



OTTAWA, March 13, 2009

STATEMENT OF REASONS

Concerning the initiation of an investigation into the dumping of

**CERTAIN WATERPROOF RUBBER FOOTWEAR
ORIGINATING IN OR EXPORTED FROM
THE PEOPLE'S REPUBLIC OF CHINA AND CERTAIN WATERPROOF RUBBER
AND/OR PLASTIC FOOTWEAR ORIGINATING IN OR EXPORTED FROM
VIETNAM**

DECISION

Pursuant to subsection 31(1) of the *Special Import Measures Act*, the President of the Canada Border Services Agency initiated an investigation on February 27, 2009, respecting the alleged injurious dumping of waterproof footwear and waterproof footwear in nearly finished form, constructed wholly or in part of rubber and/or thermoplastic rubber (TPR), originating in or exported from the People's Republic of China and of waterproof footwear and waterproof footwear in nearly finished form, constructed wholly or in part of rubber, thermoplastic rubber (TPR) and/or plastic, originating in or exported from Vietnam.

Cet Énoncé des motifs est également disponible en français. Veuillez consulter la section « Information ».
This Statement of Reasons is also available in French. Please refer to the "Information" section.

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SUMMARY

[1] On January 8, 2009, the Canada Border Services Agency (CBSA) received a complaint from The Shoe Manufacturers' Association of Canada (SMAC) of Baie d'Urfé, Quebec. The complaint alleges that imports into Canada of certain waterproof rubber footwear originating in or exported from the People's Republic of China (China) and certain waterproof rubber and/or plastic footwear originating in or exported from Vietnam are being dumped and causing injury to the Canadian industry.

[2] On January 29, 2009, pursuant to subsection 32(1) of the *Special Import Measures Act* (SIMA), the CBSA informed SMAC that the complaint was properly documented. The CBSA also notified the governments of China and Vietnam that the CBSA had received a properly documented complaint.

[3] The complainant provided evidence to support the allegations that certain waterproof rubber footwear from China and certain waterproof rubber and/or plastic footwear from Vietnam have been dumped. The evidence also discloses a reasonable indication that the dumping has caused injury or is threatening to cause injury to the Canadian industry producing these goods.

[4] On February 27, 2009, pursuant to subsection 31(1) of SIMA, the President of the CBSA (President) initiated an investigation respecting the dumping of certain waterproof rubber footwear from China and certain waterproof rubber and/or plastic footwear from Vietnam.

BACKGROUND

[5] SMAC has filed several footwear complaints in the past on behalf of Canadian footwear producers. There is currently one Canadian International Trade Tribunal (CITT) order in place respecting waterproof footwear from China. This order (RR-2004-008) covering certain waterproof footwear and bottoms of plastic or rubber will remain in effect until December 6, 2010. The new complaint does not cover goods subject to this order (RR-2004-008).

INTERESTED PARTIES

Complainant

[6] SMAC submitted the complaint on behalf of its members who produce waterproof footwear of plastic and/or rubber. The name and the address of the complainant is:

The Shoe Manufacturers' Association of Canada
90 Morgan Road
Suite 203
Baie d'Urfé, QC
H9X 3A8

Exporters

[7] The CBSA has identified 2,340 potential exporters of subject goods from Customs import documentation and from the complaint.

Importers

[8] The CBSA has identified 1,637 potential importers of the subject goods from Customs import documentation and from the complaint.

PRODUCT INFORMATION

Definition

[9] For the purpose of this investigation:

The subject goods originating in or exported from the People's Republic of China are defined as:

Waterproof footwear and waterproof footwear in nearly finished form, constructed wholly or in part of rubber and/or thermoplastic rubber (TPR), originating in or exported from the People's Republic of China. The distinctive feature of waterproof footwear is that both the sole portion and a portion of the upper, sufficient to give waterproof protection to the foot, are incorporated in a waterproof component which may be made of rubber or TPR. The goods subject to this investigation include waterproof footwear worn over the foot constructed to various heights, and waterproof footwear made of waterproof footwear bottoms combined with tops made of textiles or other materials. They may be constructed with or without liners, linings, fasteners or safety features.

Excluded from the definition of subject goods are ski boots; skating boots; and goods covered in the current CITT order number RR-2004-008, namely, snowmobile boots; rubber-bottom leather-top boots; all-rubber riding boots for equestrian purposes; and rubber "safety footwear" defined as footwear that meets safety standards established by the Canadian Standards Association.

The subject goods originating in or exported from Vietnam are defined as:

Waterproof footwear and waterproof footwear in nearly finished form, constructed wholly or in part of rubber, thermoplastic rubber (TPR) and/or plastic, originating in or exported from Vietnam. The distinctive feature of waterproof footwear is that both the sole portion and a portion of the upper, sufficient to give waterproof protection to the foot, are incorporated in a waterproof component which may be made of rubber, TPR and/or plastic. The goods subject to this investigation include waterproof footwear worn over the foot constructed to various heights, and waterproof footwear made of waterproof footwear bottoms combined with tops made of leather, textiles or other materials. They may be constructed with or without liners, linings, fasteners or safety features.

Excluded from the definition of subject goods are ski-boots and skating boots.

Additional Product Information¹

[10] Waterproof footwear described as “waterproof rubber footwear” is produced, wholly or in part of natural rubber and/or synthetic rubber, by vulcanization, injection moulding, cementing or other processes. The term synthetic rubber includes TPR.

[11] Waterproof footwear described as “waterproof plastic footwear” is constructed wholly or in part of plastic. It is made from plastic resins by injection moulding or other processes. The term “plastic” includes polyvinyl chloride (PVC), polyurethane (PU), ethylene vinyl acetate (EVA) and other plastics. PVC is the plastic most commonly used to date in this class of footwear.

[12] Waterproof bottoms are boat-like components intended for incorporation in finished waterproof footwear. Waterproof bottoms are normally produced through vulcanization, injection-moulding and/or cementing processes. The waterproof bottom can consist of rubber, TPR, plastic or any combination of these materials. Where more than one of these materials is used in the waterproof bottom, the material with the greatest surface area will be considered as the defining material for the waterproof bottom.

[13] A “Top” refers to the component which is attached to a waterproof bottom by stitching or other means.

[14] A “waterproof footwear in nearly finished form” includes footwear that can be rendered waterproof by the insertion of a plug, flap, etc. in or near the sole. In addition, footwear that incorporates decorative stitching near the sole in the moulded or vulcanized boat-like component of the footwear is considered to be subject goods.

[15] Waterproof footwear includes footwear worn over the foot, with or without liners, linings, fasteners or safety features. These include red sole rubber boots, rain boots, hunting and fishing boots. In certain styles, such as duck shoes or winter boots, a boat-like (or shell-like) waterproof bottom may have trimmings, attachments, liners, collars or tops of synthetic or natural fabric, leather or imitation leather, or other materials.

[16] For purposes of this complaint, over-the-shoe rubbers or overshoes are not considered to be subject goods.

[17] The product range of subject goods includes footwear manufactured for men, women, youth, and children.

[18] For purposes of this complaint, “*waterproof*” is defined as follows:

If the exterior of the bottom is partially submerged in water for a period of 24 hours, and water is not detected on the inside surface of the footwear, the sample is considered waterproof.

¹ Based on the complaint.

Production Process²

[19] Waterproof rubber footwear or a waterproof bottom may be produced by injection moulding or by the traditional method of cutting sheets of rubber and assembling them either by cementing and/or vulcanizing; or a combination of these processes. Waterproof footwear may also be produced in combination with the stitched-product process. The combined stitched-product process would produce, for example, a rubber bottom, nylon-top or other synthetic fabric top, or leather top winter boot.

[20] With the injection-moulding process, a granulated chemical compound of TPR or plastic is heated and injected into steel moulds installed in moulding machines. Each mould dictates the size, style and number of colours of a moulded item. The compound is fed from a hopper into a heated barrel and a screw inside the barrel then injects the molten compound into a mould. The resulting product consists of an unfinished waterproof bottom or a waterproof boot. The moulded items are then cooled, extracted and trimmed. Components and markings are then added before the finished footwear is packed for shipping.

[21] The stitched-product process consists of cutting and sewing uppers of various materials, both natural and synthetic, including leather and imitation leather, boot collars, liners and various other components. These pieces are assembled and affixed, as required, to the injected bottoms described earlier.

[22] The vulcanization or lay-up process requires the preparation of a rubber compound that is calendered into sheeting. Footwear parts are then cut from the sheets of rubber, laid up on forms and secured with rubber cement. The laid-up footwear is then vulcanized in an oven so that the rubber is irreversibly cured.

[23] Waterproof rubber footwear or a waterproof bottom produced in a combined process would include such processes as cementing a vulcanized sole to a moulded component to form the waterproof footwear or waterproof bottom.

[24] The way in which production operations are arranged varies from company to company from typical assembly-line operations, where each worker performs a specific task, to work modules consisting of a small team working together on a particular product from start to finish.

Classification of Imports

[25] For purpose of this investigation the waterproof footwear under investigation is normally imported into Canada under the following Harmonized System (HS) classification numbers:

6401.10.11.00	6402.19.90.90	6404.11.99.90
6401.10.19.00	6402.91.10.00	6404.19.90.20
6401.10.20.00	6402.91.90.91	6404.19.90.91
6401.92.11.00	6402.91.90.92	6404.19.90.92
6401.92.12.00	6402.91.90.93	6404.19.90.93

² Based on the complaint.

6401.92.91.90	6403.19.90.90
6401.92.92.90	6403.40.00.10
6401.99.11.00	6403.91.00.91
6401.99.12.00	6403.91.00.92
6401.99.19.00	6403.91.00.93
6401.99.20.00	

[26] This listing of HS codes is for convenience of reference only. Refer to the product definition for authoritative details regarding the subject goods.

LIKE GOODS

[27] 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 for which the uses and other characteristics closely resemble those of the other goods.

[28] Waterproof footwear produced by the domestic industry competes directly with and has the same physical characteristics and end uses as the subject goods imported from China and Vietnam. The goods produced in Canada, China and Vietnam are fully interchangeable. Therefore, the CBSA has concluded that the waterproof footwear produced by the Canadian industry constitute like goods to the subject goods.

THE CANADIAN INDUSTRY

[29] The Canadian industry for the subject footwear is composed of six producers. The names and addresses of the producers are:

Air Boss Defence

881 rue Landry
Acton Vale, QC
J0H 1A0

Baffin Inc.

346 Arvin Avenue
Stoney Creek ON
L8E 2M5

Chaussures Yéti Inc.

9935 St. Vital
Montréal Nord QC
H1H 4S5

Genfoot Inc.

1940 55th Avenue
Montréal QC
H4T 3H3

Hichaud Inc

2485 Neuviale
Québec QC
G1P 3A6

Rallye Footwear Inc.

9777 Colbert St.
Anjou QC
H1J 1Z9

Standing

[30] SIMA requires that the following conditions be met in order to initiate an investigation:

- a) the complaint is supported by domestic producers whose production represents more than fifty per cent 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 twenty-five per cent or more of the total production of like goods by the domestic industry.

[31] For the consideration of standing under SIMA, domestic industry means the domestic producers as a whole of the like goods except that, if a domestic producer is related to an exporter or importer of allegedly dumped goods, or is an importer of such goods, "domestic industry" may be interpreted as meaning the rest of those domestic producers.

[32] Four of the six Canadian producers provided letters of support for the complaint. These four producers are Genfoot Inc. (Genfoot), Rallye Footwear Inc (Rallye), Chaussures Yéti Inc. (Yeti) and Hichaud Inc. (Hichaud). The other two producers, Air Boss Defence (Air Boss) and Baffin Inc. (Baffin), each submitted a letter indicating that they neither supported nor opposed the complaint.

[33] Based on an analysis of information provided in the complaint as well as other information gathered by the CBSA, the CBSA is satisfied that the standing requirements of subsection 31(2) of SIMA have been met.

CANADIAN MARKET

[34] Waterproof footwear is sold to end-users through major national retail chains, retail shoe chains and independent shoe stores. Some of these retail chains and independent shoe stores purchase their subject goods through wholesalers and distributors. There are two selling seasons for the subject goods, namely spring and fall/winter.

[35] SMAC provided estimates respecting the Canadian market for waterproof footwear and based these figures on its own production and sales data, its commercial intelligence, participation in the Canadian market and import data from Statistics Canada.

[36] With respect to the import data, SMAC has identified 26 classification numbers under which subject waterproof footwear is normally imported. For some classification numbers, notably those of heading 6401, SMAC indicated that all goods classified under this heading are subject goods. Under the classification numbers of headings under 6402, 6403 and 6404, SMAC indicated that broad varieties of goods may be found with only a small portion of these goods being subject goods.

[37] SMAC determined that it could not use Statistics Canada import data to estimate the size of the Canadian market for importations under headings 6402, 6403 and 6404. Accordingly, SMAC estimated the apparent Canadian market using only the goods imported under heading 6401 defined as: “Waterproof footwear with outer soles and uppers of rubber or of plastics, the uppers of which are neither fixed to the sole nor assembled by stitching, riveting, nailing, screwing, plugging or similar processes”.

[38] SMAC also examined the import figures from all other countries. Based on their examination and knowledge of the Canadian market, SMAC concluded that there were no significant importations of the like goods from countries other than China and Vietnam.

[39] Based on a review of the information presented by SMAC and other available information, the CBSA was satisfied that SMAC’s approach in estimating the total volume of imports was reasonable from China and Vietnam. In regards to import figures from all other countries, the CBSA determined that there were significant importations. Statistics for imports from other countries was obtained from customs data for heading 6401.

[40] Detailed information regarding domestic production was based on information received from the two largest Canadian producers and cannot be divulged for confidentiality reasons as it would cause commercial harm to the domestic industry. The CBSA has however prepared the following table to show the estimated percentage market shares of waterproof footwear in Canada using only the goods imported under the relevant classification numbers of heading 6401.

TABLE 1

**ESTIMATES OF IMPORT SHARE OF THE CANADIAN MARKET
(BY VOLUME)**

Imports – Subject Goods	2006		2007		Jan.1 to June 30 2007		Jan.1 to June 30 2008	
	Pairs	% of imports	Pairs	% of imports	Pairs	% of imports	Pairs	% of imports
China	493,144	42.4%	765,026	70.7%	197,664	61.8%	429,516	64.8%
Vietnam	11,713	1.0%	54,040	5.0%	18,436	5.8%	33,308	5.0%
Imports - Other Countries	657,178	56.6%	262,693	24.3%	103,718	32.4%	200,437	30.2%
Total Imports	1,162,035	100.00%	1,081,759	100.00%	319,818	100.00%	663,261	100.00%

EVIDENCE OF DUMPING

[41] The complainant alleges that the subject goods have been injuriously dumped into Canada. Dumping occurs when the normal value of the goods exceeds the export price of the goods sold to an importer in Canada, or where the goods are sold to importers in Canada at

prices that are less than the full cost of the goods. Normal values are generally based on the domestic selling prices of the goods in the country of export (section 15 of SIMA), or on the full cost of producing and selling the goods plus a reasonable amount for profit (section 19 of SIMA).

[42] Evidence on the record does not provide sufficient reason to believe that the governments of China and Vietnam substantially determine domestic prices of like goods in their countries, such that they are not substantially the same as they would be if they were determined in a competitive market. Section 20 of SIMA has, therefore, not been used in the estimation of normal values.

[43] The export price of goods sold to importers in Canada is 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.

[44] Estimates of normal value and export price are discussed below.

Estimated Normal Value

[45] Normal values have not been determined in accordance with section 15 because of the absence of information related to domestic selling prices of subject goods in China and Vietnam. Normal values have been estimated in accordance with section 19 of SIMA based on the total cost of the like goods plus a reasonable amount for profit.

[46] SMAC used 10 styles of waterproof footwear to demonstrate that the subject goods were dumped. Six of these styles originated in China and four originated in Vietnam. SMAC estimated the normal values for these 10 styles based on the aggregate of the cost of production of the goods, general, selling and administrative expenses and an amount for profit. For the purposes of initiating the investigation, the CBSA was satisfied that these styles are representative of like goods originating in or exported from China and Vietnam.

[47] Normal values were estimated using Canadian costs of production, general, selling and administrative expenses and an amount for profit of the two largest producers of waterproof footwear in Canada. With respect to the selected footwear styles, these two Canadian producers have extensive experience in producing footwear that is similar footwear to the imported products. As a result, normal values were estimated using their factories' costs of producing a similar product in Canada. The main cost elements include direct material, direct labour and factory overhead, including depreciation. These Canadian costs were then adjusted to reflect the lower costs of production in China and Vietnam.

[48] Specifically, Canadian labour costs were reduced by 95% to reflect lower wages and benefits paid in the China and Vietnam. Articles showing that Chinese labour costs vary from 5% to 10% of the corresponding cost of labour in North America were provided in support of the 95% adjustment³. Similarly, material costs were reduced by 12.5% to account for the possibility

³ - *Labor costs of manufacturing employees in China : an update to 2003-04*, Monthly Labor Review, November 2006.

- *Just How Cheap is Chinese labor*, www.businessweek.com/magazine.

of large scale purchasing of materials as well as the use of materials which sourced at lower prices in China and Vietnam⁴. Factory overhead costs were reduced by 80% to reflect lower costs in these countries. An article that discussed costing information, specifically overhead costs in Asia, was provided as support for this adjustment⁵. In addition to material, labour and overhead costs, a percentage of the total cost of production was added to cover selling, administrative and all other costs (GS&A), plus an amount for profits based on the combined weighted average gross profit for Genfoot and Rallye. Their weighted average gross margin was reduced to account for lower margins that may be earned in China and Vietnam.

[49] The CBSA has reviewed the complainant's costing estimates, as described above, and has found both its methodology and results to be reasonable. The CBSA, therefore, accepted the complainant's estimation of normal values.

Export Price

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

[51] The export price of each of the 10 imported footwear styles from China and Vietnam were estimated by SMAC on the basis of the regular retail selling price in Canada less all costs, charges and expenses applicable to the goods arising from their exportation, shipment, importation and sale in Canada.

[52] With respect to the imported styles from China and Vietnam, evidence supporting these retail prices in Canada has been provided to the CBSA in the form of either a retail sales slip or a copy of the advertised selling price for each of the 10 imported styles of footwear. Industry knowledge of retailer and wholesaler mark-ups was applied by SMAC to estimate the export price of subject footwear delivered to the retailer in Canada. Deductions from estimated landed prices were then made to provide for the transportation cost and Customs duty.

[53] The CBSA has reviewed Customs and other available data and has found the SMAC's methodology for establishing export prices to be reasonable. The CBSA, therefore, considered that SMAC's methodology provided representative exporters' selling prices. However, the CBSA recalculated SMAC's export price for four styles. For three of these styles, two from China and one from Vietnam, a minor adjustment was made. For the fourth style, from China, the CBSA revised the mark-up used and recalculated the export price.

- *The China Syndrome*, Strategy and Business issue 38.

⁴ *THE FURNITURE INDUSTRY- The Future of the Industry United States versus China*, Industry Economics, March 7, 2003.

⁵ *Ibid*

Estimated Margins of Dumping

[54] Comparisons of the estimated normal values and estimated export prices, determined in the manner described above, indicate that the subject waterproof footwear was dumped. The estimated margins of dumping as a percentage of the export price, on a country basis were:

China - 45.0%
Vietnam - 31.2%

[55] It is estimated that 100% of the subject goods from China and Vietnam were dumped. The estimated margins of dumping ranged from 1.5% to 123.4% of the export price from China and from 11.1% to 54.5% of the export price from Vietnam. Based on the complainant's information, other available information and the CBSA's data on imports, there is reasonable evidence that the goods have been dumped.

NEGLIGIBILITY AND INSIGNIFICANCE

[56] Under section 35 of SIMA, if, at any time before the President makes a preliminary determination, the President is satisfied that the margin of dumping of the goods of a country is insignificant or the actual and potential volume of dumped goods of a country is negligible, the President must terminate the investigation with respect to that country. Pursuant to subsection 2(1) of SIMA, a margin of dumping of less than 2% of the export price is defined as insignificant and a volume of dumped goods is considered negligible if it accounts for less than 3% of the total volume of goods that are released into Canada from all countries that are of the same description as the dumped goods.

[57] The estimated margins of dumping and the import data for the period of January 1, 2008 to June 30, 2008, are summarized in the table below. The information available indicates that the volume of dumped goods from China and Vietnam would not be considered negligible and that the margin of dumping would not be regarded as insignificant.

ESTIMATED MARGIN OF DUMPING January 1, 2008 to June 30, 2008

Country	Percentage of Total Imports	Estimated Dumped Goods as % of Country Total	Estimated Dumped Goods as % of Total Imports	Estimated Margin of Dumping as % of Export Price
China	64.8%	100.0%	64.8%	45.0%
Vietnam	5.0%	100.0%	5.0%	31.2%

EVIDENCE OF INJURY

[58] SMAC alleges that the subject goods have been and are being dumped, and that such dumping has caused and is threatening to cause material injury to the waterproof footwear industry in Canada. In support of its allegations, SMAC provided evidence of lost market share,

price erosion, price suppression, lost sales, reduced employment and reduced profitability.

[59] SIMA refers to material injury caused to the production of like goods in Canada. The CBSA has accepted that the waterproof footwear produced by SMAC's members are like goods to those imported from China and Vietnam. The CBSA's injury analysis focused on the impact of the allegedly dumped goods on SMAC's production of like goods in Canada.

Lost Market Share

[60] Information from SMAC (see Table 1) shows a continuing trend of rising imports from China and Vietnam. From 2006 to 2007, the volume of imports of subject goods from China and Vietnam increased by 55% and 361%, respectively. As well, a comparison of imports for the first six months of 2007 and 2008 shows that the volume of subject goods from China and Vietnam increased by 117% and 81%, respectively.

[61] During the period 2006 to 2008 which had increasing Chinese and Vietnamese imports, SMAC demonstrated that the domestic industry's market share declined.

Price Suppression and Price Erosion

[62] SMAC provided evidence of price suppression by showing that sales of 17 styles of footwear to six customers had an increase of costs while the selling price of the goods remained constant for the period of 2007 to 2008. SMAC provided evidence that the cost of the major material in producing waterproof footwear, had increased over this period. SMAC also provided evidence of price erosion by indicating that in order to maintain sales, they had to reduce the 2008 selling price of some styles over the 2007 selling prices. SMAC alleges that this price suppression and price erosion was a direct result of the allegedly dumped goods from China and Vietnam.

Lost Sales

[63] SMAC submitted account information relating to four major Canadian customers showing that sales were lost to allegedly dumped Chinese and Vietnamese imports in 2008 over previous years. The lost sales relate to long-time customers of SMAC. The complainant provided customer sales comparison data to support their allegation of lost sales between 2007 and 2008. SMAC alleges that the lost sales were a direct result of the allegedly dumped goods from China and Vietnam.

Reduced employment

[64] The presence of the allegedly dumped Chinese and Vietnamese imports has also affected employment at SMAC members' production facilities. Due to a decline in orders, substantially attributable to the alleged dumped imports of subject goods from China and Vietnam, SMAC's members have reduced their number of employees.

Reduced Profitability

[65] SMAC alleges that the various forms of injury referred to above have reduced the profitability of its members. The aggregated audited income statement for domestic sales for Genfoot Inc. and Rallye Footwear Inc., the two largest Canadian producers of waterproof footwear, shows that in the last fiscal period alone, finishing February 29, 2008, there was significant deterioration in both gross profit and net income.

CONCLUSION

[66] Based on the information provided in the complaint, other available information, and the CBSA's internal data on imports, there is evidence that waterproof rubber footwear originating in or exported from China and waterproof rubber and/or plastic footwear originating in or exported from Vietnam have been dumped, and there is a reasonable indication that such dumping has caused or is threatening to cause injury to the Canadian industry. As such, a dumping investigation was initiated on February 27, 2009.

SCOPE OF THE INVESTIGATION

[67] The CBSA will conduct an investigation to determine whether the subject goods have been dumped.

[68] The CBSA has requested information from exporters and importers relating to the subject goods imported into Canada from China and Vietnam from October 1, 2007 to September 30, 2008 (the period of investigation (POI)). The information relating to subject goods will be used to estimate normal values and export prices and ultimately to determine whether the subject goods have been dumped.

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

[70] In view of the very large numbers of exporters and importers identified, the CBSA has limited its examination of dumping to a sampling of exporters and importers. The sampling was based on exporters and importers whose combined shipments to Canada represent a substantial portion of the subject goods exported from each country during the period October 1, 2007 to September 30, 2008.

[71] Based on its review, the CBSA identified 2,340 exporters that may be exporting subject goods from China and Vietnam during the POI. Some 297 of these exporters shipped in quantities that were valued at \$200,000⁶ or more for this period. Of these 297 exporters, 275 shipped goods originating in China, 34 shipped goods originating in Vietnam and of those 12 shipped goods from both China and Vietnam. These exporters account for 75 % of the quantity from China and 84 % of the quantity from Vietnam of all waterproof footwear imports into Canada during the POI. The CBSA considered the \$200,000 threshold reasonable and appropriate after an analysis of the importation data from its internal system.

⁶ Note that in some case, this \$200,000 in exports includes non subject goods,

[72] Similarly, based on its review, the CBSA identified 1,637 importers that may be importing subject goods from China and Vietnam during the POI. Of these identified importers, 153 imported the subject goods in quantities with a value of \$200,000 or more. These importers account for 91% of the quantity of all waterproof footwear imports into Canada during the POI from China and Vietnam.

[73] The CBSA sent request for information questionnaires (RFIs) at the initiation of the investigation only to exporters and importers above the established \$200,000 threshold. However, any exporter and importer of subject goods can request an RFI from the CBSA and choose to participate in the investigation. A copy of the RFI can be requested at the following Web address: www.cbsa-asfc.gc.ca/sima or by contacting the SIMA Registry at simaregistry@cbsa-asfc.gc.ca.

[74] If there is a high level of cooperation, the CBSA may not be able to examine all exporter and importer submissions. In such an eventuality, the CBSA may revise its sampling methodology to deal with the submissions provided by the interested parties.

FUTURE ACTION

[75] The Canadian International Trade Tribunal (Tribunal) will conduct a preliminary inquiry to determine whether the evidence discloses a reasonable indication that the alleged dumping of the goods has caused or is threatening to cause injury to the Canadian industry. The Tribunal must make its decision within 60 days after the date of the initiation of the investigation. If the Tribunal concludes that the evidence does not disclose a reasonable indication of injury to the Canadian industry, the investigation will be terminated.

[76] If the Tribunal finds that the evidence discloses a reasonable indication of injury to the Canadian industry and the ongoing CBSA investigation reveals that the goods have been dumped, the CBSA will make a preliminary determination of dumping within 90 days after the date of the initiation of the investigation, by May 28, 2009. Where circumstances warrant, this period may be extended to 135 days from the date of the initiation of the investigation.

[77] For those exporters that were sampled, provisional duty will be based on that company's response to the CBSA's RFI.

[78] For those exporters providing a voluntary submission, provisional duty will be based on that company's *complete* response to the CBSA's RFI. If the CBSA does not have time to consider such a voluntary submission, that company will be treated in the same manner as those companies that were not sampled. A company providing an *incomplete* voluntary submission will be treated as being non-co-operative.

[79] For those exporters that were not sampled, provisional duty will be based on the weighted average margin calculated for co-operating exporters whose information was utilized for the preliminary determination.

[80] If, in respect of China and Vietnam, the CBSA's investigation reveals that imports of the subject goods have not been dumped, that the margin of dumping is insignificant or that the actual and potential volume of dumped goods is negligible, the investigation will be terminated.

[81] Imports of subject goods released by Customs on and after the date of a preliminary determination of dumping may be subject to provisional duty in an amount not greater than the estimated margin of dumping on the imported goods.

[82] Should the CBSA make a preliminary determination of dumping, the investigation will be continued for the purpose of making final determination within 90 days after the date of the preliminary determination.

[83] If a final determination of dumping is made, the Tribunal will continue its inquiry and hold public hearings into the question of material injury to the Canadian industry. The Tribunal is required to make a finding with respect to the goods to which the final determination of dumping applies, not later than 120 days after the CBSA's preliminary determination.

[84] In the event of an injury finding by the Tribunal, imports of subject goods released from the CBSA after that date will be subject to anti-dumping duty equal to the applicable margin of dumping on the imported goods.

RETROACTIVE DUTY ON MASSIVE IMPORTATIONS

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

[86] Should the Tribunal issue such a finding, anti-dumping 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 a preliminary determination of dumping.

UNDERTAKINGS

[87] 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. An acceptable undertaking must account for all or substantially all of the exports to Canada of the dumped goods.

[88] 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, if available, to one of the officers identified in the "Information" section of this document.

[89] If an undertaking were to be accepted, the investigation and the collection of provisional duty would be suspended. Notwithstanding the acceptance of an undertaking, an exporter may request that the CBSA's investigation be completed and that the Tribunal complete its injury inquiry.

PUBLICATION

[90] Notice of the initiation of this investigation is being published in the Canada Gazette pursuant to subparagraph 34(1)(a)(ii) of SIMA.

INFORMATION

[91] Interested parties are invited to file written submissions presenting facts, arguments, and evidence that they feel are relevant to the alleged dumping. Written submissions should be forwarded to the attention of one of the officers identified below.

[92] To be given consideration in this phase of this investigation, all information should be received by the CBSA by April 13, 2009.

[93] Any information submitted to the CBSA by interested parties concerning this investigation 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.

[94] Confidential information submitted to the President 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 Tribunal, any court in Canada, or a WTO/North American Free Trade Agreement dispute settlement panel. Additional information respecting the 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 Web site.

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

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

Mail	SIMA Registry and Disclosure Unit Anti-dumping and Countervailing Program Trade Programs Directorate Canada Border Services Agency 100 Metcalfe Street, 11 th Floor Ottawa ON K1A 0L8 CANADA
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M.R. Jordan
Director General
Trade Programs Directorate