



OTTAWA, April 21, 2010

4214-27
AD1386

STATEMENT OF REASONS

concerning the making of a final determination with
respect to the dumping of

**FACED RIGID CELLULAR POLYURETHANE-MODIFIED POLYISOCYANURATE
THERMAL INSULATION BOARD ORIGINATING IN OR EXPORTED FROM THE
UNITED STATES OF AMERICA**

DECISION

On April 6, 2010, pursuant to paragraph 41(1)(a) of the *Special Import Measures Act*, the President of the Canada Border Services Agency made a final determination of dumping respecting faced rigid cellular polyurethane-modified polyisocyanurate thermal insulation board originating in or exported from the United States of America.

Cet *Énoncé des motifs* est également disponible en français. Veuillez vous reporter à la section « Information ». This *Statement of Reasons* is also available in French. Please refer to the “Information” section.

Canada

TABLE OF CONTENTS

SUMMARY OF EVENTS	1
PERIOD OF INVESTIGATION	2
INTERESTED PARTIES	2
COMPLAINANT	2
OTHER CANADIAN PRODUCERS	2
EXPORTERS	2
IMPORTERS	3
PRODUCT DESCRIPTION.....	3
PRODUCT DEFINITION	3
ADDITIONAL PRODUCT INFORMATION	3
PRODUCTION PROCESS	4
CLASSIFICATION OF IMPORTS	4
CANADIAN INDUSTRY	4
IMPORTS INTO CANADA	5
INVESTIGATION PROCESS	6
DUMPING INVESTIGATION	6
NORMAL VALUE	6
EXPORT PRICE	7
RESULTS OF THE INVESTIGATION	7
RESULTS BY EXPORTER	8
Atlas Roofing Corp (Atlas).....	8
Carlisle Syntec Inc. (Syntec)	9
Construction Materials International (CMI).....	10
Dow Chemical Company (Dow)	11
Firestone Building Products, Inc. (Firestone).....	13
Hunter Panels LLC (Hunter Panels).....	14
Johns Manville (Johns Manville)	15
All Other Exporters – Margin of Dumping	16
SUMMARY OF RESULTS	17
REPRESENTATIONS CONCERNING THE INVESTIGATION	17
DECISION	18
FUTURE ACTION.....	18
RETROACTIVE DUTY ON MASSIVE IMPORTATIONS	19
PUBLICATION.....	19
INFORMATION	19
APPENDIX - SUMMARY OF MARGINS OF DUMPING BY EXPORTER.....	20

SUMMARY OF EVENTS

[1] On August 19, 2009, the Canada Border Services Agency (CBSA) received a complaint from IKO Sales Ltd. (IKO). The complaint alleged that imports of faced rigid cellular polyurethane-modified polyisocyanurate thermal insulation board (polyiso insulation board) originating in or exported from the United States of America (United States) were being dumped and that the dumping of these goods was causing injury to the Canadian industry.

[2] On September 9, 2009, pursuant to paragraph 32(1)(a) of the *Special Import Measures Act*¹ (SIMA), the CBSA informed the complainant that the complaint was properly documented. The CBSA also notified the Government of the United States that it had received a properly documented complaint.

[3] On October 8, 2009, pursuant to subsection 31(1) of SIMA, the President of the CBSA (President) initiated an investigation respecting the dumping of polyiso insulation board originating in or exported from the United States.

[4] On October 8, 2009, the Canadian International Trade Tribunal (Tribunal) commenced a preliminary injury inquiry pursuant to subsection 34(2) of SIMA into whether the evidence discloses a reasonable indication that the dumping of polyiso insulation board originating in or exported from the United States has caused injury or is threatening to cause injury.

[5] On December 7, 2009, pursuant to subsection 37.1(1) of SIMA, the Tribunal made a preliminary determination that there is evidence that discloses a reasonable indication that the dumping of polyiso insulation board originating in or exported from the United States has caused injury.

[6] On January 6, 2010, after estimating the margin of dumping and specifying the goods to which the preliminary determination applies based on the information available at the time, the President of the CBSA made a preliminary determination of dumping with respect to polyiso insulation board originating in or exported from the United States, pursuant to subsection 38(1) of SIMA.

[7] On January 6, 2010, pursuant to subsection 8(1) of SIMA, provisional duty was imposed on imports of dumped subject goods and will remain in effect until the day the Tribunal makes an order or finding pursuant to subsection 43(1) of SIMA.

[8] On January 7, 2010, pursuant to section 42 of SIMA, the Tribunal commenced an inquiry to determine whether the dumping of polyiso insulation board originating in or exported from the United States has caused injury or is threatening to cause injury.

[9] The CBSA continued its investigation and, on the basis of the results, the President is satisfied that polyiso insulation board originating in or exported from the United States has been dumped and that the margin of dumping of the goods is not insignificant. Consequently, on April 6, 2010, pursuant to paragraph 41(1)(a) of SIMA, the President made a final determination

¹ *Special Import Measures Act*, R.S.C. 1985, c. S-15 [SIMA]

of dumping with respect to polyiso insulation board originating in or exported from the United States.

[10] The Tribunal's inquiry into the question of injury to the Canadian industry is continuing. Provisional duty will continue to be imposed on the dumped goods until the Tribunal makes an order or finding with respect to the goods to which the final determination applies. The Tribunal will issue its decision, pursuant to subsection 43(1) by May 6, 2010.

PERIOD OF INVESTIGATION

[11] The dumping investigation covered all subject goods imported into Canada from October 1, 2008 to September 30, 2009, the period of investigation (POI).

INTERESTED PARTIES

Complainant

[12] The complainant, IKO, is the largest Canadian manufacturer of polyiso insulation board. The complainant's address is:

IKO Sales Ltd.
602 – 1 Yorkdale Road
Toronto, Ontario
M6A 3A1

Other Canadian Producers

[13] The complainant identified two other domestic producers of polyiso insulation board in Canada: Atlas Roofing Canada (ARC) and Johns Manville Canada (JMC). ARC operates a plant in Toronto, Ontario, and JMC operates a plant in Cornwall, Ontario.

Exporters

[14] At the initiation of the investigation, the CBSA identified 57 potential exporters of the subject goods. The CBSA sent a Request for Information (RFI) to each of the potential exporters. Thirty-two companies contacted the CBSA and indicated that they were not involved in the production and/or export of the subject goods. As such, based on the information obtained during the investigation, there are now 25 potential exporters. Seven exporters provided sufficient information in response to the CBSA's RFI to enable the determination of specific normal values and export prices for their goods. The seven exporters are: Atlas Roofing Corp., Carlisle Syntec Inc., Construction Materials International, Dow Chemical Company, Firestone Building Products, Inc., Hunter Panels LLC and Johns Manville.

Importers

[15] At the initiation of the investigation, the CBSA identified 87 potential importers of subject goods based on information contained in the CBSA's Customs Commercial System (CCS) database. The CBSA sent an RFI to each of these potential importers of the goods. Thirty-four companies contacted the CBSA and indicated that they were not involved in the importation of the subject goods. Five additional importers were identified from exporter responses to the RFI. As such, based on the information obtained during the investigation, there are now 58 potential importers. Eight importers provided a response to the CBSA's importer RFI, with varying degrees of completeness. RFI responses were received from the following importers: Brock White Canada, Convoy Supply Ltd., Dow Chemical Canada, Inc., Everest Supply, Inc., Sika Canada Inc., Skyline Building Systems, Inc., Spar Roofing & Metal Supplies Limited and Windsor Building Supplies Ltd.

PRODUCT DESCRIPTION

Product Definition

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

“faced rigid cellular polyurethane-modified polyisocyanurate thermal insulation board originating in or exported from the United States of America”.

Additional Product Information

[17] Polyiso insulation board is the primary insulation product for commercial wall and roof applications.

[18] Generally, polyiso insulation board has the same physical foam properties whether it is used for roofing or for wall applications. Differences between the two applications usually relate only to thickness, type of facers (facing material bonded to both sides of the foam core) and board dimensions.

[19] Polyiso roof insulation board is generally offered in sizes of 3' x 4', 4' x 4' and 4' x 8' and can be produced in a range of thicknesses from 1" to 4". Custom sizes and thicknesses are also available. These boards are used mainly in the commercial construction sector. The product is also available in tapered boards which are used in pre-engineered slope insulated roof systems to provide positive drainage.

[20] Polyiso wall insulation board is generally offered in 4' x 8' and 4' x 9' sizes and can be produced in thicknesses from 1" to 4". As with roofing boards, custom sizes and thicknesses are available. These boards are generally used for construction applications in both residential and non-residential wall systems.

Production Process²

[21] The main ingredients in polyiso insulation board are aromatic polyester polyol (polyol), isocyanurate (MDI) and a blowing agent, which is usually pentane. Other ingredients are a facer material, fire retardant, a surfactant, and three different catalysts that are used to initiate and control the chemical reactions that take place in the manufacture of polyiso board. All of the raw materials, except for the facer material, are liquids. They are delivered to the factory in rail cars, tank trucks, or containers. Raw materials are transferred from rail cars and tank trucks to storage tanks in the factory.

[22] The factory makes a mixture of the polyol, the fire retardant, the surfactant, and the catalysts. The temperature and pressure of this mixture are carefully controlled. The pressures and temperatures of the MDI and of the pentane are also, separately, carefully controlled. Then the polyol mixture, the MDI, and the pentane are combined under high pressure onto a “pour table”. The mixture flows between two facers, which are on a continuously moving double belt laminator and bonded to the said facers. Facers are distinguished by their water vapour permeance and composition and vary depending on the construction application.

[23] Upon exiting the laminator, the board is trimmed to the correct width and cut to the required length. The product is then packaged and placed in the warehouse for a period of two to four days for curing before shipment.

[24] According to the complainant, all major North American producers use comparable manufacturing technology and the principal chemical inputs (PMDI, polyol and blowing agent) are generally sourced from the same chemical suppliers.

Classification of Imports

[25] The subject goods are normally imported under the following Harmonized System (HS) classification number: 3921.13.99.10. The identification of the HS code is for convenience of reference only. Refer to the product definition for authoritative details regarding the subject goods.

CANADIAN INDUSTRY

[26] There are three producers of polyiso insulation board in Canada: IKO, JMC and ARC.

[27] IKO and its related companies are involved in the manufacture, sale, and distribution of a wide range of roofing products in Canada, the United States, Europe, and other international markets. IKO is a privately-owned Canadian company.

[28] Over the years, IKO has expanded its line of roofing products to include organic and fibreglass-based shingles, roofing felts, and APP (Atactic-Polypropylene) and SBS (Styrene-Butadiene-Styrene) modified bitumen roofing systems for commercial and industrial applications. As part of this focus IKO started manufacturing its own polyiso insulation board.

² CBSA Dumping Exhibit #2 – Non Confidential Version of the Complaint, page 18

In 2000, IKO opened a factory in Brampton, Ontario, to manufacture polyiso insulation board for the eastern Canadian market (from Ontario eastwards), and in 2005, IKO opened a factory in High River, Alberta, to serve the western Canadian market (from Manitoba westwards).

[29] As indicated earlier, ARC operates a plant in Toronto, Ontario,³ and JMC operates a plant in Cornwall, Ontario. The complainant states that these plants mainly serve eastern Canada and eastern United States.

[30] Prior to the initiation of the investigation, the CBSA contacted ARC and JMC for the purpose of determining whether these producers supported IKO's filing of the dumping complaint. ARC declined to provide an opinion on the matter.³ JMC, however, indicated its support for IKO's complaint.⁴

[31] Therefore, at the time of the initiation of the investigation, the CBSA confirmed that the complaint was supported by domestic producers whose production represents more than fifty percent of the total production of like goods by those domestic producers who express either support for or opposition to the complaint. Furthermore, the CBSA confirmed that the domestic producers who support the complaint represent twenty-five percent or more of the total production of like goods by the domestic industry, and as such, the standing requirements of subsection 31(2) of SIMA were met.

IMPORTS INTO CANADA

[32] During the final phase of the investigation, the CBSA refined the estimated volume of imports based on information from its internal CCS, customs accounting documents and other information received from exporters and importers.

[33] The following table presents the CBSA's revised estimates of the volume of imports of polyiso insulation board for purposes of the final determination:

**Imports of Polyiso Insulation Board
(October 1, 2008 – September 30, 2009)**

Imports into Canada	Volume (MBF)*	% of Total Imports
United States	83,182	98.9%
All Other Countries	935	1.1%
Total Imports	84,117	100%

* Thousand Board Feet

³ CBSA Dumping Exhibit #28 - Information provided by ARC

⁴ CBSA Dumping Exhibit #29 - Information provided by JMC

INVESTIGATION PROCESS

[34] At the time of the initiation of the investigation, information was requested from 57 known and potential exporters and from 87 known and potential importers, concerning shipments of polyiso insulation board imported into Canada during the POI.

[35] At the time of the preliminary determination, the CBSA had received five comprehensive responses to the exporter RFI. Responses were also received from Dow Chemical Company (Dow), and Construction Materials International (CMI), but were determined to be incomplete and could not be used for purposes of the preliminary phase of the investigation. Both Dow and CMI subsequently provided the necessary outstanding information, and these submissions were taken into consideration for the final determination. As such, for purposes of the final determination, the CBSA received responses to the exporter RFI from seven exporters representing approximately 97.5 percent of the value of total imports of subject goods into Canada during the POI.

[36] After the preliminary determination on January 6, 2010, the CBSA conducted on-site verifications of the RFI responses during the last three weeks of January and the first week of February with all of the cooperative exporters except CMI. All of the exporters fully cooperated during the on-site verifications. Given the fact that the CBSA was verifying the producer of the goods exported by CMI, and in light of its volume of sales to Canada, its response was verified by desk audit.

[37] The CBSA received responses to the importer RFI from eight importers representing approximately 67.8 percent of total imports during the POI. At the time of the preliminary determination, all of the submissions were found to be incomplete as responses to all questions were lacking and none provided any financial statements. Supplementary RFIs were sent to each of the importers, requesting that the missing information be provided. While some of the importers provided additional information, only Dow Canada provided a complete response to the RFI. As such, the remaining seven importer responses were considered incomplete for the purposes of the CBSA's final determination.

[38] As indicated above, 34 importers responded indicating that they did not import subject goods during the POI, and the remaining importers declined to provide a response to the CBSA's importer RFI.

DUMPING INVESTIGATION

Normal Value

[39] The normal value of goods sold to importers in Canada is generally based on the domestic selling prices of like goods in the country of export pursuant to 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, and a reasonable amount for profits, pursuant to paragraph 19(b) of SIMA.

Export Price

[40] The export price of goods sold to importers in Canada is generally based on the lesser of the adjusted exporter's sale price for the goods or the adjusted importer's purchase price, pursuant to section 24 of SIMA. 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.

Results of the Investigation

[41] All subject goods imported into Canada during the POI from any exporter are included in the determination of the margin of dumping of goods of that exporter. The margin of dumping by exporter is equal to the amount by which the total normal value exceeds the total export price of the goods, expressed as a percentage of the total export price. Where the total normal value of the goods does not exceed the total export price of the goods, the margin of dumping is zero.

[42] With respect to exporters that provided sufficient information in response to the RFI, this information was used to determine the normal value and export price and the resulting margin of dumping pursuant to subsection 30.2(1) of SIMA.

[43] For those exporters that did not provide sufficient information in response to the RFI, the normal value of the goods was determined under a ministerial specification pursuant to section 29 of SIMA based on the export price as determined under section 24, 25 or 29 of SIMA, plus an amount equal to the highest amount by which the normal value exceeded the export price (expressed as a percentage of the export price) on an individual transaction of any subject goods of an exporter for which the CBSA had sufficient information during the investigation, excluding anomalies. This normal value and export price was used to determine the margin of dumping for those exporters.

[44] The determination of the volume of dumped goods was calculated by taking into consideration each exporter's net aggregate dumping results. Where a given exporter has been determined to be dumping on an overall or net basis, the total quantity of exports attributable to that exporter (i.e. 100 percent) is considered dumped. Similarly, where a given exporter's net aggregate dumping result is zero, then the total quantity of exports considered to be dumped by that exporter is zero.

[45] In calculating the margin of dumping for the United States pursuant to section 30.1 of SIMA, the margins of dumping found in respect of each exporter were weighted according to each exporter's volume of subject goods exported to Canada during the POI.

[46] The results reveal that 97.8 percent of the polyiso insulation board originating in or exported from the United States was dumped by a margin of dumping of 21.9 percent, expressed as a percentage of export price.

RESULTS BY EXPORTER

[47] Details regarding the determination of the margin of dumping for each of the exporters that provided sufficient information in response to the RFI to enable the determination of specific normal values and export prices for their goods are as follows:

Atlas Roofing Corp (Atlas)

[48] A complete response to the RFI was provided, including a database of domestic sales of like or similar products sold from the plant involved in exports to Canada and a database of export sales to Canada. In addition, details on cost of production and administrative, selling and all other costs were also provided on a per model basis. The information contained in the RFI response was verified during the week of February 1 – 5, 2010.

a) Normal Value

[49] Profitable domestic sales were used to determine normal values pursuant to section 15 of SIMA. In order to establish which profitable sales could be used, the costs of production and administrative, selling and all other costs were determined in accordance with section 11.1 of the *Special Import Measures Regulations (SIMR)*⁵. In determining the normal values, adjustments were made to the weighted average selling price for prompt payment discounts and volume rebates in accordance with section 6 of the SIMR, as well as for delivery costs included in the selling price in accordance with section 7 of the SIMR.

[50] Where the normal values could not be determined under section 15 by reason that there was not such a number of sales of like goods that comply with all the terms and conditions referred to in that section or that are applicable by virtue of subsection 16(1) as to permit a proper comparison with the sale of the goods to the importer, the normal value of the goods was determined pursuant to paragraph 19(b) of SIMA, as the aggregate of the cost of production of the goods, a reasonable amount for administrative, selling and all other costs and a reasonable amount for profits. The cost of production was determined in accordance with paragraph 11(1)(a) of the SIMR, based on the verified cost data relating to the goods as provided by Atlas.

[51] The amount for profit was determined in accordance with subparagraph 11(1)(b)(i) of the SIMR [sales of like goods made by the exporter in the country of export], based on the profits earned on all domestic sales made during the POI that were used to determine normal values pursuant to section 15.

b) Export Price

[52] Atlas sold the subject goods to unrelated importers in Canada. Export prices were determined pursuant to section 24 of SIMA, based on the exporter's selling price, adjusted to take into account all costs, charges and expenses incurred in preparing the goods for shipment to Canada and resulting from the exportation and shipment of the goods.

⁵ *Special Import Measures Regulations*, SOR 84/927 [SIMR]

c) Margin of Dumping

[53] The total normal value was compared with the total export price for all polyiso insulation board imported into Canada during the POI. It was found that the goods exported by Atlas were dumped by a margin of dumping of 7.8 percent, expressed as a percentage of the export price.

Carlisle Syntec Inc. (Syntec)

[54] A complete response to the RFI was received from Syntec, including a database of domestic sales of like or similar products sold from each of the plants involved in exports to Canada, a database of export sales to Canada, and details on Syntec's cost of production and administrative, selling and all other costs were also provided on a per model basis. The information contained in the RFI response was verified during the week of January 25 – 29, 2010.

a) Normal Value

[55] Profitable domestic sales were used to determine normal values pursuant to section 15 of SIMA. In order to establish which profitable sales could be used, the costs of production and administrative, selling and all other costs were determined in accordance with section 11.1 of the SIMR. In determining the normal values, adjustments were made to the weighted average selling price for prompt payment discounts and volume rebates in accordance with section 6 of the SIMR, as well as for delivery costs included in the selling price in accordance with section 7 of the SIMR. Where there was not such a number of sales of like goods made by the exporter at the place from which the goods were shipped directly to Canada as to permit a proper comparison with the sale of the goods to the importer in Canada, but there were sufficient sales of like goods at its nearest plant, those sales were included with sales of like goods from the plant in question to determine the normal value for the model pursuant to section 15, in accordance with paragraph 16(1)(a) of SIMA.

[56] Where the normal values could not be determined under section 15 by reason that there was not such a number of sales of like goods that comply with all the terms and conditions referred to in that section or that are applicable by virtue of subsection 16(1) as to permit a proper comparison with the sale of the goods to the importer, the normal value of the goods was determined pursuant to paragraph 19(b) of SIMA, as the aggregate of the cost of production, a reasonable amount for administrative, selling and all other costs and a reasonable amount for profits. The cost of production was determined in accordance with paragraph 11(1)(a) of the SIMR, based on the verified cost data. The amount for profit was determined in accordance with subparagraph 11(1)(b)(i) of the SIMR [sales of like goods made by the exporter in the country of export], based on the profits earned on all of Syntec's domestic sales during the POI that were used to determine normal values pursuant to section 15. As Syntec is not the producer of the goods, the amount for profit also includes the profit earned by the producer of the goods, in accordance with subsection 11(2) of the SIMR. Similarly, the amount for administrative, selling and all other costs includes the amount incurred by the producer, in accordance with subsection 11(3) of the SIMR. The amount for profits was calculated on a per plant basis.

b) Export Price

[57] Syntec sold the subject goods to unrelated importers in Canada. Export prices were determined pursuant to section 24 of SIMA, based on the exporter's selling price, adjusted to take into account all costs, charges and expenses incurred in preparing the goods for shipment to Canada and resulting from the exportation and shipment of the goods.

c) Margin of Dumping

[58] The total normal value was compared with the total export price for all polyiso insulation board imported into Canada during the POI. It was found that the goods exported by Syntec were dumped by a margin of dumping of 15.9 percent, expressed as a percentage of the export price.

Construction Materials International (CMI)

[59] Information provided by CMI in its response to the RFI revealed that CMI operates as a distributor of North American construction related building products to foreign markets. During the POI, CMI was involved in the sale of some polyiso insulation board to Canada that was produced by an unrelated manufacturer. CMI confirmed in its response to the supplemental RFI that it does not have any sales in its domestic market.

a) Normal Value

[60] Since CMI does not have any domestic sales, profitable domestic sales of like goods for use in the country of export by other vendors were used to determine normal values pursuant to section 15 of SIMA, in accordance with paragraph 16(1)(c) of SIMA.

[61] Where the normal values could not be determined under section 15 by reason that there was not such a number of sales of like goods that comply with all the terms and conditions referred to in that section or that are applicable by virtue of subsection 16(1) as to permit a proper comparison with the sale of the goods to the importer, the normal value of the goods was determined pursuant to paragraph 19(b) of SIMA, as the aggregate of the cost of production, a reasonable amount for administrative, selling and all other costs and a reasonable amount for profits. The cost of production was determined in accordance with paragraph 11(1)(a) of the SIMR, based on the verified cost data relating to the goods as provided by the manufacturer. The amount for administrative, selling and all other costs was determined in accordance with subparagraph 11(1)(c)(ii) of the SIMR based on the verified administrative, selling and all other costs as provided by the manufacturer. The amount for profit was determined in accordance with subparagraph 11(1)(b)(iii) of the SIMR [sales of like goods by producers other than the exporter in the country of export], based on the profits earned by other manufacturer's domestic sales during the POI that were used to determine normal values pursuant to section 15, so as to not disclose confidential information of one vendor in particular.

b) Export Price

[62] CMI sold the subject goods to unrelated importers in Canada. Export prices were determined pursuant to section 24 of SIMA, based on the exporter's selling price, adjusted to take into account all costs, charges and expenses incurred in preparing the goods for shipment to Canada and resulting from the exportation and shipment of the goods.

c) Margin of Dumping

[63] The total normal value was compared with the total export price for all polyiso insulation board imported into Canada during the POI. The analysis reveals that the total export price exceeded the total normal value during the POI and as such, the subject goods exported to Canada by CMI were not dumped.

Dow Chemical Company (Dow)

[64] Dow exported the goods to Canada from one plant in the United States to its related importer, Dow Canada. Complete responses to both the exporter and importer RFIs were provided, including a database of domestic sales of like or similar products sold from the plant involved in exports to Canada, a database of export sales to Canada, as well as details on cost of production and general, selling, administrative and all other costs on a per model basis. The importer response also contained a database of Dow Canada's resales to unrelated customers in Canada, as well as details on the costs incurred in reselling the goods in Canada. The information contained in the exporter and importer RFI responses was verified during the week of January 25 – 28, 2010.

a) Normal Value

[65] Since Dow exported the subject goods to a national distributor in Canada (Dow Canada), but did not have domestic sales at the same level of trade, profitable domestic sales were used to determine normal values pursuant to section 15 of SIMA based on domestic sales at the trade level nearest and subsequent (regional distributor) to the importer in accordance with paragraph 16(1)(b) of SIMA. In order to establish which profitable sales could be used, the costs of production and administrative, selling and all other costs were determined in accordance with section 11.1 of SIMR.

[66] In determining the normal values, adjustments were made to the weighted average selling price for prompt payment discounts and volume rebates in accordance with section 6 of the SIMR, for delivery costs included in the selling price in accordance with section 7 of the SIMR and to reflect the difference between the trade level of the importer, Dow Canada (national distributor), and the trade level of the purchasers in the exporter's home market (regional distributors) in accordance with section 9 of the SIMR.

[67] Where the normal values could not be determined under section 15 by reason that there was not such a number of sales of like goods that comply with all the terms and conditions referred to in that section or that are applicable by virtue of subsection 16(1) as to permit a proper comparison with the sale of the goods to the importer, normal values were determined

pursuant to paragraph 19(b) of SIMA, as the aggregate of the cost of production, a reasonable amount for administrative, selling and all other costs and a reasonable amount for profits. The cost of production was determined in accordance with paragraph 11(1)(a) of the SIMR, based on the verified cost data relating to the goods as provided by Dow. The amount for profit was determined in accordance with subparagraph 11(1)(b)(i) of the SIMR [sales of like goods made by the exporter in the country of export], based on the profits earned on all domestic sales during the POI that were used to determine normal values pursuant to section 15.

b) Export Price

[68] Dow exported the subject goods to its related importer Dow Canada, and consequently the exporter and importer are considered associated persons in accordance with subsection 2(2) of SIMA. As such, a reliability test is conducted in order to determine whether the export price under section 24 (the lesser of the importer's purchase price or exporter's selling price) is reliable within the context of SIMA. This test is conducted by comparing the section 24 export price with the section 25 "deductive" export price based on the importer's resale price of the imported goods in Canada to unrelated purchasers, less deductions for all costs incurred in preparing, shipping and exporting the goods to Canada, all costs incurred in reselling the goods (including duties and taxes), and an amount representative of the average industry profit in Canada. (Further details of the calculation of the average industry profit in Canada can be found in the "Industry Profit in Canada" section below.)

[69] The results of the reliability analysis revealed that Dow's export prices determined pursuant to section 24 of SIMA were reliable. As such, the export prices were determined pursuant to section 24 of SIMA, based on the exporter's selling price, adjusted to take into account all costs, charges and expenses incurred in preparing the goods for shipment to Canada and resulting from the exportation and shipment of the goods.

c) Industry Profit in Canada

[70] When an exporter sells product to a related importer in Canada an analysis must be conducted in order to determine if the export price as determined pursuant to section 24, based on the lesser of the exporter's selling price or importer's purchase price, is reliable. This analysis is conducted by comparing the section 24 export price with the section 25 "deductive" export price, based on the importer's resale price of the imported goods in Canada, less deductions for all costs incurred in preparing, shipping and exporting the goods to Canada, all costs incurred in re-selling the goods (including duties and taxes), and an amount representative of the average industry profit in Canada.

[71] All known importers of the subject goods were sent an RFI at the time of the initiation of the investigation. That RFI contained a request for financial statement information in order that an industry profit might be determined for the POI. Information was also requested from the Canadian producers.

[72] Of the responses received, two vendors were determined to have operated at a profit during the POI. Accordingly, due to the limited number of companies involved, the CBSA

sought profit information for additional vendors in Canada so that, confidential profit information could not be inadvertently revealed.

[73] The CBSA was able to find profit and loss information concerning one publicly-traded company involved in the production and distribution of insulated building products of the same general category.

[74] As a result, the industry profit amount was determined in the manner described in paragraph 22(c) of the SIMR, based on the profit information relating to the three vendors of building insulation products that operated at a profit during the POI. The industry profit amount was calculated to be 9.08 percent.

d) Margin of Dumping

[75] The total normal value was compared with the total export price for all polyiso insulation board imported into Canada during the POI. The analysis reveals that the total export price exceeded the total normal value during the POI and as such, the subject goods exported to Canada by Dow were not dumped.

Firestone Building Products, Inc. (Firestone)

[76] A complete response to the RFI was provided, including a database of domestic sales of like or similar products sold from each of the plants involved in exports to Canada and a database of export sales to Canada. In addition, details on cost of production and general, selling, administrative and all other costs were also provided on a per model basis. The information contained in the RFI response was verified during the week of January 19 – 22, 2010.

a) Normal Value

[77] Profitable domestic sales were used to determine normal values pursuant to section 15 of SIMA. In order to establish which profitable sales could be used, the costs of production and administrative, selling and all other costs were determined in accordance with section 11.1 of the SIMR. In determining the normal values, adjustments were made to the weighted average selling price for prompt payment discounts and volume rebates in accordance with section 6 of the SIMR, as well as for delivery costs included in the selling price in accordance with section 7 of the SIMR. Where there was not such a number of sales of like goods made by the exporter at the place from which the goods were shipped directly to Canada as to permit a proper comparison with the sale of the goods to the importer in Canada, but there were sufficient sales of like goods at its nearest plant, those sales were included with sales of like goods from the plant in question to determine the normal value for the model pursuant to section 15, in accordance with paragraph 16(1)(a) of SIMA.

[78] Where the normal values could not be determined under section 15 by reason that there was not such a number of sales of like goods that comply with all the terms and conditions referred to in that section or that are applicable by virtue of subsection 16(1) as to permit a proper comparison with the sale of the goods to the importer, normal values were determined

pursuant to paragraph 19(b) of SIMA, as the aggregate of the cost of production, a reasonable amount for administrative, selling and all other costs and a reasonable amount for profits. The cost of production was determined in accordance with paragraph 11(1)(a) of the SIMR, based on the verified cost data relating to the goods as provided by Firestone. The amount for profit was determined in accordance with subparagraph 11(1)(b)(i) of the SIMR [sales of like goods made by the exporter in the country of export], based on the profits earned on all domestic sales during the POI that were used to determine normal values pursuant to section 15. The amount for profits was calculated on a per plant basis.

[79] There were a small number of models for which Firestone did not provide the necessary costs. In these instances, the normal value was determined by ministerial specification pursuant to section 29 of SIMA, by advancing the export price by 168.9 percent, which is the highest amount by which the normal value exceeded the export price on an individual transaction of any subject goods of an exporter for which the CBSA had sufficient information during the investigation, excluding anomalies.

b) Export Price

[80] Firestone sold the subject goods to unrelated importers in Canada. Export prices were determined pursuant to section 24 of SIMA, based on the exporter's selling price, adjusted to take into account all costs, charges and expenses incurred in preparing the goods for shipment to Canada and resulting from the exportation and shipment of the goods.

c) Margin of Dumping

[81] The total normal value was compared with the total export price for all polyiso insulation board imported into Canada during the POI. It was found that the goods exported by Firestone were dumped by a margin of dumping of 15.9 percent, expressed as a percentage of the export price.

Hunter Panels LLC (Hunter Panels)

[82] A complete response to the RFI was provided, including a database of domestic sales of like or similar products sold from each of the plants involved in exports to Canada, a database of export sales to Canada, and details on cost of production and general, selling, administrative, and all other costs were also provided on a per model basis. The information contained in the RFI response was verified during the week of January 25 – 29, 2010.

a) Normal Value

[83] Profitable domestic sales were used to determine normal values pursuant to section 15 of SIMA. In order to establish which profitable sales could be used, the costs of production and administrative, selling and all other costs were determined in accordance with section 11.1 of the SIMR. In determining the normal values, adjustments were made to the weighted average selling price for prompt payment discounts and volume rebates in accordance with section 6 of the SIMR, as well as for delivery costs included in the selling price in accordance with section 7 of the SIMR. Where there was not such a number of sales of like goods made by the exporter at

the place from which the goods were shipped directly to Canada as to permit a proper comparison with the sale of the goods to the importer in Canada, but there were sufficient sales of like goods at its nearest plant, those sales were included with sales of like goods from the plant in question to determine the normal value for the model pursuant to section 15, in accordance with paragraph 16(1)(a) of SIMA.

[84] Where the normal values could not be determined under section 15 by reason that there was not such a number of sales of like goods that comply with all the terms and conditions referred to in that section or that are applicable by virtue of subsection 16(1) as to permit a proper comparison with the sale of the goods to the importer, normal values were determined pursuant to paragraph 19(b) of SIMA, as the aggregate of the cost of production, a reasonable amount for administrative, selling and all other costs and a reasonable amount for profits. The cost of production was determined in accordance with paragraph 11(1)(a) of the SIMR, based on the verified cost data relating to the goods as provided by Hunter Panels. The amount for profit was determined in accordance with subparagraph 11(1)(b)(i) of the SIMR [sales of like goods made by the exporter in the country of export], based on the profits earned on all domestic sales during the POI that were used to determine normal values pursuant to section 15. The amount for profits was calculated on a per plant basis.

b) Export Price

[85] Hunter Panels sold the subject goods to unrelated importers in Canada. Export prices were determined pursuant to section 24 of SIMA, based on the exporter's selling price, adjusted to take into account all costs, charges and expenses incurred in preparing the goods for shipment to Canada and resulting from the exportation and shipment of the goods.

c) Margin of Dumping

[86] The total normal value was compared with the total export price for all polyiso insulation board imported into Canada during the POI. It was found that the goods exported by Hunter Panels were dumped by a margin of dumping of 8.9 percent, expressed as a percentage of the export price.

Johns Manville (Johns Manville)

[87] A complete response to the RFI was provided, including a database of domestic sales of like or similar products sold from each of the plants involved in exports to Canada and a database of export sales to Canada. In addition, details on cost of production and general, selling, administrative and all other costs were also provided on a per model basis. The information contained in the RFI response was verified during the week of January 11 – 15, 2010.

a) Normal Value

[88] Profitable domestic sales were used to determine normal values pursuant to section 15 of SIMA. In order to establish which profitable sales could be used, the costs of production and administrative, selling and all other costs were determined in accordance with section 11.1 of the

SIMR. In determining the normal values, adjustments were made to the weighted average selling price for prompt payment discounts and volume rebates in accordance with section 6 of the SIMR, as well as for delivery costs included in the selling price in accordance with section 7 of the SIMR. Where there was not such a number of sales of like goods made by the exporter at the place from which the goods were shipped directly to Canada as to permit a proper comparison with the sale of the goods to the importer in Canada, but there were sufficient sales of like goods at its nearest plant, those sales were included with sales of like goods from the plant in question to determine the normal value for the model pursuant to section 15, in accordance with paragraph 16(1)(a) of SIMA.

[89] Where the normal values could not be determined under section 15 by reason that there was not such a number of sales of like goods that comply with all the terms and conditions referred to in that section or that are applicable by virtue of subsection 16(1) as to permit a proper comparison with the sale of the goods to the importer, normal values were determined pursuant to paragraph 19(b) of SIMA, as the aggregate of the cost of production, a reasonable amount for administrative, selling and all other costs and a reasonable amount for profits. The cost of production was determined in accordance with paragraph 11(1)(a) of the SIMR, based on the verified cost data relating to the goods as provided by Johns Manville. The amount for profit was determined in accordance with subparagraph 11(1)(b)(i) of the SIMR [sales of like goods made by the exporter in the country of export], based on the profits earned on all domestic sales during the POI that were used to determine normal values pursuant to section 15. The amount for profits was calculated on a per plant basis.

b) Export Price

[90] Johns Manville sold the subject goods to unrelated importers in Canada. Export prices were determined pursuant to section 24 of SIMA, based on the exporter's selling price, adjusted to take into account all costs, charges and expenses incurred in preparing the goods for shipment to Canada and resulting from the exportation and shipment of the goods.

c) Margin of Dumping

[91] The total normal value was compared with the total export price for all polyiso insulation board imported into Canada during the POI. It was found that the goods exported by Johns Manville were dumped by a margin of dumping of 23.8 percent, expressed as a percentage of the export price.

All Other Exporters – Margin of Dumping

[92] The normal values for goods shipped to Canada by all other exporters, including those exporters that provided late or incomplete responses, were determined based on a ministerial specification pursuant to section 29 of SIMA. The normal values were based on the export price as determined under section 24 or 29 of SIMA plus an amount equal to 168.9 percent of that export price, which represents the highest amount by which the normal value exceeds the export price of an individual transaction of any subject goods of an exporter for which the CBSA had sufficient information, expressed as a percentage of export price. The resultant margin of dumping for these exporters was 168.9 percent, expressed as a percentage of export price.

SUMMARY OF RESULTS

[93] The table below provides a summary of the results for the final phase of the investigation.

Period of Investigation – October 1, 2008 to September 30, 2009

Country	Dumped Goods as Percentage of Country Imports	Margin of Dumping *	Country Imports as Percentage of Total Imports	Dumped Goods as Percentage of Total Imports
United States	97.8%	21.9%	98.9%	96.7%

* As percentage of the export price

[94] Pursuant to subsection 41(1) of SIMA, the President shall cause the investigation to be terminated if, where on the available evidence, he is satisfied that the margin of dumping of the goods by country is insignificant. Pursuant to subsection 2(1) of SIMA, a margin of dumping of less than 2 percent is defined as insignificant. As shown in the table above, the margin of dumping of subject polyiso insulation board from the United States is above 2 percent and is, therefore, not insignificant.

REPRESENTATIONS CONCERNING THE INVESTIGATION

[95] During the final phase of the investigation, the CBSA received one representation on behalf of Dow. The representation involves the determination of the amount of the trade level adjustment for the normal values relating to products exported to Dow Canada. Dow submitted that certain expenses should be incorporated into the amount of the trade level adjustment.

[96] Where purchasers of like goods that are at the trade level nearest and subsequent to that of the importer in Canada have been substituted for purchasers that are at the same or substantially the same trade level as that of the importer, the CBSA determines trade level adjustments by examining sales activities for which the vendor does not perform at all on sales to Canada, as it is the importer's role to do so. These activities include advertising and sales promotion, direct sales representation including salesperson's salaries, commissions and travel expenses, etc., which serve to stimulate the volume of sales by informing potential customers of the availability, characteristics and prices of the goods, and by persuading the potential customers to buy the goods. In determining the amount of the trade level adjustment for Dow, the CBSA rejected Dow's claim, since the additional expenses it wanted included in the amount of the adjustment are not directly related to selling activities.

[97] No other representations were filed.

DECISION

[98] On the basis of the results of the investigation, the President of the CBSA is satisfied that polyiso insulation board originating in or exported from the United States has been dumped and that the margin of dumping is not insignificant. Consequently, on April 6, 2010, the President of the CBSA made a final determination of dumping pursuant to paragraph 41(1)(a) of SIMA respecting the subject goods.

[99] A summary of the margins of dumping relating to the final determination of dumping is provided in the Appendix.

FUTURE ACTION

[100] The provisional period began on January 6, 2010, and will end on the date the Tribunal issues its order or finding. The Tribunal is expected to issue its decision by May 6, 2010. 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 on the CBSA's Web site at: www.cbsa-asfc.gc.ca/sima-lmsi.

[101] If the Tribunal finds that the dumping of the goods has not caused injury and does not threaten to cause injury, all proceedings relating to this investigation will be terminated. In this situation, all provisional duties paid or security posted by importers will be returned.

[102] If the Tribunal finds that the dumping of the goods has caused injury, the anti-dumping duty 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 Tribunal's finding will be subject to anti-dumping duty in an amount equal to the margin of dumping.

[103] 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 customs accounting documents, an administrative monetary penalty could be imposed. The provisions of the *Customs Act* apply with respect to the payment, collection or refund of any duty collected under SIMA. As a result, failure to pay duty within the prescribed time will result in the application of interest.

[104] Specific normal values have been provided to the cooperative exporters for future shipments to Canada in the event of an injury finding by the Tribunal. These normal values will come into effect the day after the date of the injury finding. Information regarding the normal values of subject goods should be obtained from the exporters.

[105] In instances in which information has been requested but not provided, or is not available, the normal value will be established by advancing the export price by 168.9 percent based on a ministerial specification pursuant to section 29 of SIMA. Anti-dumping duty will apply based on the amount by which the normal value exceeds the export price of the subject goods.

RETROACTIVE DUTY ON MASSIVE IMPORTATIONS

[106] Under certain circumstances, anti-dumping duty can be imposed retroactively on subject goods imported into Canada. When the Tribunal conducts its inquiry on material injury to the Canadian industry, it may consider if dumped goods that were imported close to or after the CBSA's initiation of the dumping investigation constitute massive importations over a relatively short period of time and have caused injury to the Canadian industry. Should the Tribunal 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 of dumping could be subject to anti-dumping duty.

PUBLICATION

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

INFORMATION

[108] 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 Directorate
Canada Border Services Agency
100 Metcalfe Street, 11th Floor
Ottawa, ON K1A 0L8
CANADA

Telephone: Ron McTiernan 613-954-7271
Wayne Tian 613-946-2574

Fax : 613-948-4844

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

Web site : www.cbsa-asfc.gc.ca/sima-lmsi



Daniel Giasson
Director General
Anti-dumping and Countervailing Directorate

Attachment

APPENDIX - SUMMARY OF MARGINS OF DUMPING BY EXPORTER

**FACED RIGID CELLULAR POLYURETHANE-MODIFIED POLYISOCYANURATE
THERMAL INSULATION BOARD ORIGINATING IN OR EXPORTED FROM THE
UNITED STATES OF AMERICA**

Exporter	Margin of Dumping*
Atlas Roofing Corp.	7.8%
Carlisle Syntec Inc.	15.9%
Construction Materials International, Inc.	0.0%
Dow Chemical Company, Inc.	0.0%
Firestone Building Products Inc.	15.9%
Hunter Panels LLC	8.9%
Johns Manville	23.8%
All Other Exporters:	168.9%

* As percentage of the export price