



OTTAWA, December 20, 2016

STATEMENT OF REASONS

of a Dumping Final Determination concerning

**CERTAIN GYPSUM BOARD FROM
THE UNITED STATES OF AMERICA**

DECISION

Pursuant to paragraph 41(1)(a) of the *Special Import Measures Act*, on December 5, 2016, the Canada Border Services Agency made a final determination of dumping with respect to certain gypsum board originating in or exported from the United States of America, imported into Canada for use or consumption in the provinces of British Columbia, Alberta, Saskatchewan and Manitoba, as well as the Yukon and Northwest Territories.

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

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SUMMARY OF EVENTS

[1] On April 18, 2016, CertainTeed Gypsum Canada Inc. (CertainTeed Canada), Mississauga, Ontario (the complainant) filed a complaint with the Canada Border Services Agency's (CBSA) Trade and Anti-dumping Programs Directorate alleging that imports of certain gypsum board originating in or exported from the United States of America (US), imported into Canada for use or consumption in the provinces of British Columbia, Alberta, Saskatchewan, and Manitoba, as well as the Yukon and Northwest Territories (Western Canada) were being dumped. The complainant alleged that the dumping had caused injury and is threatening to cause injury to the Western Canadian industry producing the like goods.

[2] On May 9, 2016, 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 government of the US that a properly documented complaint had been received.

[3] The complainant provided evidence to support the allegations that certain gypsum board from the US imported into Canada for use or consumption in Western Canada had been dumped. The evidence also disclosed a reasonable indication that the dumping had caused injury and is threatening to cause injury to the Western Canadian industry producing the like goods.

[4] On June 8, 2016, pursuant to subsection 31(1) of SIMA, the CBSA initiated an investigation respecting the dumping of certain gypsum board originating in or exported from the US, imported into Canada for use or consumption in Western Canada.

[5] Upon receiving notice of the initiation of the investigation, the Canadian International Trade Tribunal (CITT) commenced a preliminary injury inquiry, pursuant to subsection 34(2) of SIMA, into whether the evidence discloses a reasonable indication that the alleged dumping of certain gypsum board from the US has caused injury or retardation or is threatening to cause injury to the Western Canadian industry producing the like goods.

[6] On August 5, 2016, pursuant to subsection 37.1(1) of SIMA, the CITT made a preliminary determination that the evidence disclosed a reasonable indication that the dumping of certain gypsum board from the US had caused injury or is threatening to cause injury to the domestic industry.

[7] On September 6, 2016, as a result of the CBSA's preliminary investigation and pursuant to subsection 38(1) of SIMA, the CBSA made a preliminary determination of dumping respecting certain gypsum board originating in or exported from the US, imported into Canada for use or consumption in Western Canada and began imposing provisional duties on imports of the subject goods pursuant to subsection 8(1) of SIMA.

[8] On September 7, 2016, the CITT commenced an inquiry, pursuant to subsection 42(1) of SIMA, to determine whether the dumping of the subject goods has caused injury or retardation or is threatening to cause injury to the domestic industry.

[9] On October 13, 2016, His Excellency the Governor General in Council, on the recommendation of the Minister of Finance, pursuant to section 18 of the *Canadian International Trade Tribunal Act*, referred to the CITT the matter of whether the imposition of provisional duties or duties, applicable to gypsum board imported from the United States for markets in Manitoba, British Columbia, Saskatchewan, Alberta, Yukon and the Northwest Territories, is contrary to Canada's economic, trade or commercial interests, and specifically whether such an imposition has or would have the effect of substantially reducing competition in those markets or causing significant harm to consumers of those goods or to businesses who use them. The CITT was directed to report to the Governor in Council on those matters no later than January 4, 2017, and submit to the Governor in Council, within 15 days after that date, its findings and recommendations on any remedy that could be taken.¹

[10] The CBSA continued its investigation and, on the basis of the results, was satisfied that gypsum board originating in or exported from the US and imported into Canada for use or consumption in Western Canada had been dumped and that the margin of dumping was not insignificant. Consequently, on December 5, 2016, the CBSA made a final determination of dumping pursuant to paragraph 41(1)(a) of SIMA.

[11] The CITT's inquiry into the question of injury to the Canadian industry is continuing. As well, the inquiry into the matter referred to it by His Excellency the Governor General in Council is continuing. Provisional duties will continue to be imposed on the subject goods from the US until the CITT renders its decision. The CITT has announced that it will issue its finding by January 4, 2017.

PERIOD OF INVESTIGATION

[12] The Period of Investigation (POI) covers all subject goods released into Western Canada from January 1, 2015 to December 31, 2015.

PROFITABILITY ANALYSIS PERIOD

[13] The Profitability Analysis Period (PAP) covered domestic sales and costing information for goods sold from October 1, 2014 to December 31, 2015.

¹ <http://www.citt.gc.ca/en/node/7831>.

INTERESTED PARTIES

Complainant

[14] The complainant, CertainTeed Gypsum Canada Inc., operates six gypsum board manufacturing facilities located throughout Canada and is the only producer of gypsum board located in Western Canada, with three manufacturing facilities located in Vancouver, British Columbia, Calgary, Alberta and Winnipeg, Manitoba. As such, the complainant accounts for all domestic production of like goods in Western Canada, as defined in subsection 2(1) of SIMA.

[15] The name and address of the complainant's head office is as follows:

CertainTeed Gypsum Canada Inc.
2424 Lakeshore Road West
Mississauga, Ontario
L5J 1K4

Importers

[16] At the initiation of the investigation, the CBSA identified 36 potential importers of the subject goods based on both information provided by the complainant and CBSA import entry documentation.

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

[18] Supplemental RFIs (SRFI) were sent to three of the importers to gather additional information and seek clarification regarding their original RFI responses.

[19] The CBSA received responses to the SRFIs from the three importers.

Exporters

[20] At the initiation of the investigation, the CBSA identified 25 potential exporters of the subject goods from information provided by the complainant and CBSA import entry documentation. The CBSA sent exporter RFIs to each of the potential exporters in the US.

[21] The CBSA received three substantially complete responses to the exporter RFI from exporters in the US.

[22] SRFIs were sent to these three exporters to gather additional information and seek clarification regarding their original RFI responses. The CBSA received SRFI responses from the three exporters.

PRODUCT INFORMATION

Product Definition

[23] For the purpose of this investigation, subject goods are defined as:

Gypsum board, sheet, or panel (“gypsum board”) originating in or exported from the United States of America, imported into Canada for use or consumption in the provinces of British Columbia, Alberta, Saskatchewan, and Manitoba, as well as the Yukon and Northwest Territories, composed primarily of a gypsum core and faced or reinforced with paper or paperboard, including gypsum board meeting or supplied to meet ASTM C 1396 or ASTM C 1396M or equivalent standards, regardless of end use, edge-finish, thickness, width, or length, excluding (a) gypsum board made to a width of 54 inches (1,371.6 mm); (b) gypsum board measuring 1 inch (25.4 mm) in thickness and 24 inches (609.6 mm) in width regardless of length (commonly referred to and used as “paper-faced shaft liner”); (c) gypsum board meeting ASTM C 1177 or ASTM C 1177M (commonly referred to and used primarily as “glass fiber re-enforced sheathing board” but also sometimes used for internal applications for high mold/moisture resistant applications); (d) double layered glued paper-faced gypsum board (commonly referred to and used as “acoustic board”); and (e) gypsum board meeting ISO16000-23 for sorption of formaldehyde. All dimensions are plus or minus allowable tolerances in applicable standards.

Additional Product Information

[24] For greater certainty, the gypsum board considered to be subject goods includes but is not limited to:

- i. **Abuse-resistant gypsum board** offering greater resistance to surface indentation, abrasion and penetration than standard gypsum board.
- ii. **Eased edge gypsum board**, which has a tapered and slightly rounded or beveled factory edge. It may be used as an aid in custom finishing of joints.
- iii. **Gypsum base** for veneer plaster serves as a base for thin coats of hard, high strength gypsum veneer plaster.
- iv. **Impact-resistant gypsum board** offer greater resistance to the impact of solid objects from high traffic and vandalism than standard gypsum board.
- v. **Mold-resistant gypsum board or Mold and moisture resistant gypsum board** has a mold/moisture resistant gypsum core and paper facing that incorporates various methods of preventing the growth of mold and mildew on the board’s surface.
- vi. **Regular gypsum board** (gypsum wallboard) is used as a surface layer on walls and ceilings.
- vii. **Sag-resistant gypsum board** is a ceiling board that offers greater resistance to sagging than regular gypsum products used for ceilings where framing is typically spaced 24 inches.

- viii. **Type C or Proprietary Type-X gypsum board** is available in 1/2 inch and 5/8 inch thicknesses and is required in some fire rated assemblies. Additional additives give this product improved fire resistive properties.
- ix. **Type X gypsum board** is available in 1/2 inch and 5/8 inch thicknesses and has an improved fire resistance made possible through the use of special core additives. Type X gypsum board is used in most fire rated assemblies.

[25] Gypsum board has long been used as a building material because of its fire-resistant properties. It provides a durable, economical, non-combustible and easily decorated surfacing material for construction use. Gypsum board is the most widely used material for ceilings and interior walls for residential, commercial, and institutional buildings in developed countries. Paper-covered gypsum board is well suited to the application for which it was designed, that is interior non-load bearing construction.

Production Process

[26] The process of gypsum board production does not typically vary substantially between producers. To produce gypsum board (also known as “drywall”), the gypsum rock is subjected to a calcination process in which the rock is crushed and heated to approximately 150°C, drying out roughly 75% of the chemically combined water. Typically, roughly 45 kilograms of gypsum rock contains approximately 8.5 kilograms of water. The resultant calcined gypsum powder (commonly referred to as “plaster of Paris”) is used to produce the core of the board. The core is formed by a slurry of calcined gypsum or “stucco”, water, foam, pulp, starch and optional chemical components to enhance water and/or fire resistance. At this stage, the slurry is forced between two unwinding rolls of absorbent paper resulting in a continuous “sandwich” of wet board resting on a belt line.

[27] As the board moves down the belt line, the calcined gypsum rehydrates to its original crystalline structure while the paper sheets become firmly bonded to the rehydrated core. After moving down the line for approximately 4 to 5 minutes, the continuous “sandwich” is cut to length and moved through dryers to remove excess moisture. The cut boards are moved to an off-loading area where they are bundled, stacked and put into storage or shipped directly to customers.

Classification of Imports

[28] The subject goods are normally classified under the following Harmonized System (HS) classification number:

6809.11.00.10

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

LIKE GOODS AND CLASSES OF GOODS

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

[31] Certain gypsum board produced by the complainant has the same physical characteristics and end uses as the subject goods imported from the US. The goods produced in Western Canada and the US are fully interchangeable when manufactured to industry standards and specifications. Subject goods from the US 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 gypsum board 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.

[32] In its preliminary injury inquiry, the CITT also found that subject goods and like goods constitute only one class of goods.²

THE CANADIAN INDUSTRY

[33] As previously stated, the complainant accounts for all domestic production of like goods in Western Canada.

[34] In addition to CertainTeed Canada, there are three other Canadian producers of gypsum board; CGC Inc. (CGC), Atlantic Wallboard Limited Partnership and Cabot Gypsum Company. Besides CertainTeed Canada, none of these companies have gypsum board manufacturing facilities located in Western Canada. The manufacturing facilities are located in the provinces of Ontario, Quebec, New Brunswick and Nova Scotia.

IMPORTS INTO CANADA

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

² CITT Preliminary Injury Inquiry No. PI-2016-001.

[36] The following table presents the CBSA's analysis of imports of gypsum board into Western Canada for purposes of the final determination:

Import Volumes of Gypsum Board

Country	January 1, 2015 to December 31, 2015
United States	99.99%
All Other Countries	0.01%
Total Imports	100.0%

INVESTIGATION PROCESS

[37] Regarding the investigation, information was requested from all known and potential exporters, producers, vendors and importers, concerning shipments of gypsum board released into Western Canada during the POI.

[38] After reviewing the responses to the RFIs, supplemental RFIs were sent to responding parties to clarify information provided in the submissions and request any additional information considered necessary for the investigation.

[39] Details pertaining to the information submitted by the exporters and producers in response to the exporter RFI as well as the results of the CBSA's dumping investigation are provided in the following "Dumping Investigation" section of this document.

[40] As part of the final stage of the investigation, case briefs and reply submissions were provided by counsel representing the complainant, exporters and their related importers. Details of all representations are provided in **Appendix 1**.

DUMPING INVESTIGATION

[41] The CBSA received substantially complete responses to the exporter RFI from three exporters of the subject goods located in the US.³

[42] The three exporters in the US are: CertainTeed Gypsum and Ceilings Manufacturing, Inc. (CertainTeed US), Georgia-Pacific Gypsum LLC (GP USA) and United States Gypsum Company (USG).

³ Exhibits 45 (NC), 46 (NC), 43 (PRO), 44 (NC), 47 (PRO) and 59 (NC).

[43] All three US exporters have corresponding related importers in Canada, which also provided substantially complete responses to the importer RFI. Those importers are CertainTeed Canada, Georgia-Pacific Canada LP (GP Canada) and CGC.⁴

[44] Two other importers, namely, James Valley Colony Farms Ltd. and Sexton Group Ltd., provided limited responses to the importer RFI.⁵

[45] On-site verifications of RFI responses were conducted at the premises of two of the US exporters and one of the Canadian importers during the final phase of the investigation, while one exporter and importer were verified through a desk audit.

Normal Values

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

[47] Where, in the opinion of the CBSA, sufficient information has not been furnished or is not available, normal values are determined pursuant to a ministerial specification in accordance with subsection 29(1) of SIMA.

[48] Where sufficient information was provided by the responding exporters, normal values were determined pursuant to section 15 or paragraph 19(b) of SIMA. Where sufficient information was not provided by the responding exporters for certain products, normal values were determined pursuant to subsection 29(1) of SIMA.

[49] For those exporters that did not respond to the exporter RFI, the normal values of the goods were determined pursuant to subsection 29(1) of SIMA.

Export Prices

[50] The export price of the goods sold to the importers in Canada is generally based on the lesser of the adjusted exporter's selling price or the adjusted importer's purchase price. These prices are adjusted, where necessary, by deducting the costs, charges, expenses, duties and taxes resulting from the exportation of the goods as provided for in subparagraphs 24(a)(i) to 24(a)(iii) of SIMA.

⁴ Exhibits 29 (PRO), 30 (NC), 31 (PRO), 32 (NC), 25 (PRO) and 26 (NC).

⁵ Exhibits 33 (NC), 36 (PRO) and 37 (NC).

[51] Where there are sales between associated persons or a compensatory arrangement exists, the export price may be determined based on the importer's resale price of the imported goods in Canada to non-associated purchasers, less deductions for all costs incurred in preparing, shipping and exporting the goods to Canada that are additional to those incurred on the sales of like goods for use in the country of export, all costs that are incurred in reselling the goods (including duties and taxes) or associated with the assembly of the goods in Canada and an amount representative of the average industry profit in Canada, pursuant to paragraphs 25(1)(c) and 25(1)(d) of SIMA. In any cases not provided for under paragraphs 25(1)(c) and 25(1)(d) of SIMA, the export price is determined in such a manner as the Minister specifies, pursuant to paragraph 25(1)(e).

[52] Where, in the opinion of the CBSA, sufficient information has not been furnished or is not available, export prices are determined pursuant to a ministerial specification under subsection 29(1) of SIMA.

Margin of Dumping

[53] The CBSA determined a margin of dumping for each of the exporters by comparing the total normal value with the total export price of the goods. When the total export price was less than the total normal value, the difference was the margin of dumping for that specific exporter.

[54] The determination of the volume of dumped goods was calculated by taking into consideration each exporter's net aggregate dumping results. If it was determined that an exporter was dumping on an overall or net basis, then the total quantity of exports attributable to that exporter (i.e. 100%) was considered to have been dumped. Similarly, if an exporter's net aggregate dumping results were zero, then the total quantity of exports considered to have been dumped by that exporter was zero.

[55] In determining the margin of dumping for the country, the margin of dumping found in respect of each exporter was weighted according to each exporter's volume of subject goods released into Western Canada during the POI.

[56] Details relating to the margin of dumping for each of the exporters are presented in a summary table in **Appendix 2**, while the margin of dumping for the US can be found in a summary table at the end of this section.

Results of the Dumping Investigation

CertainTeed Gypsum and Ceilings Manufacturing, Inc.

[57] CertainTeed Gypsum and CertainTeed US is a manufacturer and exporter of subject goods. The company is a subsidiary of CertainTeed Gypsum and Ceiling USA, Inc. During the POI, the subject goods were shipped from the company's facility in Carrollton, Kentucky. All of CertainTeed US's exports to Canada were sold to a related importer, CertainTeed Canada.

[58] CertainTeed US and CertainTeed Canada provided sufficient information in response to the CBSA's RFIs. SRFIs were sent to CertainTeed US and CertainTeed Canada to gather additional information and seek clarification regarding their original RFI responses. The responses were reviewed in detail and the information provided by the exporter and importer was verified through a desk audit.

[59] CertainTeed US had domestic sales of like goods during the POI. As there were sufficient profitable sales of like goods, normal values were calculated in accordance with section 15 of SIMA, using the domestic prices of gypsum board in the US market.

[60] Due to the relationship between CertainTeed US and CertainTeed Canada, a reliability test was performed to determine whether the section 24 export prices were reliable as envisaged by SIMA. This test was conducted by comparing the weighted average of the export prices determined under section 24 of SIMA, based on the lesser of the exporter's selling prices and the importer's purchase prices, with the weighted average of the export prices determined under paragraph 25(1)(e) of SIMA. The export prices were determined in such a manner as the Minister specifies, pursuant to paragraph 25(1)(e), since they could not be determined as provided for under paragraphs 25(1)(c) and 25(1)(d) of SIMA for CertainTeed Canada.

[61] The export prices determined under paragraph 25(1)(e) were based on the importer's resale prices of the imported goods to unrelated purchasers in Western Canada less deductions for all costs incurred in preparing, shipping and exporting the goods to Western Canada that were additional to those incurred on sales of like goods for use in the country of export, all costs included in the resale prices that were incurred in reselling the goods in Western Canada (including duties and taxes) and an amount representative of the average industry profit in Western Canada. The amount for profit used for the section 25 export price calculations was based on sales of goods of the same general category in Western Canada in accordance with paragraph 22(b) of the *Special Import Measures Regulations* (SIMR), based on the information relating to vendors that operated at a profit during the POI in Canada. The CBSA considered other paper-faced gypsum board to be goods of the same general category.

[62] The analysis revealed that the export prices calculated in accordance with section 24 of SIMA were unreliable. Therefore, export prices for the purposes of the final determination were calculated in accordance with a ministerial specification pursuant to paragraph 25(1)(e) of SIMA employing the methodology described above.

[63] For the final determination, the total normal value compared with the total export price results in a margin of dumping of 211.0% for CertainTeed US, expressed as a percentage of export price.

Georgia-Pacific Gypsum LLC

[64] GP USA is a manufacturer and exporter of subject goods and its head office is located in Atlanta, Georgia. All of GP USA's exports to Canada were sold to a related importer, GP Canada.

[65] GP USA and GP Canada provided sufficient information in response to the CBSA's RFIs. SRFIs were sent to GP USA and GP Canada to gather additional information and seek clarification regarding their original RFI responses. Officers of the CBSA met with representatives of GP USA and GP Canada at their offices in the United States, to verify information provided by both GP USA and GP Canada.

[66] GP USA had domestic sales of like goods during the POI. Where there were sufficient profitable sales of like goods, normal values were calculated in accordance with section 15 of SIMA, using the domestic prices of gypsum board in the US market. Where there were insufficient profitable domestic sales of like goods or where there were no domestic sales of like goods, normal values were calculated in accordance with paragraph 19(b) of SIMA, based on the aggregate of the cost of production of the goods, an amount for administrative, selling and all other costs, and a reasonable amount for profits pursuant to subparagraphs 11(1)(b)(ii) and 11(1)(c)(i) of the SIMR.

[67] A very small amount of subject goods exported by GP USA could not have a normal value calculated under section 15 or paragraph 19(b) because the costing and domestic sales information for those goods was not provided by the exporter. As a result, the normal value for those subject goods was determined using the ministerial specification in accordance with subsection 29(1) of SIMA based on the methodology described in the section below entitled "All Other Exporters".

[68] Due to the relationship between GP USA and GP Canada, a reliability test was performed to determine whether the section 24 export prices were reliable as envisaged by SIMA. This test was conducted by comparing the export prices determined under section 24 of SIMA, based on the lesser of the exporter's selling prices and the importer's purchase prices, with the export prices determined under section 25 of SIMA.

[69] For a portion of the sales, the section 24 export prices were compared to the export prices determined under paragraph 25(1)(c) based on the importer's resale prices of the imported goods to unrelated purchasers in Western Canada less deductions for all costs incurred in preparing, shipping and exporting the goods to Western Canada that were additional to those incurred on sales of like goods for use in the country of export, all costs included in the resale prices that were incurred in reselling the goods in Western Canada (including duties and taxes) and an amount representative of the average industry profit in Western Canada.

[70] For the remaining sales, the monthly weighted averages of the section 24 export prices were compared to the monthly weighted averages of the export prices determined under paragraph 25(1)(e). The export prices were determined in such a manner as the Minister specifies, pursuant to paragraph 25(1)(e), since they could not be determined as provided for under paragraphs 25(1)(c) and 25(1)(d) of SIMA for GP US. The export prices determined under paragraph 25(1)(e) were based on the importer's resale prices of the imported goods to unrelated purchasers in Western Canada less deductions for all costs incurred in preparing, shipping and exporting the goods to Western Canada that were additional to those incurred on sales of like goods for use in the country of export, all costs included in the resale prices that were incurred in reselling the goods in Western Canada (including duties and taxes) and an amount representative of the average industry profit in Western Canada.

[71] The amount for profit used for the section 25 export price calculations was based on sales of goods of the same general category in Western Canada in accordance with paragraph 22(b) of the SIMR, based on the information relating to vendors that operated at a profit during the POI in Canada. The CBSA considered other paper-faced gypsum board to be goods of the same general category.

[72] The test revealed that the export prices determined in accordance with section 24 of SIMA were unreliable. Therefore, export prices for sales to GP Canada were determined in accordance with paragraph 25(1)(c) or a ministerial specification pursuant to paragraph 25(1)(e) of SIMA employing the methodology described above, as appropriate.

[73] For the final determination, the total normal value compared with the total export price results in a margin of dumping of 94.6% for GP USA, expressed as a percentage of export price.

United States Gypsum Company

[74] USG is a manufacturer and exporter of subject goods and its head office is located in Chicago, Illinois, US. All of USG's exports to Canada were sold to a related importer in Western Canada, CGC. CGC and USG are both wholly owned subsidiaries of USG Corporation.

[75] Both USG and CGC provided sufficient information in response to the CBSA's RFIs. SRFIs were sent to USG and CGC to gather additional information and seek clarification regarding their original RFI responses. Officers of the CBSA met with representatives of USG and CGC at their offices in Chicago, Illinois and Mississauga, Ontario and one of their production facilities in the US, to verify information provided by the two companies.

[76] USG had domestic sales of like goods during the POI. Where there were sufficient profitable sales of like goods, normal values were calculated in accordance with section 15 of SIMA, using the domestic prices of gypsum board in the US market. Where there were insufficient profitable domestic sales of like goods or where there were no domestic sales of like goods, normal values were calculated in accordance with paragraph 19(b) of SIMA, based on the aggregate of the cost of production of the goods, an amount for administrative, selling and all other costs, and a reasonable amount for profits pursuant to subparagraphs 11(1)(b)(ii) and 11(1)(c)(i) of the SIMR.

[77] A very small amount of subject goods exported by USG could not have a normal value calculated under section 15 or paragraph 19(b) because the costing and domestic sales information for those goods was not provided by the exporter. As a result, the normal value for those subject goods was determined using the ministerial specification in accordance with subsection 29(1) based on the methodology described in the section below entitled "All Other Exporters".

[78] Due to the relationship between USG and CGC, a reliability test was performed to determine whether the section 24 export prices were reliable as envisaged by SIMA. This test was conducted by comparing the monthly weighted averages of the export prices calculated under section 24 of SIMA for each product exported to Western Canada with the monthly weighted averages of the export prices for each product resold in Western Canada, which were calculated in accordance with paragraph 25(1)(e) of SIMA. The export prices were determined in such a manner as the Minister specifies, pursuant to paragraph 25(1)(e), since they could not be determined as provided for under paragraphs 25(1)(c) and 25(1)(d) of SIMA for USG.

[79] The export prices determined under paragraph 25(1)(e) were based on the importer's resale prices of the imported goods to unrelated purchasers in Western Canada less deductions for all costs incurred in preparing, shipping and exporting the goods to Western Canada that were additional to those incurred on sales of like goods for use in the country of export, all costs included in the resale prices that were incurred in reselling the goods in Western Canada (including duties and taxes) and an amount representative of the average industry profit in Western Canada.

[80] The amount for profit used for the section 25 calculations was based on sales of goods of the same general category in Western Canada in accordance with paragraph 22(b) of the SIMR, based on the information relating to vendors that operated at a profit during the POI in Canada. The CBSA considered other paper-faced gypsum board to be goods of the same general category.

[81] The test revealed that the export prices determined in accordance with section 24 of SIMA were unreliable. Therefore, export prices for sales made by USG to CGC were determined in accordance with a ministerial specification under paragraph 25(1)(e) of SIMA employing the methodology described above.

[82] For the final determination, the total normal value compared with the total export price results in a margin of dumping of 201.0% for USG, expressed as a percentage of export price.

All Other Exporters

[83] At the initiation of the investigation, all known and potential exporters were sent an exporter RFI in order to solicit information required for purposes of determining normal values and export prices of subject goods in accordance with the provisions of SIMA. As such, all exporters were given the opportunity to participate in the investigation. In the RFI, the exporters were notified that failure to submit all required information and documentation, including non-confidential versions, or failure to permit verification of any information, may result in the normal values of the subject goods exported by their company being based on the facts available. It was further stated that such a decision would be less favourable to their company than if complete and verifiable information were made available.

[84] Where, in the opinion of the CBSA, sufficient information regarding the subject goods was not provided, normal values and export prices were determined under a ministerial specification pursuant to subsection 29(1) of SIMA on the basis of facts available. In establishing the methodology for determining normal values and export prices under the ministerial specification, the CBSA examined all information on the record, including information from the complaint, information provided by exporters, publicly available information and customs documentation.

[85] The CBSA considered that the normal values and export prices determined for the exporters where sufficient information was provided, rather than the information provided in the complaint, was the best information on which to base the methodology for determining normal values under the ministerial specification since it reflects exporters' trading practices during the POI. The CBSA examined the difference between the normal value and export price of each individual transaction for the exporters where sufficient information was provided in order to obtain an appropriate amount for the normal value methodology. The transactions were also examined to ensure that anomalies were not considered; such anomalies can include low volume shipments, very low value sales, effects of seasonality or other business or environmental factors.

[86] In its analysis, the CBSA identified and excluded from consideration multiple anomalies where the normal value exceeded the export price by an amount higher than what was used for the ministerial specification. The amounts were considered anomalous as the transactions were for low volumes.

[87] The CBSA considers the highest amount by which the normal value exceeded the export price (excluding anomalies) found on an individual transaction (expressed as a percentage of the export price), as an appropriate basis for determining normal values for all other exporters. This method of determining normal values is based on information on the record and limits the advantage that an exporter may gain from not providing necessary information requested in a dumping investigation as compared to an exporter that did provide the necessary information.

[88] Therefore, the normal values for all other exporters were determined under a ministerial specification pursuant to subsection 29(1) of SIMA, based on the export price as determined under section 24, 25 or 29 of SIMA, plus an amount equal to 324.1% of that export price.

[89] The CBSA considered that the information submitted on the CBSA customs entry documentation was the best information on which to determine the export price of the goods as it reflects actual import data. This information is more comprehensive than what was available in the complaint.

[90] Based on the above methodologies, the subject goods exported to Canada by all other exporters were found to be dumped by a margin of dumping of 324.1%, expressed as a percentage of the export price.

Summary of Results

[91] A summary of the results of the dumping investigation respecting all subject goods released into Western Canada during the POI follows:

Summary of Results
Period of Investigation (January 1, 2015 to December 31, 2015)

Country	Volume of Dumped Goods as Percentage of Country Imports	Margin of Dumping*	Volume of Dumped Goods as Percentage of Total Imports
United States	100%	184.6%	99.9%

* Expressed as a percentage of the export price.

[92] Under paragraph 41(1)(a) of SIMA, the CBSA shall make a final determination of dumping when it is satisfied that the goods have been dumped and that the margin of dumping of the goods of a country is not insignificant. Pursuant to subsection 2(1) of SIMA, a margin of dumping of less than 2% of the export price of the goods is defined as insignificant.

[93] The margin of dumping for gypsum board from the US is above 2% of the export price of the goods and is, therefore, not insignificant.

DECISION

[94] On the basis of the results of the dumping investigation, the CBSA is satisfied that gypsum board originating in or exported from the United States of America has been dumped into Western Canada and that the margin of dumping is not insignificant. Consequently, on December 5, 2016, the CBSA made a final determination of dumping pursuant to paragraph 41(1)(a) of SIMA.

FUTURE ACTION

[95] The provisional period began on September 6, 2016, and will end on the date the CITT issues its finding. The CITT has announced it will issue its decision by January 4, 2017. Subject goods imported during the provisional period will continue to be assessed provisional duties as determined at the time of the preliminary determination. For further details on the application of provisional duties, refer to the *Statement of Reasons* issued for the preliminary determination, which is available through the CBSA's website at: www.cbsa-asfc.gc.ca/sima-lmsi/menu-eng.html.

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

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

[98] The importer in Canada shall pay all applicable duties. If the importers of such goods do not indicate the required SIMA code or do not correctly describe the goods in the customs documents, an administrative monetary penalty (AMP) could be imposed. The provisions of the *Customs Act* apply with respect to the payment, collection or refund of any duty collected under SIMA.⁶ As a result, failure to pay duty within the prescribed time will result in the application of interest.

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

[100] Exporters of subject goods who did not provide sufficient information in the investigation will have normal values established by advancing the export price by 324.1% based on a ministerial specification pursuant to subsection 29(1) of SIMA. Anti-dumping duty will apply based on the amount by which the normal value exceeds the export price of the subject goods.

[101] For purposes of the preliminary determination of dumping, the CBSA is responsible for determining whether the actual and potential volume of goods is negligible. After the preliminary determination of dumping, in accordance with subsection 42(4.1) of SIMA, the CITT is required to terminate its inquiry in respect of any goods if the CITT determines that the volume of dumped goods from a country is negligible.

⁶ *Customs Act* R.S.C. 1985.

RETROACTIVE DUTY ON MASSIVE IMPORTATIONS

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

PUBLICATION

[103] A notice of the final determination of dumping will be published in the *Canada Gazette* pursuant to paragraph 41(3)(a) of SIMA.

INFORMATION

[104] This *Statement of Reasons* has been provided to persons directly interested in this proceeding. 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
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Telephone: Richard Pragnell 613-954-0032
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E-mail: simaregistry@cbsa-asfc.gc.ca

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Brent McRoberts
Director General

Trade and Anti-dumping Programs Directorate

ATTACHMENTS

1. Appendix 1 - Representations
2. Appendix 2 - Summary of Margins of Dumping

APPENDIX 1 – REPRESENTATIONS

Case briefs were received on behalf of:

- CertainTeed Gypsum Canada Inc. (CertainTeed Canada);⁷
- USG Inc. (USG) and CGC Inc. (CGC), exporter/importer;⁸
- Georgia-Pacific Gypsum LLC (GP USA) and Georgia-Pacific Canada LP (GP Canada), exporter/importer (collectively “GP”).⁹

Reply submissions were received on behalf of:

- CertainTeed Canada¹⁰

Certain details provided in case briefs and reply submissions were designated as confidential information by the submitting counsel. Consequently, this public *Statement of Reasons* does not disclose or discuss parts of representations where such a designation was made.

The material issues raised by parties in their non-confidential case briefs are summarized below along with the Canada Border Services Agency’s (CBSA) consideration of and response to those arguments.

Calculation of Normal Values – Discounts and Rebates

In their case brief, counsel for GP made representations concerning the industry practice of granting discounts and rebates in the United States of America’s (US) domestic market and submitted that these amounts should be deducted from gross selling prices in the calculation of normal values.

Counsel for GP argued that the requirements under section 6 of the *Special Import Measures Regulations* (SIMR) have been met, namely that the discounts/rebates were generally granted and the importer in Canada would qualify for them if they were a customer in the domestic market of the exporter. As such, GP USA’s normal values “should be adjusted accordingly”.¹¹

Similarly, counsel for USG stated that the net price the goods are sold for in the US domestic market should be the price used for determining normal values, which is net of all discounts and rebates. USG made arguments in relation to the manner in which the goods are sold in this industry and that “the core of this pricing system is the granting of rebates.”¹²

⁷ Exhibit 151 (NC) – CertainTeed Canada Case Brief.

⁸ Exhibit 153 (NC) – GP Case Brief.

⁹ Exhibit 155 (NC) – USG & CGC Case Brief.

¹⁰ Exhibit 157 (NC) – CertainTeed Canada Reply Submissions.

¹¹ Exhibit 153 (NC) – GP Case Brief, paragraph 13.

¹² Exhibit 155 (NC) – USG & CGC Case Brief, paragraphs 5-7.

CBSA's Response

With regards to adjusting domestic selling prices for rebates and discounts under section 6 of the SIMR in establishing normal values, the CBSA acknowledges that the manner in which these rebates and discounts are packaged and granted to customers within the US gypsum market is relevant in considering whether they are "generally granted".

The information provided indicates that the industry offers rebates and discounts to customers in the US that often have slight variations in how they are calculated or when they are settled. Therefore, what might appear to be several different rebate or discount "programs" are in reality the same program calculated and provided in a slightly different manner. Consequently, the CBSA largely considered these rebates and discounts collectively rather than separately in evaluating whether rebates and discounts were "generally granted" in the domestic market.

The CBSA was satisfied with the information and explanations provided by USG and GP. The CBSA concluded that it was appropriate to deduct these amounts from domestic selling prices in accordance with section 6 of the SIMR.

Calculation of Normal Values – Trade Level

In their case brief, counsel for GP argued that "GP USA's sales of gypsum board to GP Canada are not comparable to GP USA's sales to its US customers and that GP USA's external sales staff do not call upon or directly support sales to GP Canada as they do for US distributors and major US retailers."¹³

As such, counsel for GP stated that an adjustment should be made to the selling prices of GP USA's gypsum board under section 9 of the SIMR, to reflect the fact that GP Canada is not at the same trade level as US customers.

In their case brief, counsel for USG also argued that a trade level adjustment was merited to reflect "differences between a sale to USG's domestic US customers and sales to CGC to whom USG does not provide similar services such as SG&A."¹⁴

CBSA's Response

Where the normal values for GP and USG were calculated on the basis of domestic sales of like goods, those sales were to purchasers who were at the same or substantially the same trade level as the importer in Canada, as provided for in subparagraph 15(a)(ii) of the *Special Import Measures Act* (SIMA).

A substitution of purchasers was not required in calculating normal values and as such, a trade level adjustment under section 9 of the SIMR was not warranted.

¹³ Exhibit 153 (NC) – GP Case Brief, paragraph 18.

¹⁴ Exhibit 155 (NC) – USG & CGC Case Brief, paragraphs 22 and 23.

Calculation of Export Prices – Section 25 Reliability Test

In their case brief, counsel for CertainTeed Canada expressed concern that the CBSA may double-count certain expenses when performing the export price reliability test. The company indicated that certain expenses were already allocated in the database respecting resales in Canada and thus should not be deducted again via information from the company's income statement.¹⁵

In their case brief, counsel for GP pointed to information on the record which they allege demonstrates that the export price as determined under section 24 is reliable.¹⁶ Counsel provided a detailed deductive methodology to calculate export prices under section 25 for comparison with the section 24 export prices.

In particular, counsel for GP advocated that the amount for profit used for the export price reliability test be based on the combination of "other" paper-faced and non-paper-faced gypsum board, which are categories 2 and 3 respectively in the CBSA's profit survey.

Counsel stated that these categories, when combined, form "the same general category" as the subject goods, and the use of these categories combined is more representative and reliable than looking at them in isolation.¹⁷

In reply submissions, counsel for CertainTeed Canada argued that the only appropriate basis for calculating an amount for profit is under category 2 of the profit survey. Counsel submitted that categories 1, 2 and 3 of the CBSA's profit survey follow the hierarchy of section 22 of the SIMR. As such, category 2 corresponds to paragraph 22(b) of the SIMR as "goods of the same general category". Since paragraph 22(a) of the SIMR cannot be used, counsel argued that this becomes the next option under the hierarchy of section 22 of the SIMR.¹⁸

Counsel for CertainTeed Canada also rebutted arguments from GP in regards to the reliability of GP's export price under section 24 of SIMA. In relation to information provided by GP, counsel for CertainTeed Canada stated that "there is reason to doubt the accuracy of the data presented...most notably because it is unclear."¹⁹

¹⁵ Exhibit 151 (NC) – CertainTeed Canada Case Brief.

¹⁶ Exhibit 153 (NC) – GP Case Brief, paragraphs 24-63.

¹⁷ Exhibit 153 (NC) – GP Case Brief, paragraph 36.

¹⁸ Exhibit 157 (NC) – CertainTeed Canada Reply Submissions, paragraphs 5-7.

¹⁹ Exhibit 157 (NC) – CertainTeed Canada Reply Submissions, paragraph 11.

CBSA's Response

The CBSA determined export prices as described above in the section entitled "Results of the Dumping Investigation". In determining normal values under section 25 of SIMA, the CBSA made appropriate deductions from the resale prices and ensured that no factor was double-counted or over-allocated. Details of the results of these reliability tests were communicated to the respective importers and their associated exporters in the ruling letters issued on December 5, 2016.

In regards to the industry amount for profit, the CBSA based this amount on category 2 of the CBSA's profit survey, which are "other" paper-faced gypsum products. These products can reasonably be considered to be goods of the same general category under paragraph 22(b) of the SIMR because they have comparable characteristics to the like goods.

APPENDIX 2 – SUMMARY OF MARGINS OF DUMPING

Exporters	Margin of Dumping*
CertainTeed Gypsum and Ceiling Manufacturing Inc.	211.0%
United States Gypsum Company	201.0%
Georgia-Pacific Gypsum LLC	94.6%
All other exporters	324.1%

* expressed as a percentage of the export price.

NOTE: The margins of dumping reported in the table above are the margins determined by the CBSA for purposes of the final determination of dumping. These margins do not reflect the amount of anti-dumping duty to be levied on future importations of dumped goods. In the event of an injury finding by the Canadian International Trade Tribunal, normal values for future shipments to Canada have been provided to the exporters that provided sufficient information to the CBSA during the dumping investigation. These normal values would come into effect the day after an injury finding. Imports from exporters/producers that did not provide sufficient information to the CBSA during the dumping investigation and who are not specifically named in the table above will be subject to the All Other Exporters anti-dumping duty rate of 324.1%. Please consult the [SIMA Self-Assessment Guide](#) for more detailed information explaining how to determine the amount of SIMA duties owing.

ANNEXE 2 – TABLEAU SOMMAIRE DES MARGES DE DUMPING

Exportateurs	Marge de dumping*
CertainTeed Gypsum and Ceiling Manufacturing Inc.	211,0 %
United States Gypsum Company	201,0 %
Georgia-Pacific Gypsum LLC	94,6 %
Tous les autres	324,1 %

* en pourcentage du prix à l'exportation.

REMARQUE : Les marges de dumping ci-dessus sont celles que l'ASFC a établies pour sa décision définitive sur le dumping, sans égard au montant des droits antidumping qui seront perçus sur les importations futures de marchandises sous-évaluées. Au cas où le Tribunal canadien du commerce extérieur conclurait à l'existence d'un dommage, des valeurs normales pour les expéditions futures vers le Canada ont été communiquées aux exportateurs ayant donné une réponse complète à l'ASFC dans son enquête en dumping; ces valeurs normales entreraient en vigueur le lendemain de la conclusion de dommage. Les importations provenant d'exportateurs ou de producteurs n'ayant pas donné de réponse complète à l'ASFC dans l'enquête en dumping, et ne figurant pas dans le tableau ci-dessus, seront assujetties au taux de droits antidumping pour tous les « autres » exportateurs, soit 324,1 %. Pour en savoir plus sur comment calculer le montant des droits LMSI exigibles, veuillez consulter le Guide d'autocotisation LMSI.