[7] The Complainant accounts for all of the production of like goods in Canada.

[8] The contact information of the Complainant is as follows:

Compagnie Selenis Canada
3498 Broadway
Montreal East, Quebec H1B 5B4

[9] The Complainant's PET resin production facility in Montreal, QC was first built in 2004 by a joint venture of Shell International, B.V. and Societe generate de financement (now Investissement Quebec) as a poly trimethylene terephthalate (PTT) plant.¹ At the time, the company was named PTT Poly Canada. The facility was converted to PET resin production in 2010 by Control PET, S.A. (Control PET), a subsidiary of IMO Group, after this company purchased the company in 2009 and changed the name to Selenis Canada Inc. The facility began producing PET resin in May, 2011, becoming the only virgin PET production facility in Canada. On August 1, 2016, DAK Americas LLC (DAK) completed a transaction with Control PET to acquire a controlling interest in Selenis Canada's operations. DAK is a wholly owned subsidiary of Alfa S.A.B. of Mexico. With DAK's acquisition of a controlling interest, the company officially changed its name to Compagnie Selenis Canada.²

Exporters

[10] The CBSA identified 19 potential exporters of the subject goods from CBSA import documentation and from information submitted in the complaint. All of the potential exporters were asked to respond to the CBSA's Exporter Dumping Request for Information (RFI) and to the CBSA's Exporter Subsidy RFI.

Importers

[11] The CBSA identified 31 potential importers of the subject goods from CBSA import documentation and from information submitted in the complaint. All of the potential importers were asked to respond to the CBSA's Importer RFI.

¹ Exhibit 2, Complaint with respect to the Subsidization of Polyethylene Terephthalate Resin Originating in or Exported from China, India, Oman and Pakistan (PET Resin Complaint), Appendix 1, para. 4.

² Ibid.

Governments

[12] Upon initiation of the investigations, the governments of China, India, Oman and Pakistan were sent the CBSA's Government Subsidy RFI requesting information concerning the alleged subsidy programs available to producers/exporters of subject goods located in each of their respective countries.

[13] For the purposes of these investigations, "Government of China (GOC)", "Government of India (GOI)", "Government of Oman (GOO)", and "Government of Pakistan (GOP)" refer 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

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

Polyethylene terephthalate ("PET") resin having an intrinsic viscosity of at least 0.70 deciliters per gram but not more than 0.88 deciliters per gram, including PET resin that contains various additives introduced in the manufacturing process, as well as blends of virgin PET resin and recycled PET containing 50 percent or more virgin PET resin content by weight, originating in or exported from the People's Republic of China, the Republic of India, the Sultanate of Oman and the Islamic Republic of Pakistan.

Additional Product Information³

[15] Polyethylene terephthalate (PET) is a clear, strong and lightweight plastic belonging to the polyester family. PET is typically called polyester when used for fibers or fabrics and PET or PET resin when used for bottles, jars, containers and packaging applications.

[16] One of the most important characteristics of PET is referred to as intrinsic viscosity (IV). The IV of the material is measured in decilitres per gram (dl/g) and it is a measure of the polymer's molecular chain length and molecular weight.

[17] PET resin may contain some recycled material, although PET resin for packaging end uses (i.e. meeting the product definition parameters of 0.70 to 0.88 IV) is generally limited to a recycled content of 20%, and in any case, would not exceed a recycled content of 50%, which is a threshold included in the product definition.

³ Exhibit 2, *Certain PET Resin Complaint* (NC), para.6-16.

Production Process⁴

[18] The production of PET begins by mixing monoethylene glycol (MEG) and purified terephthalic acid (PTA) at ambient temperatures to form a slurry. PTA is the preferred feedstock for production but dimethyl terephthalate (DMT) can be used in some facilities that use older production technologies. It is more economical to produce most grades of PET polymer from PTA than from DMT. For that reason, DMT is generally not used for production of commodity PET resin.

[19] There are varying qualities of terephthalic acid (TPA) but the preferred one is PTA, which is the one marketed to PET resin producers. PET resin lines can use qualities of TPA other than PTA, but if non-purified forms of TPA are used in PET resin manufacturing then the producers must do additional in line chemical processing to accommodate the lower quality raw material.

[20] PTA, TPA and DMT are all produced using paraxylene, a petrochemical. MEG is produced from ethylene, which is also a petrochemical. PET resin is roughly 65% PTA or TPA, 25% MEG and 10% co-monomers, basic additives and functional additives.

[21] Typical co-monomers are Diethylene Glycol (“DEG”), which is a by-product of the MEG monomer during polymerization; Purified Isophthalic Acid (“PIA” or “IPA”); and CycloHexaneDiMethanol (“CHDM”).

[22] Basic additives include catalysts for chemical reaction (Sb, Co, Ti, Ge). Organic toners and/or Cobalt are added to improve color. Thermal stabilizers (phosphoric/phosphorous acid) minimize yellowing during polymerization and re-melting into containers.

[23] Functional additives include infrared (“IR”) absorbers (carbon black or graphite, sequestered antimony), molecular chain extenders and slip and anti-blocking agents for friction reduction on preform and bottle surfaces.

[24] The slurry is heated through an esterification process to 290° centigrade and reacts to form a monomer. Additives and catalysts are added to the monomer to provide reheat and color characteristics for the final product. The monomer is then heated under vacuum in a polymerization process, and certain gases are exhausted. The resulting polymer is quenched in water and cut into chips, known as amorphous PET (“AMPET”). AMPET has a short polymer chain length and a low IV, generally 0.50 to 0.65.

[25] The AMPET chips are then subjected to a solid-state polymerization (“SSP”) treatment. To make PET resin, the AMPET chips are baked during the SSP treatment in large cylindrical reaction towers. In the towers, the AMPET chips flow through an oxygen-free, nitrogen-gas atmosphere at above 200°C temperatures for a period of 18-24 hours, known as the crystallization and annealing process. After the baking is completed, the PET resin pellets exit the bottom of the reaction tower and undergo air cooling in a closed circuit heat exchanger prior to storage for transport by rail or truck.

⁴ Exhibit 2, *Certain PET Resin Complaint* (NC), para.17-27.

The SSP treatment increases the intrinsic viscosity of the AMPET pellet to the level as defined by the scope of this complaint. This process also removes Acetaldehyde.

[26] PET resin must be protected from moisture and contamination during transport. Both imported and exported products are typically shipped offshore in sealed, one metric ton poly bags (super sacks) within large metal shipping containers. Imported products may be removed from the containers and temporarily stored in order to have some local inventory and save on demurrage. Both imported and domestically-produced PET resin may be shipped bulk inland on truck beds or in specially lined railcars in lots of 50,000 or 200,000 pounds.

Product Use

[27] The subject goods are typically used in the production of plastic beverage bottles, in packaging for food and manufactured products, in containers for household and automotive products, and in industrial strapping. The most common use for PET resin containers is to package carbonated soft drinks and bottled water.

Classification of Imports

[28] Prior to January 1, 2017, the subject goods were normally classified under the following Harmonized System (HS) codes:

3907.60.00.10 3907.60.00.90

[29] The subject goods are normally imported under the following tariff codes:

3907.61.00.00 3907.69.00.10 3907.69.00.90

[30] The listing of HS classification numbers is for convenience of reference only. The HS classification numbers include non-subject goods. 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

[31] 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.

[32] Certain PET resin produced by the Complainant has the same physical characteristics and end uses as the subject goods imported from the named countries. The goods produced in Canada and the named countries are fully interchangeable when manufactured to industry standards and specifications. Subject goods from the named countries compete directly with like goods

produced by the Complainant. After considering questions of use, physical characteristics and all other relevant factors, the CBSA is of the opinion that domestically produced PET resin 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

[33] The complaint includes data on domestic production and on domestic sales of certain PET resin for domestic consumption. As previously stated, the Complainant accounts for all of known domestic production of like goods.

Standing

[34] 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.

[35] Since the Complainant is the only known producer of certain PET resin in Canada, the CBSA is satisfied that the standing requirements pursuant to subsection 31(2) of SIMA have been met.

CANADIAN MARKET

[36] As mentioned above, the Complainant is the only Canadian producer of certain PET resin.

[37] The CBSA conducted its 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.

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

Table 1

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

Country	2014	2015	2016	January 1, 2017 to March 31, 2017	April 1, 2016 to March 31, 2017 (Period of Investigation)
China	25.0%	13.5%	15.9%	9.4%	11.0%
India	4.9%	4.2%	3.8%	21.2%	7.8%
Oman	8.6%	15.2%	12.1%	3.6%	12.3%
Pakistan	1.5%	7.6%	19.1%	28.0%	25.4%
Turkey	0.2%	3.3%	3.8%	1.9%	2.1%
Total Imports from Named Countries	40.0%	40.5%	50.9%	64.1%	56.5%
United States	56.4%	49.2%	41.1%	32.3%	36.4%
Other Countries	3.5%	6.9%	4.3%	3.6%	5.0%
Total Imports	100%	100%	100%	100%	100%

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

Table 2

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

	2014	2015	2016	January 1, 2017 to March 31, 2017	April 2016 to March 2017 (POI)
Domestic Industry	31.6%	29.4%	24.4%	44.0%	29.6%
Imports from Named Countries					
China	17.1%	9.5%	12.0%	5.3%	7.8%
India	3.3%	3.0%	2.9%	11.9%	5.5%
Oman	5.9%	10.7%	9.1%	2.0%	8.7%
Pakistan	1.0%	5.4%	14.4%	15.7%	17.9%
Turkey	0.1%	2.3%	2.8%	1.1%	1.5%
Imports – Named Countries	27.4%	30.9%	41.2%	36.0%	41.4%
Imports – the United States	38.6%	34.7%	31.1%	18.1%	25.6%
Imports – Other Countries	2.4%	4.9%	3.2%	2.0%	3.5%
Total Imports – All Countries	41.0%	39.6%	34.3%	20.1%	29.1%
Total Market Volume %	100%	100%	100%	100%	100%

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

[39] The Complainant noted that PET resin is primarily sold in Canada through brokers, who purchase both imported and domestically produced PET resin and re-sell this material to end users. These brokers buy on behalf of end-users and may or may not hold inventory for distribution. These are allegedly six main PET resin brokers in Canada.⁵

EVIDENCE OF DUMPING

[40] The Complainant alleged that certain PET resin from China, India, Oman, Pakistan and Turkey have been injuriously dumped into Canada. Dumping occurs when the normal value of the goods exceeds the export price to importers in Canada.

⁵ Exhibit 2, *Certain PET Resin Complaint* (NC), para. 47.

[41] 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.

[42] 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.

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

Normal Values

Complainant's Estimates

China:

[44] In order to estimate normal values based on the domestic selling price of like goods in China, the Complainant provided the published domestic selling prices for PET resin, as reported in PCI Wood Mackenzie.⁶ However, the Complainant alleged that the domestic prices available for PET resin in China are not profitable, as suggested by a comparison of the reported prices with the Complainant's estimated costs of production in China, using the methodology discussed below. As such, the Complainant contends that estimating of normal values based on home market pricing information would not satisfy the profitability test under paragraph 16(2)(b) of SIMA.

[45] Due to the allegation that the domestic prices for PET resin in China were not profitable, the Complainant estimated normal values based on paragraph 19(b) of SIMA. 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.

[46] For estimating the costs of material, the Complainant applied its own rate of consumption of Purified Terephthalic Acid (PTA) and Monoethylene Glycol (MEG) to the annual 2016 import prices of PTA and MEG for China, as published by the UN Comtrade Database⁷. The Complainant's methodology consisted of multiplying the published unit price of PTA by 0.85 and the unit price of MEG by 0.35, to reflect its own consumption rate per unit of output.⁸

⁶ Exhibit 2, *Certain PET Resin Complaint* (NC), para. 67.

⁷ UN Comtrade is a repository of official international trade statistics and relevant analytical tables. It is published by the United Nations: <https://comtrade.un.org/>

⁸ Exhibit 2, *Certain PET Resin Complaint* (NC), Public Attachment 9: Statement of Evidence of Adam Davis, para. 6.

The Complainant submitted that this was a conservative calculation as it only accounted for PTA and MEG and did not include other additives used in the production of PET resin.

[47] The cost of labour was estimated on the basis of the Complainant's own labour costs, adjusted to reflect the lower costs of labour in China⁹. Given that the International Labour Organization (ILO) did not publish wage information for China, the Complainant used published wage information for Hong Kong.

[48] The Complainant was unable to find information on the factory overhead costs in China, and therefore used their own factory overhead costs for the year 2016.¹⁰

[49] In order to estimate a reasonable amount for administrative, selling and all other costs, as well as the amount for profits, the Complainant relied on publicly available financial information for Hengyi Petrochemical Co., Ltd and Far Eastern New Century Corp., two PET resin producers from China.¹¹

[50] Although the Complainant estimated normal values for China under the methodology of paragraph 19(b) of SIMA, the Complainant alleged that prices in China for PET resin that domestic prices are substantially determined by the government and that they were not substantially the same as they would be in a competitive market and should therefore be determined under paragraph 20(1)(a) of SIMA. Section 20 is a provision of SIMA that may be applied to determine the normal value of goods in a dumping investigation where certain conditions prevail in the domestic market of the exporting country. In the case of a prescribed country under paragraph 20(1)(a) of SIMA, it is applied where, in the opinion of the CBSA, the government of that country substantially determines domestic prices and there is sufficient reason to believe that the domestic prices are not substantially the same as they would be in a competitive market.¹²

[51] For this reason, the Complainant also estimated normal values for PET resin for China under section 20 of SIMA, on the basis of the estimated normal value that would be applicable if the goods were produced in a surrogate country.¹³ The Complainants used Chinese Taipei as the surrogate country. The Complainant estimated normal values based on the aggregate of the estimated cost of production in Chinese Taipei, a reasonable amount for administrative, selling and all other costs, and a reasonable amount for profits, as per the methodology of subparagraph 20(1)(c)(ii) of SIMA.

[52] Given that the Complainant was unable to find prices of MEG and PTA in Chinese Taipei, the Complainant used its own average direct material costs for 2016. The cost of labour was estimated on the basis of the Complainant's own labour costs, adjusted to reflect the lower costs of labour in Chinese Taipei¹⁴. Given that the ILO did not publish wage information

⁹ Exhibit 2, *Certain PET Resin Complaint* (NC), attachment 13.

¹⁰ *Ibid.*

¹¹ Exhibit 2, *Certain PET Resin Complaint* (NC), paras. 79-82 and 90.

¹² China is a prescribed country under section 17.1 of the *Special Import Measures Regulations*.

¹³ Exhibit 2, *Certain PET Resin Complaint* (NC), paras. 139-152

¹⁴ Exhibit 2, *Certain PET Resin Complaint* (NC), paras. 142-143, and attachment 13

for Chinese Taipei, the Complainant used published wage information for Hong Kong. The Complainant was unable to find information on the factory overhead costs in Chinese Taipei, and therefore used their own factory overhead costs for the year 2016 when estimating the cost of production for Chinese Taipei. In order to estimate a reasonable amount for administrative, selling and all other costs, as well as the amount for profits, the Complainant relied on publicly available financial information for FENC, a PET resin producer from Chinese Taipei.¹⁵

India:

[53] In order to estimate normal values based on the domestic selling price of like goods in India, the Complainant provided the published domestic selling prices for PET resin, as reported in the ICIS publication.¹⁶ However, the Complainant alleged that the domestic prices available for PET resin in India are not profitable, as suggested by a comparison of the reported prices with the Complainant's estimated costs of production in India, using the methodology discussed below. As such, the Complainant contends that estimating of normal values based on home market pricing information would not satisfy the profitability test under paragraph 16(2)(b) of SIMA.

[54] Due to the allegation that the domestic prices for PET resin in India were not profitable, the Complainant estimated normal values based on paragraph 19(b) of SIMA. 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.

[55] For estimating the costs of material, the Complainant applied its own rate of consumption of Purified Terephthalic Acid (PTA) and Monoethylene Glycol (MEG) to the annual 2016 import prices of PTA and MEG for India, as published by the UN Comtrade Database. The Complainant's methodology consisted of multiplying the published unit price of PTA by 0.85 and the unit price of MEG by 0.35, to reflect its own consumption rate per unit of output.¹⁷ The Complainant submitted that this was a conservative calculation as it only accounted for PTA and MEG and did not include other additives used in the production of PET resin.

[56] The cost of labour was estimated on the basis of the Complainant's own labour costs, adjusted to reflect the lower costs of labour India¹⁸. These adjustments were based on wage information published by the International Labour Organization (ILO).

[57] The Complainant was unable to find information on the factory overhead costs in India, and therefore used their own factory overhead costs for the year 2016.¹⁹

¹⁵ Exhibit 2, *Certain PET Resin Complaint* (NC), paras. 145-152.

¹⁶ The Exhibit 2, *Certain PET Resin Complaint* (NC), para. 190.

¹⁷ Exhibit 2, *Certain PET Resin Complaint* (NC), Public Attachment 9: Statement of Evidence of Adam Davis, para. 6.

¹⁸ Exhibit 2, *Certain PET Resin Complaint* (NC), attachments 27.

¹⁹ *Ibid.*

[58] In order to estimate a reasonable amount for administrative, selling and all other costs, as well as the amount for profits, the Complainant relied on publicly available financial information for JBF Industries Limited, a PET resin producer from India.²⁰

Oman:

[59] The Complainant was unable to obtain any information regarding domestic selling prices of PET resin in Oman. Accordingly, the Complainant estimated normal values based on paragraph 19(b) of SIMA. 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.

[60] For estimating the costs of material, the Complainant applied its own rate of consumption of Purified Terephthalic Acid (PTA) and Monoethylene Glycol (MEG) to the annual 2016 import prices of PTA and the 2015 import price of MEG for Oman, as published by the UN Comtrade Database.²¹ The Complainant's methodology consisted of multiplying the published unit price of PTA by 0.85 and the unit price of MEG by 0.35, to reflect its own consumption rate per unit of output.²² The Complainant submitted that this was a conservative calculation as it only accounted for PTA and MEG and did not include other additives used in the production of PET resin.

[61] The cost of labour was estimated on the basis of the Complainant's own labour costs, adjusted to reflect the lower costs of labour in Oman²³. These adjustments were based on wage information published by the International Labour Organization (ILO). In light of lack of information on wages available for Oman, the Complainant used published wage information for the United Arab Emirates (UAE). The Complainant believed that the UAE was an adequate proxy as a neighboring country with similar economic development and petrochemical industries.

[62] The Complainant was unable to find information on the factory overhead costs in Oman, and therefore used their own factory overhead costs for the year 2016.²⁴

[63] In order to estimate a reasonable amount for administrative, selling and all other costs, the Complainant relied on publicly available financial information for JBF RAK LLC, a UAE PET producer, because the only PET producer in Oman, Octal, does not publish public financial statements.²⁵ Given that JBF RAK LLC was not profitable, the amount for profits was estimated

²⁰ Exhibit 2, *Certain PET Resin Complaint* (NC), 202-206 and 212.

²¹ For MEG, the Complainant used 2015 pricing data it believed that the 2016 published price was unreasonably high in error.

²² Exhibit 2, *Certain PET Resin Complaint* (NC), Public Attachment 9: Statement of Evidence of Adam Davis, para. 6.

²³ Exhibit 2, *Certain PET Resin Complaint* (NC), attachments 27.

²⁴ *Ibid.*

²⁵ Exhibit 2, *Certain PET Resin Complaint* (NC), paras. 164-171.

on the basis of the 2016 financial data from JBF Industries Limited, a PET resin producer from India.

Pakistan:

[64] The Complainant was unable to obtain any information regarding domestic selling prices of PET resin in Pakistan. Accordingly, the Complainant estimated normal values based on paragraph 19(b) of SIMA. 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.

[65] For estimating the costs of material, the Complainant applied its own rate of consumption of Purified Terephthalic Acid (PTA) and Monoethylene Glycol (MEG) to the annual 2016 import prices of PTA for India²⁶ and the annual 2015 MEG import price for Pakistan²⁷, as published by the UN Comtrade Database. The Complainant's methodology consisted of multiplying the published unit price of PTA by 0.85 and the unit price of MEG by 0.35, to reflect its own consumption rate per unit of output.²⁸ The Complainant submitted that this was a conservative calculation as it only accounted for PTA and MEG and did not include other additives used in the production of PET resin.

[66] The cost of labour was estimated on the basis of the Complainant's own labour costs, adjusted to reflect the lower costs of labour in Pakistan²⁹. These adjustments were based on wage information published by the ILO.

[67] The Complainant was unable to find information on the factory overhead costs in Pakistan, and therefore used their own factory overhead costs for the year 2016.³⁰

[68] In order to estimate a reasonable amount for administrative, selling and all other costs, as well as the amount for profits, the Complainant relied on publicly available financial information for Gastron (Industries) Ltd.³¹

Turkey:

[69] In order to estimate normal values based on the domestic selling price of like goods in Turkey, the Complainant provided the published domestic selling prices for PET resin, as reported in the ChemOrbis publication.³² However, the Complainant alleged that the domestic prices available for PET resin in Turkey are not profitable, as suggested by a comparison of the

²⁶ The use of Pakistan's published price for 2015, the most recently available data, was unreasonably too high, according to the Complainant.

²⁷ The most recently available prices were for 2015, according to the Complainant.

²⁸ Exhibit 2, *Certain PET Resin Complaint* (NC), Public Attachment 9: Statement of Evidence of Adam Davis, para. 6.

²⁹ Exhibit 2, *Certain PET Resin Complaint* (NC), attachment 28.

³⁰ Ibid.

³¹ Exhibit 2, *Certain PET Resin Complaint* (NC), paras. 181-188.

³² See Exhibit 2, *Certain PET Resin Complaint* (NC), para. 216.

reported prices with the Complainant's estimated costs of production in Turkey, using the methodology discussed below. As such, the Complainant contends that estimating of normal values based on home market pricing information would not satisfy the profitability test under paragraph 16(2)(b) of SIMA.

[70] Due to the allegation that the domestic prices for PET resin in Turkey were not profitable, the Complainant estimated normal values based on paragraph 19(b) of SIMA. 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.

[71] For estimating the costs of material, the Complainant applied its own rate of consumption of Purified Terephthalic Acid (PTA) and Monoethylene Glycol (MEG) to the annual 2016 import prices of PTA and MEG for Turkey, as published by the UN Comtrade Database. The Complainant's methodology consisted of multiplying the published unit price of PTA by 0.85 and the unit price of MEG by 0.35, to reflect its own consumption rate per unit of output.³³ The Complainant submitted that this was a conservative calculation as it only accounted for PTA and MEG and did not include other additives used in the production of PET resin.

[72] The cost of labour was estimated on the basis of the Complainant's own labour costs, adjusted to reflect the lower costs of labour in Turkey³⁴. Given that the ILO did not publish wage information for Turkey, the Complainant used published wage information for Indonesia, which the Complainant described as a reasonable proxy for Turkey, as another major emerging economy with a significant workforce and relatively low costs.

[73] The Complainant was unable to find information on the factory overhead costs in Turkey, and therefore used their own factory overhead costs for the year 2016.³⁵

[74] In order to estimate a reasonable amount for administrative, selling and all other costs, as well as the amount for profits, the Complainant relied on publicly available financial information for Indorama Ventures Limited, a large transnational corporation that operates two PET resin facilities in Turkey.³⁶

CBSA's Estimates:

[75] For the purposes of initiation, the CBSA estimated normal values on a quarterly basis, for the period of April 1, 2016 to March 31, 2017, for each of the named countries, in the following manner.

³³ Exhibit 2, *Certain PET Resin Complaint* (NC), Public Attachment 9: Statement of Evidence of Adam Davis, para. 6.

³⁴ Exhibit 2, *Certain PET Resin Complaint* (NC), attachment 30

³⁵ Exhibit 2, *Certain PET Resin Complaint* (NC), attachments 30.

³⁶ Exhibit 2, *Certain PET Resin Complaint* (NC), paras. 229-233 and 238.

China:

[76] The CBSA found the Complainant's methodologies for estimating normal values for China on the basis of domestic selling prices to be reasonable. The CBSA also estimated the cost of production and a reasonable amount for administrative, selling and all other costs, of the subject goods from China, using the methodology described below.

[77] Although the CBSA found the Complainant's methodology for estimating the costs of production and a reasonable amount for administrative, selling and all other costs to be reasonable, the CBSA made adjustments to the Complainant's estimated costs to encompass additional research and analysis undertaken by the CBSA.

[78] For instance, the CBSA made adjustments to the estimated costs of labour, having estimated that the wage data for Hong Kong (used as a proxy for China) used by the Complainants were monthly, as opposed to annual wages.³⁷

[79] For purposes of estimating a reasonable amount for administrative, selling and all other costs, the CBSA found the Complainant's methodology to be reasonable, although the CBSA added publically available financial data from other known PET resin producers in China, namely, Sinochem Group (2015 annual report), China Petroleum & Chemical Corporation (2016 annual report) and Indorama Ventures Public Company (2016 annual report) to the data for Hengyi Petrochemical Co., Ltd and Far Eastern New Century Corp, in order to determine an average cost. A comparison of the estimated domestic price and the estimated full costs did not suggest that the domestic selling prices were unprofitable. Accordingly, the normal values for China were estimated on the basis of the estimated domestic prices of like goods in China.

[80] As detailed in the "Section 20 Allegations" section of this *Statement of Reasons*, the CBSA is of the opinion that there is not sufficient evidence to justify the initiation of a section 20 inquiry. For this reason, the CBSA did not estimate normal values for China pursuant to the methodology of section 20 of SIMA.

India:

[81] The CBSA found the Complainant's methodologies for estimating normal values on the basis of domestic selling prices to be reasonable, but also estimated that these prices were not profitable, using the estimated cost of production and a reasonable amount for administrative, selling and all other costs, as estimated using the methodology described below.

[82] Accordingly, the CBSA estimated the normal values for India on the basis of the aggregate of the estimated costs of production of the goods, a reasonable amount for administrative, selling and all other costs, and a reasonable amount for profits, as per the methodology of paragraph 19(b) of SIMA. Although the CBSA found the Complainant's methodology to be reasonable, the CBSA made adjustments to the Complainant's estimated costs to encompass additional research and analysis undertaken by the CBSA.

³⁷ The assumption that the published wage data consist of annual data provides wages significantly below the minimum wage in Hong Kong as published by the ILO.

[83] The CBSA made adjustments to the estimated costs of labour in India, having estimating that the wage data used by the Complainants were daily, as opposed to monthly wages, as indicated by the source ILO data.

[84] For purposes of estimating a reasonable amount for administrative, selling and all other costs, and a reasonable amount for profits, the CBSA generally found the Complainant's methodology to be reasonable. However, the CBSA used JBF's publically available annual report for the year ended March 31, 2017, rather than the quarterly reports used by the Complainant. Furthermore, the CBSA also added and averaged data from other PET resin producers in India, namely Dhuseri Petrochem Limited's 2017 annual report, Reliance Industry Limited's 2017 annual report and IVL's 2016 annual report.

Oman:

[85] In light of the lack of data on domestic pricing in Oman, the CBSA estimated the normal values for Oman on the basis of the aggregate of the estimated costs of production of the goods, a reasonable amount for administrative, selling and all other costs, and a reasonable amount for profits, as per the methodology of paragraph 19(b) of SIMA. The CBSA found the Complainant's methodology to be reasonable, although the CBSA's estimates for a the reasonable amount for profit was based on all available financial data from India, as discussed above for India, and not just the financial information from JBF Industries Limited, of India.

Pakistan:

[86] In light of the lack of data on domestic pricing in Pakistan, the CBSA estimated the normal values for Pakistan on the basis of the aggregate of the estimated costs of production of the goods, a reasonable amount for administrative, selling and all other costs, and a reasonable amount for profits, as per the methodology of paragraph 19(b) of SIMA. Although the CBSA found the Complainant's methodology to be reasonable, the CBSA made adjustments to the Complainant's estimated costs to encompass additional research and analysis undertaken by the CBSA.

[87] For instance, the CBSA made adjustments to the estimated costs of labour, having estimated that the wage data published by the ILO consisted of daily wage, as opposed to monthly wage.³⁸

[88] For purposes of estimating a reasonable amount for administrative, selling and all other costs, and a reasonable amount for profits, the CBSA generally found the Complainant's methodology to be reasonable. However, the CBSA used Gastron (Industries) Ltd.'s publically available annual report for the year ended June 30, 2016, rather than the quarterly financial statements used by the Complainant. Further, the CBSA's estimate for a the reasonable amount for profit was based on all available financial data from India, as discussed above for India, and

³⁸ The CBSA's assumption was based on a comparison of the estimated wage data for Pakistan with that of the other countries, with comparable stage of economic development. Assuming that the Pakistani wage data consist of daily wage provides similar data than the wage information published for India.

not just the financial information from JBF Industries Limited, of India. Information from India was used because Gastron (Industries) Ltd., was not profitable, as per its most recently publically available financial data.

Turkey:

[89] The CBSA found the Complainant's methodologies for estimating normal values on the basis of domestic selling prices to be reasonable, but also estimated that these prices were not profitable, using the estimated cost of production and a reasonable amount for administrative, selling and all other costs, as estimated using the methodology described below.

[90] Accordingly, the CBSA estimated the normal values for Turkey on the basis of the aggregate of the estimated costs of production of the goods, a reasonable amount for administrative, selling and all other costs, and a reasonable amount for profits, as per the methodology of paragraph 19(b) of SIMA. Although the CBSA found the Complainant's methodology to be reasonable, the CBSA made adjustments to the Complainant's estimated costs of labour in Turkey. In this regards, alleging that data for Turkey was not available, the Complainant used the labour wage in Indonesia, as published by the ILO, as a proxy for Turkey. However, the CBSA did find that the ILO published wage data for Turkey for the year 2014. The CBSA therefore used the published wage for Turkey instead of the Indonesian wage data.

Export Price

[91] The export price of goods sold to an importer in Canada is generally determined in accordance with section 24 of SIMA as being an amount equal to the lesser of the exporter's sale price for the goods and the price at which the importer has purchased or agreed to purchase the goods adjusted by deducting all costs, charges, expenses, and duties and taxes resulting from the exportation of the goods.

[92] The export prices estimated by the Complainant are based on publicly available import data obtained from Statistics Canada under HS codes 3907.60.00.10 and 3907.60.00.90 for the period from April 2016 to December 2016, and HS codes 3907.61.00.00, 3907.69.00.10 and 3907.69.00.90 for the period of January 2017 to March 2017. The Complainant estimated an average export price for each named country based on the weighted average declared value for duty per metric tonne for each quarter of the POI.³⁹

[93] The CBSA estimated quarterly export prices on a quarterly basis for each named country based on the value for duty as declared on the customs entry documentation and reports generated through the Facility for Information Retrieval Management (FIRM) for each individual shipment imported from April 1, 2016 to March 31, 2017. The CBSA reviewed customs entry documentation for certain PET resin entering Canada and adjusted the FIRM data to correct any errors respecting the quantity and value for duty.

³⁹ Exhibit 2, *Certain PET Resin Complaint* (NC), paras. 241-250.

Estimated Margins of Dumping

[94] The CBSA estimated the margins of dumping by comparing the weighted average estimated normal values with the weighted average estimated export prices for each of the named countries. Based on this analysis, it is estimated that certain PET resin imported into Canada from each of the named countries were dumped. The estimated margins of dumping for each country are listed in the table below.

TABLE 3

ESTIMATED MARGIN OF DUMPING

Country	Estimated Margin of Dumping as % Export Price
China	13.8%
India	32.8%
Oman	31.4%
Pakistan	25.6%
Turkey	12.0%

SECTION 20 ALLEGATIONS

[95] Section 20 is a provision of SIMA that may be applied to determine the normal value of goods in a dumping investigation where certain conditions prevail in the domestic market of the exporting country. In the case of a prescribed country under paragraph 20(1)(a) of SIMA, it is applied where, in the opinion of the CBSA, the government of that country substantially determines domestic prices and there is sufficient reason to believe that the domestic prices are not substantially the same as they would be in a competitive market.⁴⁰

[96] The provisions of section 20 are applied on a sector basis rather than on the country as a whole. The sector reviewed will normally only include the industry producing and exporting the goods under investigation.

[97] A section 20 inquiry refers to the process whereby the CBSA collects information from various sources in order to form an opinion as to whether the conditions described under subsection 20(1) of SIMA exist with respect to the sector under investigation. Before initiating an inquiry under section 20, the CBSA must first analyze the information submitted in the complaint and the evidence it has gathered independently to determine if it is sufficient to warrant the initiation of an inquiry.

[98] The Complainant alleged that the conditions described in section 20 prevail in the polyester sector in China. The Complainant alleged that this industry sector in China does not operate under competitive market conditions and consequently, prices established in the Chinese domestic market for PET resin are not reliable for determining normal values.⁴¹

[99] The Complainant provided a variety of evidence supporting the claim that the GOC substantially determines prices of PET resin sold in China. The Complainants noted the previous section 20 CBSA opinions on various industry sectors. They also noted that the petrochemical industry, which produces the raw materials used in the production of MEG and paraxylene, is

⁴⁰ China is a prescribed country under section 17.1 of the Special Import Measures Regulations.

⁴¹ Exhibit 2, *Certain PET Resin Complaint* (NC), paras. 94-138

considered a “strategic Industry” and subject to GOC control. The Complainant provided information on state-ownership for producers of the raw materials that are used in the production of PET resin. Further, they cited specific GOC policies such as the 13th Five-Year Plan for the Petrochemical Industry. The Complainant also provided pricing information PET resin from China, India, Turkey, the Republic of Korea (Korea), Chinese Taipei and Western Europe, which indicated that the price trend in China followed a different pattern when compared to the other countries.

[100] The CBSA reviewed the information submitted in the Complaint and conducted research regarding the GOC’s macro-economic policies and measures in relation to the polyester sector. In addition, the CBSA reviewed pricing information for paraxylene, PTA and MEG from Korea, Western Europe and China for 2016.⁴² A comparison of the pricing information showed that on average prices were slightly higher for these raw materials in China during 2016.

[101] The CBSA also reviewed Free on Board (FOB) export pricing data for PET bottle grade chips from Republic of Indonesia, Korea, India and China.⁴³ This pricing information showed that the four countries had very similar FOB pricing and followed a similar pricing pattern during 2016.

[102] Based on the information submitted in the Complaint and the research conducted by the CBSA on the polyester sector, it is not apparent that domestic prices are substantially determined by the Government of China, in law or in practice. Furthermore, based on the price information available, there is no reason to believe that these prices are not substantially the same as they would be if they were determined in a competitive market. Accordingly, at this time there is not sufficient information to initiate a section 20 inquiry of the polyester sector in China in this investigation.

EVIDENCE OF SUBSIDIZING

[103] 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.

[104] 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;

⁴² www.yarnsandfibers.com and www.commoditiescontrol.com

⁴³ www.ccfgroup.com/

- 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.

[105] 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.

[106] 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.

[107] 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.

[108] 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.

[109] The Complainant alleged that subject goods originating in or exported from China, India, Oman and Pakistan have been subsidized and that exporters of subject goods from those countries have benefitted from actionable subsidies provided by various levels of their respective governments.

[110] In its analysis of the Complainant’s allegations, the CBSA reviewed the information submitted in the complaint as well as other publicly available reference material to determine whether the programs listed could constitute financial contributions in accordance with subsections 2(1) and 2(1.6) of SIMA. These programs were further examined to establish whether they could also be considered specific under subsections 2(7.2) or 2(7.3) of SIMA.

[111] A country-by-country summary of the programs to be investigated follows below.

Programs Being Investigated – China

[112] The Complainant identified 167 subsidy programs which may have conferred benefits to the producers/exporters of subject goods in China, and that have in turn resulted in the actionable subsidizing of exports of subject goods to Canada.⁴⁴

[113] As per the Complainant, the United States Department of Commerce (US DOC) determined that 20 of these programs constituted countervailable subsidies in its recent final determination with respect to the subsidizing of certain polyethylene terephthalate resin (PET Resin) from China.⁴⁵ For the remaining 147 programs which may allegedly confer a benefit to PET resin producers/exporters in China, the Complainant listed, as evidence, other instances where an authority, usually either the CBSA, the US DOC or the European Union, has countervailed the program⁴⁶. In addition, the Complainant alleged that the GOC plays an active role in China's PET resin industry, as evidence by its 13th five-year plan, introduced in 2016, which focuses on the growth and development of consumer chemical industry.⁴⁷

[114] The CBSA reviewed the documentation submitted in the complaint along with information available through its own research, including China's latest subsidy notifications to the WTO and the relevant public decision documents for the subsidy investigations referred to by the Complainant (e.g. such as CBSA's *Statement of Reasons* (SOR) for final determinations). Generally speaking, the reference material examined by the CBSA provided support for the Complainant's allegations that the subject goods from China have been subsidized.

[115] On the basis of its analysis, the CBSA found that for a number of programs identified by the Complainant, there was either no evidence that the programs were available to PET resin producers/exporters, or there were multiple names for some of the same programs. As a result, 51 programs listed by the Complainant were not included on the CBSA's list of programs to be investigated. On the basis of its analysis, the CBSA also added 27 programs to its list of programs to be investigated. Of these 27 programs, one program named by the Complainant was separated into eight programs after reviewing the information available on the programs. For example, a name like "Financial Subsidy" was considered too broad in nature. For the other programs added by the CBSA, seven are additional programs that were found to have been used in two recent investigations not included by the Complainant in its analysis⁴⁸. Further, the CBSA added 12 programs based on its review of China's Subsidy Notification to the WTO. The CBSA took care of not adding programs that could already be easily included under names already on the list.

⁴⁴ Exhibit 2, *Certain PET Resin Complaint* (NC), Subsidy Appendix 1.

⁴⁵ Exhibit 2, *Certain PET Resin Complaint* (NC), Appendix 1, para. 2.

⁴⁶ Exhibit 2, *Certain PET Resin Complaint* (NC), Appendix 1, Attachment 1.

⁴⁷ Exhibit 2, *Certain PET Resin Complaint* (NC), Appendix 1, para. 3.

⁴⁸ *Unitized Wall Modules* (UWM) or *Fabricated Industrial Steel Components* (FISC).

[116] Finally, the CBSA also modified the names of some of the programs identified by the Complainant for consolidation purposes, to be more inclusive or for other similar reasons.

[117] Overall, the CBSA identified 143 subsidy programs which may confer a benefit to PET resin producers/exporters in China. The CBSA's analysis revealed that the alleged subsidy programs constitute a potential financial contribution by the GOC 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.

[118] Please refer to **Appendix 1** for a list of the 143 subsidy programs to be investigated by the CBSA, divided into six categories.

[119] 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 GOC and exporters/producers of subject goods.

Programs Being Investigated – India

[120] The Complainant identified 41 subsidy programs which may have conferred benefits to the producers/exporters of subject goods in India, and that have in turn resulted in the actionable subsidizing of exports of subject goods to Canada.⁴⁹

[121] As per the Complainant, the US DOC determined that 25 of these programs constituted countervailable subsidies in its recent final determination with respect to the subsidizing of certain PET Resin from India.⁵⁰ In alleging that actionable subsidies were applicable to the subject goods imported from India, the Complainant also relied on information published in previous CBSA subsidy investigations, or by other investigative authorities, such as the US DOC, as well as extensive publications issued by the central and state governments of India, WTO documentation, and public data published by consulting groups.

[122] The CBSA reviewed the documentation submitted in the complaint together with the latest Subsidy Notification submitted to the WTO by India, and also researched the websites of a number of central and state government agencies in order to gather complete and up-to-date information on certain incentive schemes (e.g. Foreign Trade Policy [1st April, 2015 – 31st March, 2020], published by the GOI's Department of Commerce; the *State Government of Maharashtra's* published documentation on its Package Scheme of Incentives, 2013; the Government of Gujarat's website). The CBSA also reviewed the relevant public decision documents for the investigations referred to by the Complainant.

⁴⁹ Exhibit 2, *Certain PET Resin Complaint* (NC), Subsidy Appendix 2.

⁵⁰ Exhibit 2, *Certain PET Resin Complaint* (NC), Appendix 2, Attachment 1: US DOC, *Issues and Decision Memorandum for the Final Affirmative Determination in the Countervailing Duty Investigation of Certain Polyethylene Terephthalate from India* (March 4, 2016).

[123] Generally speaking, the reference material examined by the CBSA provided support for the Complainant's allegation that the subject goods from India have been subsidized. On the basis of its analysis, the CBSA is not including seven of the 41 programs identified by the Complainant in its investigation. The CBSA either determined that these programs were already covered by other programs identified, or that there was no evidence that the programs were available to PET resin producers. In addition, the CBSA added four programs based on its research.⁵¹ Some of the programs names identified by the Complainant were also modified by the CBSA.

[124] Overall, the CBSA identified 38 subsidy programs which may confer a benefit to PET resin producers in India. The CBSA's analysis revealed that the alleged subsidy programs constitute a potential financial contribution by the GOI 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.

[125] Please refer to **Appendix 1** for a list of the 38 subsidy programs to be investigated by the CBSA.

[126] 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 GOC and exporters/producers of subject goods.

Programs Being Investigated – Oman

[127] The Complainant identified nine subsidy programs which may have conferred benefits to the producers/exporters of subject goods in Oman, and that have in turn resulted in the actionable subsidizing of exports of subject goods to Canada.⁵²

[128] In alleging that actionable subsidies were applicable to the subject goods imported from Oman, the Complainant relied on information published by the US DOC at the time of its recent final negative determination with respect to the subsidizing of certain PET resin from Oman⁵³, and with respect to the final determination in the US DOC's *Circular Welded Carbon Quality Steel Pipe from Oman's* investigation, as well as publications issued by the Omani Government, and public data published by Consulting groups.

⁵¹ Two were listed programs that were split to differentiate between Special Economic Zones and Export Oriented Units programs, and two additional programs (i.e. SGOM - Interest Subsidy, and SGOG – New Scheme for Incentives to Industry) were added after reviewing the State Government of Maharashtra's Package Scheme of Incentive and the State Government of Gujarat's Industries Commissionerate's website.

⁵² Exhibit 2, *Certain PET Resin Complaint* (NC), Subsidy Appendix 3.

⁵³ Exhibit 2, *Certain PET Resin Complaint* (NC), Attachment 2: United States Department of Commerce, *Countervailing Duty Investigation of Certain Polyethylene Terephthalate from Oman: Issues and Decision Memorandum for the Final Negative Determination* (March 4, 2016).

[129] On August 14, 2017, consultations were held between the Government of Canada and the Government of Oman via teleconference. During the consultations, the Government of Oman made representations with respect to its views on the evidence presented in the non-confidential version of the subsidy portion of the complaint. On August 17, 2017, the Government of Oman provided written representations where it addressed the alleged programs. The CBSA considered the representations made by the Government of Oman in its analysis.

[130] The CBSA also reviewed the documentation submitted in the complaint together with the latest Subsidy Notification submitted to the WTO by Oman⁵⁴. The CBSA also reviewed the relevant public decision documents for the investigations referred to by the Complainant. The reference material examined by the CBSA provided support for the Complainant's allegation that subsidy programs are available to producers of PET resin in Oman. The US DOC made a negative determination in its PET resin countervailing investigation, having determined that the amount of subsidy was de minimis. The CBSA notes that differences in the subsidy programs' recipients, in the valuation period (i.e. the POI for the US investigation is not the same as the POI for this investigation) and in valuation methodologies may result in an amount of subsidy that is not insignificant.

[131] The CBSA determined that one of the programs identified by the Complainant has been replaced by another program, already identified by the Complainant.

[132] Overall, the CBSA identified eight subsidy programs which may confer a benefit to PET resin producers in Oman. The CBSA's analysis revealed that the alleged subsidy programs constitute a potential financial contribution by the GOO 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.

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

[134] 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 GOC and exporters/producers of subject goods.

Programs Being Investigated – Pakistan

[135] The Complainant identified 18 subsidy programs which may have conferred benefits to the producers/exporters of subject goods in Pakistan, and that have in turn resulted in the actionable subsidizing of exports of subject goods to Canada.⁵⁵

[136] In alleging that actionable subsidies were applicable to the subject goods imported from Pakistan, the Complainant relied extensively on information published by the EU on its decision

⁵⁴ The Sultanate of Oman stated in its Notification that it does not grant or maintain subsidies.

⁵⁵ Exhibit 2, *Certain PET Resin Complaint* (NC), Subsidy Appendix 4

imposing countervailing duties on PET resin originating in Pakistan and the CBSA's decision regarding *Potassium Silicate Solids* originating in Pakistan. With references to the Pakistani Department of Commerce's *Strategic Trade Policy Framework 2015-2018*, the Complainant also alleged that the Government of Pakistan utilises a preferential monetary, tariff and tax regime to increase the competitiveness of Pakistani exports.⁵⁶

[137] On August 15, 2017, consultations were held between the Government of Canada and the Government of Pakistan in Ottawa. During the consultations, the Government of Pakistan made representations with respect to its views on the evidence presented in the non-confidential version of the subsidy portion of the complaint. On August 16, 2017, the Government of Pakistan provided written representations where it addressed each of the alleged programs. The CBSA considered the representations made by the Government of Pakistan in its analysis.

[138] The CBSA also reviewed the documentation submitted in the complaint, along with the relevant public decision documents for the investigations referred to by the Complainant. Generally speaking, the reference material examined by the CBSA provided support for the Complainant's allegation of subsidies. However, the CBSA determined that for 10 of the 18 listed programs, the Complaint lacked sufficient evidence that the programs were used or are available to PET resin producers/ exporters. For instance, for these programs, the only evidence provided by the Complainant is a reference to a countervailing investigation, in which the authority did not determine that the program was available and countervailable.

[139] Overall, the CBSA identified eight subsidy programs which may confer a benefit to PET resin producers in Pakistan. The CBSA's analysis revealed that the alleged subsidy programs constitute a potential financial contribution by the GOP 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.

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

[141] 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 GOC and exporters/producers of subject goods.

Estimated Amount of Subsidy

[142] The Complainant was unable to estimate the amounts of subsidy on a program basis for the subject goods imported from China, India, Oman and Pakistan. However, the Complainant estimated the amounts of subsidy by calculating the difference between the estimated costs of production for the subject goods and their corresponding export prices. The Complainant stated that the difference between the export price and the production cost of the subject goods for each

⁵⁶ Exhibit 2, *Certain PET Resin Complaint* (NC), Appendix 4.

country demonstrates that they are being sold to Canada at prices substantially below their cost of production, indicating a significant amount of subsidy.

[143] The CBSA estimated the amount of subsidy conferred on the producers of the subject goods from China, India, Oman and Pakistan by comparing the estimated full costs of the subject goods with their weighted average export prices, as estimated above in the evidence of dumping section.

[144] The CBSA's analysis of the information indicates that subject goods imported into Canada during the period of April 1, 2016 to March 31, 2017, were subsidized. The estimated amounts of subsidy, as a percentage of the export price, found for each of these countries are summarized in the table below.

TABLE 4

ESTIMATED AMOUNT OF SUBSIDY

Country	Estimated Amount of Subsidy as a % of Export Price
China	22.8%
India	12.2%
Oman	20.4%
Pakistan	14.6%

EVIDENCE OF INJURY

[145] The Complainant alleged that certain PET resin 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.

[146] SIMA refers to material injury caused to the domestic producers of like goods in Canada. The CBSA has concluded that PET resin produced by the domestic industry is like goods to the subject goods from the named countries.

[147] In support of their allegations, the Complainant provided evidence of price undercutting and price erosion, lost sales and lost market share, negative financial results, and reduced employment.

Volume of Dumped and Subsidized Imports

[148] The Complainant allege that while the total volume of imports fell slightly in a growing market between 2014 and 2016, the imports from the named countries increased significantly during that period (except in 2015). The Complainant also alleges that imports from the named countries increased significantly in the first quarter of 2017, compared to the first quarter of 2016. The Complainant alleged that these imports are at dumped and subsidized prices.

[149] Table 1 of this *Statement of Reasons* does support the Complainant's allegations that the named countries' collective share of total imports has been growing significantly since 2014. As the data suggests, the named countries' collective share of total imports increased from 40% in 2014 to 50.9% in 2016, to 64.1% in the first quarter of 2017. However, the trend is not the same for each of the named countries. In particular, imports from China has been in declined, although they remain significant, and imports from Turkey have been very low throughout this period. During the POI, Turkey only represented 2.1% of all imports. The collective increase in imports is mostly attributable to a significant increase in imports of PET resin from Pakistan, which represented only 1.5% of imports in 2014, increasing its share of imports to 19.1% in 2016 and 28% in the first quarter of 2017. India has also increased its share of imports quite

significantly in the first quarter of 2017, now representing over 21% of imports, compared to 4.9% in 2014.

[150] In terms of share of the Canadian apparent market, as shown in Table 2 of this *Statement of Reasons*, the named countries' collective share of the market increased from 27.4% in 2014 to 41.2% in 2016, while the Canadian industry's share decreased from 31.6% to 24.4% during that period. In the first quarter of 2017, the Canadian industry recaptured a significant share of the market, as its share jumped to 44%. The collective market share of the named countries decreased slightly to 36% in the first quarter of 2017. As suggested by the data shown in Table 2, the Canadian industry's significant increase in market share came mostly at the expense of the American, whose share of the market decreased from 38.6% in 2014 to 18.1% in the first quarter of 2017, possibly correlated to DAK's acquisition of Selenis Canada.

[151] Despite the recent increase in the Canadian producer's share of the market, the market data on the record suggests that the significant increase in imports from the named countries collectively, combined with their increasing price pressure, support the Complainant's allegations of injury. However, the CBSA finds that the volume of imports from Turkey to be very low, and insufficiently correlated to the alleged injury to the Canadian industry.

Price Undercutting and Price Erosion

[152] The Complainant submits that dumped and subsidized imports of certain PET resin have captured market share at the expense of the Canadian industry by aggressively undercutting the Canadian producer's pricing. The Complainant states that even with the consideration for freight expense, the subject imports from the named countries are still priced substantially below the prices offered by the Canadian producer.⁵⁷

[153] The Complainant submitted evidence showing that the average selling prices from China, India, Oman, Pakistan and Turkey, from 2014 to the first quarter of 2017, are substantially lower than those of the Complainant.⁵⁸ The Complainant also documented instances of price undercutting and also instances where their prices were lowered in order to retain sales in response to offers from exporters of PET resin from China, India, Oman and Pakistan.⁵⁹ With respect to certain PET resin from Turkey, the Complainant did not provide any documented instances of price undercutting or instances where their prices were lowered in order to retain sales.

[154] The Complainant states that certain PET resin from the named countries are price leaders in the Canadian market and that there is a clear and consistent trend of increased price undercutting in each period since 2014. The Complainant submits that the magnitude of the price undercutting by the named countries has caused significant price erosion in the Canadian market and forced the Complainant's price below the general market trend.⁶⁰

⁵⁷ Exhibit 2, *Certain PET Resin Complaint* (NC), para. 289.

⁵⁸ Exhibit 2, *Certain PET Resin Complaint* (NC), Table 9, page 90.

⁵⁹ Exhibit 2, *Certain PET Resin Complaint* (NC), paras. 298-305.

⁶⁰ Exhibit 2, *Certain PET Resin Complaint* (NC), paras. 293-296.

[155] The CBSA finds that there is evidence that the dumped and subsidized imports from China, India, Oman and Pakistan have undercut prices of like goods and led to price erosion.

Lost Sales and Market Share

[156] The Complainant alleged that dumped and subsidized imports of certain PET resin have captured market share at the expense of the Canadian industry by offering PET resin at low prices that are injurious to the domestic industry. The Complainant provided specific examples of sales lost to the subject imports from China, India, Oman and Pakistan between 2013 and the first quarter of 2017.⁶¹ No specific examples were provided in respect of certain PET resin from Turkey.

[157] Based on the evidence, the CBSA finds that the Complainant's injury allegations with respect to lost sales and market share are well supported and sufficiently linked to allegedly dumped and subsidized imports from China, India, Oman and Pakistan.

Financial Results

[158] The Complainant submits that the injurious impact of the dumped and subsidized goods is demonstrated in its financial results. To support this allegation, the Complainant has provided its financial statements for 2014 through the first quarter of 2017.⁶²

[159] The CBSA agrees that the Complainant has had poor financial performance as the named countries collectively have continued to increase their market share and erode prices. Based on the evidence, the CBSA finds that the Complainant's financial results can be reasonably attributed to the lost sales, price undercutting and price erosion resulting from the dumped and subsidized goods from China, India, Oman and Pakistan.

Reduced Employment

[160] The Complainant states that competition from unfairly priced imports has led to reductions in industry employment. The complaint included employment data which indicates that they have experienced a reduction in direct employment⁶³ between 2014 and the first quarter of 2017.⁶⁴

CBSA's Conclusion – Injury

[161] There is a reasonable indication that material injury has occurred to the PET resin industry in Canada. The nature of the injury incurred by the Complainant is well-documented in terms of lost sales, lost market share, price undercutting, price erosion, negative financial results,

⁶¹ Exhibit 2, *Certain PET Resin Complaint* (NC) Attachment 9 – Statement of Evidence of Adam Davis, paras 14-45

⁶² Exhibit 1, *Certain PET Resin Complaint* (NC), (PRO), Attachment 10 – Complainant's Income Statement and Cost of Goods Manufactured, 2014-Q1 2017.

⁶³ Exhibit 1, *Certain PET Resin Complaint* (NC), (PRO), Attachment 10 – Complainant's PET resin Employment and Employment-related Costs, 2014-Q1 2017.

⁶⁴ Exhibit 2 *Certain PET Resin Complaint* (NC), para. 319.

and reduced employment. The CBSA finds that the injury can be reasonably attributed to the allegedly dumped and subsidized goods from China, India, Oman and Pakistan. With respect to certain PET resin from Turkey, the CBSA is of the opinion that the evidence is insufficient and does not disclose a reasonable indication that the dumping of those goods has caused or is threatening to cause injury to the Canadian industry.

THREAT OF INJURY

[162] The Complainant alleges that the dumped and subsidized goods from the named countries threaten to cause further material injury to the Canadian domestic industry. The Complainant submits that the threat posed by certain PET resin is evident in a number of factors which are likely to have an impact in the next 18 to 24 months.⁶⁵

[163] The Complainant submitted that massive excess capacity globally and in the named countries, soft market conditions, the commodity nature of PET resin and the production imperative, the effect of trade remedy actions by other countries, and the increasing import volume from the subject countries, along with their pricing pattern, demonstrates that there is a reasonable indication that certain PET resin threaten the domestic industry with injury. Without protection, the Complainant believes that they are threatened with further injury.

Market Conditions in the Named Countries

[164] The Complainant submitted that the market conditions in the named countries are generally weak and characterized by excess capacity. Despite this, the Complainant stated that the named countries are projected to significantly increase production, while maintaining significant excess capacity.⁶⁶

[165] Due to domestic market demand for PET resin in the named countries being generally below production levels, there is a continuing incentive for PET resin producers to rely upon export markets.

[166] Based on the evidence, the CBSA finds that the global market outlook for PET resin is generally weak and is pressured by an increasing supply imbalance occurring in the named countries. Furthermore, the evidence demonstrates that current market conditions in the named countries are likely to lead PET resin producers to turn to export markets, thereby threatening injury to the Canadian domestic industry.

Commodity Nature of PET Resin and the Production Imperative

[167] The Complainant argued that PET resin is a commodity product and that the price is the primary factor in purchasing decision.⁶⁷ Similarly, the Complainant stated that the PET resin industry is capital intensive and that as such, producers have an incentive to protect their capital

⁶⁵ Exhibit 2, *Certain PET Resin Complaint* (NC), paras. 320-323.

⁶⁶ Exhibit 2, *Certain PET Resin Complaint* (NC), paras. 326-361

⁶⁷ Exhibit 2, *Certain PET Resin Complaint* (NC), Para. 362

investment by maintaining production volume if they can continue producing at their marginal cost of production.⁶⁸

[168] The CBSA recognizes that the commodity nature of the subject goods and the production imperative of the PET resin industry increases the likelihood of continued aggressive competition from low-priced imports, and as such poses a threat of future injury to the Canadian domestic industry.

Effects of Trade Remedy Actions by Other Countries

[169] The Complainant submits that certain producers in the named countries have a propensity to dump and subsidize PET resin in export markets, as evidenced by the anti-dumping and countervailing measures imposed by other countries against this product.⁶⁹ Specifically, the Complainant states that seven WTO members have initiated or affirmatively concluded investigations into dumping and subsidizing of PET resin from those countries.⁷⁰

[170] The Complainant states that producers in China, India and Turkey have been found to be dumping exports of PET film, sheet and strip by various WTO member countries.⁷¹ India has also been found to be subsidizing these goods.⁷² As PET film, sheet and strip share significant inputs, equipment and production process with PET resin, the Complainant submits that these trade measures present a threat that production capacities for producing these goods in China, India and Turkey will be diverted to the production of PET resin for export to Canada.⁷³

[171] The Complainant submits that in light of these existing trade measures, producers from the named countries will seek markets without anti-dumping or countervailing measures, such as Canada.⁷⁴ The Complainant notes that this threat is especially acute with respect to the finding in the U.S. against China, Oman and India, since these three countries relied on the U.S. market for significant export volumes prior to the anti-dumping and countervailing duties being imposed.⁷⁵

[172] Based on the evidence, the CBSA finds the allegation that the subject goods from China, India, Oman and Pakistan imported into the Canadian market may continue given the diversion

⁶⁸ Exhibit 2, *Certain PET Resin Complaint* (NC), Para. 363

⁶⁹ Exhibit 2, *Certain PET Resin Complaint* (NC), paragraph 387.

⁷⁰ Exhibit 2, *Certain PET Resin Complaint* (NC), paragraph 387; PET Resin Complaint (NC), and Attachment 77 – WTO Integrated Trade Intelligence Portal, HS 3907.60: Anti-Dumping and Countervailing Measures Imposed in Listed WTO Member Countries, Report Queried March 14, 2017.

⁷¹ Exhibit 2 *Certain PET Resin Complaint* (NC), paragraph 388; PET Resin Complaint (NC), Attachment 78 – WTO Integrated Trade Intelligence Portal, HS 3920: Anti-Dumping and Countervailing Measures Imposed in Listed WTO Member Countries, Report Queried March 14, 2017.

⁷² Exhibit 2 *Certain PET Resin Complaint* (NC), paragraph 388; PET Resin Complaint (NC), Attachment 78 – WTO Integrated Trade Intelligence Portal, HS 3920: Anti-Dumping and Countervailing Measures Imposed in Listed WTO Member Countries, Report Queried March 14, 2017.

⁷³ Exhibit 2, *Certain PET Resin Complaint* (NC), para. 388.

⁷⁴ PET Resin Complaint (NC), para. 390.

⁷⁵ Exhibit 2, *Certain PET Resin Complaint* (NC), paragraphs 390-393; PET Resin Complaint (NC), Attachment 40 – US International Trade Commission, *Polyethylene Terephthalate (PET) Resin from Canada, China, India, and Oman*, Investigation No. 701-TA-531-532 and 731-TA-1270-1273 (Final), page 21.

caused by trade measures in other countries is supported. With respect to Turkey, considering the low import volume, and the decreasing trend, the CBSA does not find that any risk of diversion caused by the finding on certain PET film imposed by Brazil, threatens, on its own, to cause material injury to the Canadian industry.

Likely Volume and Prices of Subject Goods

[173] The Complainant states that Canada is an attractive market for producers facing difficult market conditions in their domestic markets and ordinary export markets.⁷⁶ Consequently, the Complainant submits that the named countries will continue to export significant volumes of dumped and subsidized goods to Canada and that these goods will cause injury to the Canadian industry.⁷⁷

[174] The Complainant states that the subject imports from the named countries increased significantly in 2016, despite a shrinking Canadian market.⁷⁸ The Complainant submits that the increase in imports from the named countries in 2016 and the first quarter of 2017 represents a significant rate of increase of dumped and subsidized goods imported into Canada. The Complainant states that imports from the named countries entered Canada at extremely low prices.⁷⁹ The Complainant submits that this on-going and aggressive low-pricing of imports from the named countries provides a clear indication that the injurious dumping and/or subsidizing of such low-priced imports will continue.⁸⁰

[175] As mentioned above, the CBSA's data does support that the share of imports from the subject countries has increased significantly between 2014 and 2016, along with a corresponding increase in their share of the Canadian market. The data, however, does not support the allegations that the Canadian market has been shrinking during that time. Considering the past and potential volume from China, India, Oman and Pakistan, their pricing history, and their alleged subsidization, their likely future volume and prices are likely to be consistent with the recent trends. The CBSA did not find sufficient evidence suggesting that the volume of imports of certain PET resin from Turkey is likely to increase in the foreseeable future.

CBSA's Conclusion – Threat of Injury

[176] The Complaint contained reasonable evidence the import volume of subject goods from China, India, Oman and Pakistan, is likely to continue to remain significant, if not increasing, considering the market conditions in these countries, the threat of diversion due to trade measures by other countries and the incentive to produce due to the production imperative. Considering the aggressive competition among these countries and the commodity nature of the goods and production imperative, it is likely that these imports will continue to be at dumped and subsidized prices, continuing to substantially undercut domestic pricing. As such, the CBSA is of

⁷⁶ Exhibit 2, *Certain PET Resin Complaint* (NC), para. 374.

⁷⁷ Exhibit 2, *Certain PET Resin Complaint* (NC), para. 374.

⁷⁸ Exhibit 2, *Certain PET Resin Complaint* (NC), para. 395.

⁷⁹ Exhibit 2, *Certain PET Resin Complaint* (NC), para. 401.

⁸⁰ Exhibit 2, *Certain PET Resin Complaint* (NC), para. 405.

the opinion that the Complaint contained reasonable evidence that such imports are likely to cause material injury in the foreseeable future. The CBSA did not find sufficient evidence suggesting that imports of certain PET resin from Turkey threatens to cause material in the foreseeable future.

CAUSAL LINK – DUMPING/SUBSIDIZING AND INJURY

[177] The CBSA finds that the Complainant has sufficiently linked the injury they have suffered to the dumping and subsidizing of certain PET resin from China, India, Oman and Pakistan imported into Canada. The injury includes lost sales and market share, price undercutting and erosion, and negative financial results.

[178] This injury relates directly to the price advantage that the dumping and subsidizing have produced between the PET resin imported from China, India, Oman and Pakistan and the like goods produced in Canada. Evidence has been provided by the Complainant to establish this link in the form of price quotes, market data and sales and financial information related to their production and sales of like goods in Canada.

[179] The CBSA also finds that the Complainant provided sufficient evidence that there is a reasonable indication that continued dumping and subsidizing of subject goods imported into Canada from China, India, Oman and Pakistan threaten to cause injury to the Canadian industry producing these goods.

CONCLUSION

[180] 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 PET resin originating in or exported from China, India, Oman, Pakistan and Turkey have been dumped, and that certain PET resin originating in or exported from China, India, Oman and Pakistan have been subsidized, and, with the exception of Turkey, 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 PET resin from China, India, Oman and Pakistan were initiated on August 18, 2017.

[181] With respect to certain PET resin originating in or exporter from Turkey, the CBSA is of the opinion that the evidence is insufficient and does not disclose a reasonable indication that the dumping of those goods has caused or is threatening to cause injury to the Canadian industry. In particular, the CBSA notes the low volume of goods originating in or exported from Turkey, at 2.1% of the total volume of all goods of the same description that were released into Canada from all countries during the POI. As a result, pursuant to subsection 33(1) of SIMA, the CBSA will not cause an investigation to be initiated in respect of certain PET resin originating in or exported from Turkey.

SCOPE OF THE INVESTIGATIONS

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

[183] 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 April 1, 2016 to March 31, 2017, were dumped. The information requested will be used to determine the normal values, export prices and margins of dumping, if any.

[184] The CBSA has also requested information from all potential producers/exporters in China, India, Oman and Pakistan and the governments of these countries to determine whether or not subject goods imported into Canada during the POI of April 1, 2016 to March 31, 2017, were subsidized. The information requested will be used to determine the amounts of subsidy, if any.

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

FUTURE ACTION

[186] The Canadian International Trade Tribunal (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.

[187] 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 November 16, 2017. Where circumstances warrant, this period may be extended to 135 days from the date of the initiation of the investigations.

[188] 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.

[189] 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.

[190] 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.

[191] 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.

[192] 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.

[193] 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

[194] 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.

[195] 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.

[196] 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

[197] 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.

[198] 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.

[199] 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 and fax numbers, mailing address and e-mail address to one of the officers identified in the “Information” section of this document.

[200] 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

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

INFORMATION

[202] 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.

[203] To be given consideration in this phase of these investigations, all information should be received by the CBSA by September 25, 2017.

[204] 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.

[205] 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/NAFTA 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.

[206] 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.

[207] 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: Richard Pragnell 613-954-0032
Gi Sung Nam 613-948-3183

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 – Description of Identified Programs and Incentives

APPENDIX – DESCRIPTION OF IDENTIFIED PROGRAMS AND INCENTIVES

Evidence provided by the Complainant and obtained by the Canada Border Services Agency suggests that the governments of the People’s Republic of China (China), the Republic of India (India), the Sultanate of Oman (Oman), and the Islamic Republic of Pakistan (Pakistan) may have provided support to exporters/producers of subject goods in the following manner.

CHINA

Preferential Loans and Loan Guarantees

- Program 1. Debt Forgiveness
- Program 2. Export Credit Subsidy Programs: Export Buyer’s Credits
- Program 3. Export Sellers Credit
- Program 4. Policy Loans
- Program 5. Preferential Export Financing
- Program 6. Preferential Loans Characterized as a Lease Transaction
- Program 7. Other Preferential Loans

Grants and Grant Equivalentents

- Program 8. Allowance to Pay Loan Interest (Interest Subsidy)
- Program 9. Annual Incentive Funds Stable Foreign Trade Policy
- Program 10. Assistance for Optimizing the Structure of Import/Export of High-Tech Products
- Program 11. Assistance for Technology Innovation – R&D Project
- Program 12. Award of Taxpayers in Yanghang Industrial Park
- Program 13. Award for Excellent Enterprise
- Program 14. Award for Good Performance in Paying Taxes
- Program 15. Award for Taicang City to Support Public Listing of Enterprises
- Program 16. Award for Taicang City to Promote Development of Industrial Economy
- Program 17. Awards for the Contributions to Local Economy and Industry Development
- Program 18. Award to Enterprises Whose Products Qualify for “Well-known Trademark of China” or “Famous Brands of China” or “China World Top Brands” or Other Branding
- Program 19. Brand Development Fund by Shunyi District Local Governments
- Program 20. Business Development Overseas Support Fund (Foshan)
- Program 21. Bounty for Enterprise with Production and Sales Growth

- Program 22. Changzhou Qishuyan District Environmental Protection Fund (Jiangsu)
- Program 23. Changzhou Technology Plan (Jiangsu)
- Program 24. Circular on Issuance of Management Methods for Foreign Trade Development Support Fund
- Program 25. Development Fund for SMEs
- Program 26. Emission Reduction and Energy-Saving Award
- Program 27. Energy Saving Grant
- Program 28. Energy-Saving Technique Special Fund
- Program 29. Energy-Savings Technology Reform
- Program 30. Energy-Saving Technology Renovation Fund
- Program 31. Enterprise Financing Subsidy
- Program 32. Enterprise Innovation Award of Qishuyan District (Jiangsu)
- Program 33. Enterprise Technology Centers (e.g. Tianjin City and Jinnan District)
- Program 34. Environment Protection Award (Jiangsu)
- Program 35. Exhibition Fee Reimbursement
- Program 36. Export Assistance Grant
- Program 37. Export Award
- Program 38. Export Brand Development Fund
- Program 39. Export Expansion Recognition Grant
- Program 40. Financial Subsidy for Exhibitions
- Program 41. Financial Subsidy for Meeting Import and Export Qualifications
- Program 42. Financial Subsidy for Participating in Foreign Fairs
- Program 43. Financial Subsidy for Product Certification
- Program 44. Financial Subsidy from the Jiangsu Province
- Program 45. Fund for Interest Discount of Loans for the “Five Points and One Line” Coastal Economic Belt Park
- Program 46. Funds of Guangdong Province to Support the Adoption of E-Commerce by Foreign Trade Enterprises
- Program 47. Fund for the Development of Outward-Oriented Enterprises
- Program 48. Governmental Subsidy for Participation in Trade Exhibition by Enterprises
- Program 49. Grants for International Certification
- Program 50. Grants to Privately-Owned Export Enterprises of Tianjin– Name Modified
- Program 51. Guaranteed Growth Fund

- Program 52. Hangzhou City Government Grants Under the Hangzhou Excellent New Product / Technology Award
- Program 53. Huzhou City Quality Award
- Program 54. Huzhou Industry Enterprise & Upgrade Development Fund
- Program 55. Import/Export Credit Insurance
- Program 56. Incentive for Enterprise Innovation and R&D
- Program 57. Incentive for Establishment of Headquarters and Listing of Enterprises
- Program 58. Incentive Fund for Key Enterprise
- Program 59. Innovative Experimental Enterprise Grant
- Program 60. Innovative Small and Medium-Sized Enterprise Grants
- Program 61. Interim Measures of Fund Management of Allowance for Zhongshan Enterprise to Attend Domestic and Overseas Fair (Zhongshan)
- Program 62. International Market Fund for Export Companies
- Program 63. International Market Fund for Small-and Medium-sized Export Companies (Matching Funds for International Market Development for SMEs)
- Program 64. Investment Grants from Fuyang City Government for Key Industries
- Program 65. Jiangdu City Industrial Economy Performance Award (Jiangsu)
- Program 66. Jiangsu Province Export Premium Subsidy
- Program 67. Large Taxpayer Award
- Program 68. Liaoning High-tech Products & Equipment Exports Interest Assistance
- Program 69. Modern Service Grant
- Program 70. Municipal Government – Exhibition Grant
- Program 71. Municipal Government – Export Grant
- Program 72. Municipal Government – Insurance Fee Grant
- Program 73. National Environmental Protection and Resources Saving Program: Grants for the Optimization of Energy Systems
- Program 74. National Innovation Fund for Technology Based Firms
- Program 75. Open Economic Development Grant
- Program 76. Overseas Investment Discount (Jiangsu Province)
- Program 77. Patent Application Assistance
- Program 78. Product Quality Grant
- Program 79. Project Subsidy From Haicang Bureau of Science and Technology
- Program 80. Provincial Government – Equipment Grant
- Program 81. Provincial Scientific Development Plan Fund

- Program 82. Reimbursement of Foreign Affairs Services Expenses (Foshan)
- Program 83. Research & Development (R&D) Assistance Grant
- Program 84. Research & Development Fund for Industrial Technologies
- Program 85. Science and Technology Fund – Tianjin Binhai New Area and the Tianjin Economic and Technological Development Area
- Program 86. Small and Medium-sized Enterprise Support Funds
- Program 87. Special Fund for the Development of Foreign Trade and Economic Cooperation
- Program 88. Special Fund for Fostering Stable Growth of Foreign Trade
- Program 89. Special Funds for Development of Science and Technology
- Program 90. Special Supporting Fund for Commercialization of Technological Innovation and Research Findings
- Program 91. Star/Superstar Enterprise Grant
- Program 92. State Service Industry Development Fund
- Program 93. State Special Fund for Promoting Key Industries and Innovation Technologies
- Program 94. Support Fund for the Development of Foreign Trade
- Program 95. Support Fund for High and New Technology Projects
- Program 96. Supporting Fund for Becoming Publically Listed Company
- Program 97. Supporting Fund for Enterprises
- Program 98. Supporting Fund for Non-refundable Export Tax Loss on Mechanical & Electrical Product and High-Tech Product (Jiangmen City)
- Program 99. Supportive Fund Provided by the Government of Xuyi County, Jiangsu
- Program 100. Supporting Fund Provided by Shenyang Municipal Government to the Enterprise to Maintain the Employment Level
- Program 101. Technical Renovation Loan Interest Discount Fund
- Program 102. Technology Innovation Award
- Program 103. Technology Reform Interest Subsidy
- Program 104. Trade Policy Award
- Program 105. Transition Gold Support
- Program 106. “Two New” Product Special Funds of Guangdong Province
- Program 107. Water Fund Refund / Exemption
- Program 108. Water Saving Enterprise

Preferential Tax Programs

- Program 109. Accelerated Depreciation on Fixed Assets in Binhai New Area of Tianjin
- Program 110. City Maintenance and Construction Taxes and Education Surcharges for Foreign Invested Enterprises
- Program 111. Corporate Income Tax Exemption and/or Reduction in SEZs and Other Designated Area
- Program 112. Corporate Income Tax Reduction for New High Tech Enterprises (“NHTE”)
- Program 113. Deed Tax Exemptions for Land Transferred Through Merger or Restructuring
- Program 114. Dividend Exemption Between Qualified Resident Enterprises
- Program 115. Five Points, One Line Strategy in Liaoning Province
- Program 116. Income Tax Credit for the Purchase of Domestically Manufactured Production Equipment
- Program 117. Municipal Government – Preferential Tax Program
- Program 118. Preferential Tax Policies for Foreign-Invested Enterprises (FIEs)
- Program 119. Preferential Tax Policies for Enterprises with Foreign Investments (FIEs) Established in Special Economic Zones (excluding the Shanghai Pudong Area)
- Program 120. Preferential Tax Policies for Enterprises with Foreign Investment Recognized as High or New Technology Enterprises Established in the State High or New Technology Industrial Development Zones
- Program 121. Preferential Tax Policies for FIEs Established in the Coastal Economic Area and in Economic and Technological Development Zones
- Program 122. Preferential Tax Policies for FIEs Established in the Pudong Area of Shanghai
- Program 123. Preferential Tax Policies for Domestic Enterprises Purchasing Domestically Produced Equipment for Technology Upgrading Purpose
- Program 124. Preferential Tax Policies for the Research and Investment
- Program 125. Preferential Tax Policies in the Western Regions
- Program 126. Preferential Tax Policies for Enterprises Making Little Profits
- Program 127. Tax Concessions for Central and Western Regions
- Program 128. Tax Policies for the Deduction of Research and Development Expenses
- Program 129. Two Free, Three Half Tax Exemption for the Productive FIEs
- Program 130. Various Local Discounts (Shandong Province, Chongqing City, Guangxi Region Zhuang, Tax privileges to Develop Central and Western Regions)

Relief from Duties and Taxes on Inputs, Material and Machinery

- Program 131. Exemption or Refund of Tariff and Import Value-Added Tax (VAT) for the Imported Technologies and Equipment
- Program 132. Import Tariff and VAT Exemptions on Imported Equipment in Encouraged Industries
- Program 133. Preferential Consumption Tax on Refined Oil
- Program 134. Preferential Tax Treatment for Import of Equipment
- Program 135. Relief from Duties and Taxes on Imported Material and Other Manufacturing Inputs
- Program 136. Tariff and VAT Exemptions on Imported Materials and Equipment
- Program 137. VAT Refunds to Foreign Invested Enterprises (FIEs) Purchasing Domestically-Produced Equipment

Reduction in Land Use Fees

- Program 138. Exemption, Reduction or Refund of Land Transfer Fee
- Program 139. Reduction in Land Use Fees, Land Rental Rates and Land Purchase/Transfer Price
- Program 140. Refund or Exemption of Land Use Tax

Goods / Services Provided by the Government at Less Than Fair Market Value

- Program 141. Acquisition of Government Assets at Less Than Fair Market Value
- Program 142. Provision of MEG and/or PTA for Less Than Fair Market Value
- Program 143. Provision of Utilities Provided by Government for Less Than Fair Market Value

INDIA

I. Special Economic Zones (SEZ) Programs

- Program 1. SEZ: Duty Free Importation of Capital Goods and Raw Materials
- Program 2. SEZ: Exemption from Electricity Duty and Cess
- Program 3. SEZ - Exemption from Minimum Alternate tax under 115JB of the Income Tax Act
- Program 4. SEZ : Exemption of Payment on Central Tax on Purchase of Capital Goods and Raw Materials
- Program 5. SEZ: Exemption from Service Tax Including Educational Cesses
- Program 6. SEZ: Exemption from State Sales Tax and other Levies as Extended by State Governments
- Program 7. SEZ : ITA Exemptions s. 10A and ITA Exemption Scheme 2.80-Ia
- Program 8. SEZ: Reimbursement or Exemption of Central Sales Tax (CST) on Goods Manufactured in India

II. Export Oriented Unit (EOU) Programs

- Program 9. EOU: Credit for Service Tax Paid
- Program 10. EOU: Duty Drawback on Furnace Oil Procured Domestically
- Program 11. EOU: Duty Free Importation of Capital Goods and Raw Materials
- Program 12. EOU: Exemption from Income Tax as per Section 10A and 10B of the ITA
- Program 13. EOU: Reimbursement or Exemption of Central Sales Tax (CST) on Goods Manufactured in India

III. Grants and Grant Equivalents

- Program 14. Assistance to States Developing Export Infrastructure and Allied Activities (ASIDE) Scheme
- Program 15. Incentive under the West Bengal State Support for Industries Scheme
- Program 16. Market Access Initiative Scheme
- Program 17. Market Development Assistance Program

IV. Preferential Loans and Loan Guarantees

- Program 18. GOI Loan Guarantee
- Program 19. Interest Equalisation Scheme on Pre and Post Shipment Rupee Export Credit
- Program 20. Pre and Post Shipment Export Financing

V. Preferential Tax Programs

- Program 21. State and Union Territory Sales Tax Incentive

VI. Relief from Duties and Taxes on Inputs, Material and Machinery

- Program 22. Advanced Authorization Scheme
- Program 23. Duty Drawback (DDB)
- Program 24. Duty Free Import Authorization Scheme
- Program 25. Export Promotion of Capital Goods Scheme
- Program 26. Focus Product Scheme; Merchandise Export Incentive Scheme (MEIS)
- Program 27. Status Holder Incentive Scrip

VII. Subsidy Programs provided by the State Government of Gujarat (SGOG)

- Program 28. Other Incentive Schemes of the SGOG
- Program 29. SGOG: New Scheme for Incentive to Industries
- Program 30. SGOG: Provision of Land for Less than Adequate Remuneration
- Program 31. SGOG: Scheme for Financial Assistance to Industrial Parks

VIII. Subsidy Programs provided by the State Government of Maharashtra (SGOM)

- Program 32. SGOM Electricity Duty Exemption
- Program 33. SGOM Industrial Promotion Subsidy (IPS)
- Program 34. SGOM Incentives for Strengthening and MSMEs and LSI's
- Program 35. SGOM Incentives to Strengthen Micro, Small and Medium Sized Manufacturing Enterprises
- Program 36. SGOM Interest Subsidy
- Program 37. SGOM Power Tariff Subsidy
- Program 38. SGOM Waiver of Duty Stamp

OMAN

- Program 1. Development Loans for Industrial Projects by the Oman Development Bank
- Program 2. Exemption from Corporate Income Tax for Companies Located in the Salalah Free Zone
- Program 3. Export Credit Discounting Subsidy (“Post-Shipment Financing Loans”)
- Program 4. Pre-shipment Export Credit Guarantees
- Program 5. Provision of Electricity for Less than Adequate Remuneration
- Program 6. Provision of Government of the Sultanate of Oman-Funded Non-General Infrastructure
- Program 7. Provision of Land or Leases for Land for Less than Adequate Remuneration
- Program 8. Tariff Exemptions on Imported Equipment, Machinery, Materials and Packaging Materials

PAKISTAN

- Program 1. Compliance Certificate Scheme
- Program 2. Export Long Term Fixed Rate Financing Scheme
- Program 3. Export Processing Zones Incentives and Benefits
- Program 4. Final Tax Regime
- Program 5. Imports of Plant Machinery and Equipment in Manufacturing Bond
- Program 6. Land at Concessionary Rates in Industrial Estates and Export Processing Zones
- Program 7. Manufacturing Bond Scheme
- Program 8. Warehouse Scheme

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 governments of China, India, Oman and Pakistan; 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.