CANADA BORDER SERVICES AGENCY

CONTAINER CHASSIS

P U B L I C

COMPLAINT
OF
Max-Atlas Equipment International Inc.
April 20, 2021

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Executive Summary

1. Max-Atlas is a proud Canadian manufacturer of container chassis that is facing an existential threat to its business from the dumping and subsidization of container chassis originating in or exported from the People's Republic of China.

2. Without intervention, Max-Atlas' business, which employs up to 150 Canadians and generated approximately $50 million in revenues in fiscal year 2019 (ending May 31, 2019), will no longer be able to viably compete to supply Canadian customers or continue to innovate new products.

3. China International Marine Containers (Group) Co. Ltd. ("**CIMC**"), a Chinese state-owned and state-controlled enterprise, is the predominant exporter of container chassis and has been dumping and subsidizing these products into Canada and the United States for several years, including through its wholly-owned subsidiary in the United States, CIE Manufacturing Inc. ("**CIE**"). CIMC often ships substantially complete chassis kits to CIE for final assembly in the US. The minimal assembly operations CIE performs on the chassis in the US means the chassis remain of Chinese origin for trade remedy purposes and do not form part of US domestic production.

4. Max-Atlas has now seen a flood of these chassis coming into Canada through Canadian dealers, which has caused, and is continuing to cause, injury to Max-Atlas.

   - ***Eroded margins.*** Max-Atlas has seen its margins eroded by having to lower its prices in order to secure the sales that it does make or to maintain prices despite cost increases on input materials or from producing more innovative products. As a result, the price of Max-Atlas' container chassis has been eroded and will continue to be further eroded in order to secure future sales. Max-Atlas is already operating at [redacted] and is trending towards a [redacted]. The company's gross margins fell approximately [redacted] between 2017 and 2020 (from [redacted]).

- ***Market share declines.*** Customers have been turning away from Max-Atlas to CIMC, resulting in a loss of market share for Max-Atlas. Max-Atlas has seen its share decline from 2017 to the end of 2020.

- ***Loss of key accounts.*** Max-Atlas has completely lost one of its most important accounts, [redacted], to CIMC. In 2015, Max-Atlas won an RFQ for [redacted], which was the full contract. [redacted] only awarded Max-Atlas [redacted] of the 2017 contract, and [redacted] of the 2019 contract. Max-Atlas [redacted] and received confirmation on February [redacted] will not be purchasing any Max-Atlas chassis in 2021 with all of the volume being awarded to CIMC substantially below Max-Atlas' offer price.

- ***Lay-offs.*** Max-Atlas has undertaken significant layoffs that would not have been made but for the unfair trading practices of the Chinese manufacturers. In 2018, the company had a workforce of 150 employees. Today, only 79 employees are on the payroll, which is an increase from the 42-person low in May 2020 due to the pandemic, but still well below 2017 and 2018 levels.

5. Chassis production in China is government controlled. The predominant Chinese exporter, CIMC, is a state-owned enterprise ("**SOE**"). CIMC's controlling shareholders are SOEs.

6. Steel and steel-based inputs are by far the most important components in the production of chassis. The CBSA has routinely treated the Chinese steel industry as being both government controlled as well as heavily subsidized. CIMC, acting as a Chinese SOE, is deliberately trying to take over the Canadian (and even North American) chassis market with unfairly traded prices. This is next in a long line of cases where unfairly traded Chinese steel goods injure Canadian domestic producers.

7. The United States has imposed various tariffs against China, including under section 301 of the *Trade Act of 1974*. A 10% tariff imposed in September 2018 applies to the chassis being exported from China. As of May 2019, the U.S. increased the tariff to 25% increasing

the risk of diversion of Chinese-origin chassis to the Canadian market, which does not have similar measures in place.

8. Furthermore, anti-dumping and countervailing investigations on chassis from China are underway with the Department of Commerce and International Trade Commission in the United States. The International Trade Commission made a final determination in the countervailing investigation on April 13, 2021 and imposed duties of 44.32%. The Department of Commerce also issued a preliminary determination in the anti-dumping proceeding on February 25, 2021 and resulted in a margin of dumping of 188.05%. The outcome of those proceedings are likely to result in further duties being imposed on Chinese-origin chassis, which will likely lead to diversion of chassis to the unprotected Canadian market.

9. Max-Atlas therefore asks the CBSA and the Tribunal for relief in the form of anti-dumping and countervailing trade remedies. Details of the facts relating to the conduct of Chinese exporters, notably that of the Chinese state-owned CIMC, and the impacts on the Canadian industry are set out below.

1. Identification of the complainant

10. This complaint is filed by Max-Atlas Equipment International Inc. (the "**Complainant**" or "**Max-Atlas**"). Max-Atlas' address is:

    371 ch. du Grand Bernier N
    Saint-Jean-sur-Richelieu, QC
    Canada
    J3B 4S2

11. The coordinates for the contact person are:

    Tibor Varga
    President
    Phone: 450-346-8848
    Email: vargat@max-atlas.com

12. Max-Atlas is a closely held corporation, incorporated under the laws of Quebec, and is 100% Canadian owned. Mr. Tibor Varga is the indirect principal shareholder.

13. Max-Atlas is a manufacturer of container chassis and subassemblies used in a wide variety of industries including, but not limited to, the transportation, waste management and mobile energy (generators) industries, as well as the oil and gas industry for the transportation of frac sand in fracking operations. Max-Atlas also manufactures and sells parts and custom designed chassis.

14. In 1960, Ernest Varga founded a transportation company, to which Tibor Varga joined in 1972 as an operations manager. In 1984, the company opened a trailer repair shop, marking Tibor Varga's first entry into and experience with the trailer market. Max-Atlas was incorporated in March 1993 as a manufacturer of flatbed trailers and chassis. By 1995, Tibor Varga had taken the helm of Max-Atlas and shifted its focus exclusively to the container chassis manufacturing it performs today.

15. In 2000, Max-Atlas achieved a major milestone, producing 500 chassis that year. By 2006, this annual production quadrupled to 2,000 chassis, largely attributable the company's

growing success and the implementation of the lean manufacturing method (sometimes referred to as the Toyota Way) and its own proprietary production method, referred to as "modelization". That year, Max-Atlas also began private label manufacturing.

16. By 2014, Max-Atlas saw its business continue to grow when it obtained two new key accounts, began exporting to the United States and partnered with a national Canadian distributor. Further efficiency gains allowed Max-Atlas to increase its production output to 2,000 units on a single shift in 2015. In 2017, Max-Atlas launched its new and innovative 60' (60 foot) extendable chassis product and continued increasing production efficiency to where it was able to realize efficiency gains of 30% for its most popular model.[1]

17. As a closely held corporation, the ultimate control of Max-Atlas resides with [redacted]. Through a corporate structure, including holding entities, ultimate ownership of Max-Atlas is shown below:

Table 1 – Max-Atlas ownership[2]

Individual owners	Ownership of Max-Atlas
[redacted]	

18. Tibor Varga currently acts as President of Max-Atlas, while Andrew Morena acts as Secretary and Treasurer. [redacted].

[1] Appendix 02 – Max-Atlas Management Presentation, Max-Atlas, September 2019, p. 2.

[2] Appendix 01 – Complainant Corporate Ownership Structure, McMillan LLP, December 15, 2020.

2. Imported goods

2.1 Subject and like goods description

19. Max-Atlas proposes a period of investigation from January 1, 2020 to December 31, 2020.

a) Definition of the Subject Goods

20. The goods covered by this complaint are: container chassis and container chassis frames, whether finished or unfinished, assembled or unassembled, regardless of the number of axles, for the carriage of containers, or other payloads (including self-supporting payloads) for road, marine roll-on/roll-off and/or rail transport, and certain subassemblies of container chassis originating in or exported from the People's Republic of China (the "**Subject Goods**").

21. The Subject Goods include the following complete or substantially complete[3] major subassemblies,[4] when imported, purchased or supplied with, or for assembly with, subject container chassis frames:

i) running gear assemblies for connection to the container chassis frame, whether fixed in nature or capable of sliding fore and aft or lifting up and lowering down, which may include suspension(s), wheel end components, slack adjusters, axles, brake chambers, locking pins, tires and wheels;

ii) landing gear assemblies, for connection to the container chassis frame, capable of supporting the container chassis when it is not engaged to a tractor; and

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[3] Substantially complete major subassemblies have the essential characteristics of the complete major subassemblies.

[4] The term subassemblies is used to denote assemblies that act as subassemblies to larger assemblies. For instance, the full container chassis assembly contains several subassemblies, such as the running gear. The running gear assembly itself contains several subassemblies, such as the suspension subassembly.

iii) connection assemblies that connect to the container chassis frame or a section of the container chassis frame, such as B-trains and A-trains, capable of connecting a container chassis to a converter dolly or another container chassis.

b) Additional product information

22. Chassis are typically, but are not limited to, rectangular framed trailers with a suspension and axle system, wheels and tires, brakes, a lighting and electrical system, a coupling for towing behind a truck tractor, and a locking system or systems to secure the shipping container or containers to the chassis using twistlocks, slide pins or similar attachment devices to engage the corner fittings on the container or other payload.[5]

23. These chassis are typically used in the transportation of intermodal[6] cargo containers and are skeletal rectangular framed trailers. The rectangular frame comprises steel with a suspension and axle system, wheels and tires, brakes, a lighting and electrical system, a coupling for towing behind a truck tractor, and a locking system or systems to secure the shipping container or containers attached to the chassis. Chassis are designed to carry containers of various sizes, usually ranging from 20' to 60' in Canada, including the typical container lengths of 20', 40', 45', 53' and 60'. Containers carried on chassis include marine containers which are sometimes referred to as "ISO containers", as they are manufactured to specifications set out by the International Organization for Standardization. Other containers carried by the Subject Goods include, but are not limited to, domestic containers designed to be carried exclusively over land and not via ocean transport, tank containers for the carriage of liquids or sand, flat racks which are containers without sides, generators for emergency systems and temporary power delivery and waste containers.

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[5] Appendix 03 – Container Chassis Presentation, Max-Atlas.

[6] "Intermodal" means the utilization of more than one transportation mode (e.g. ship, rail, road) to transport cargo shipments from one location to another.

24. Some chassis are built to a single container size and for holding a single container. Others are designed to be extendable chassis, meaning their sliding or adjustable suspension can be extended to allow for longer containers to be carried. Some longer chassis are designed to allow the operator to carry multiple smaller containers, allowing the operator the flexibility of carrying loads for multiple clients simultaneously.

25. Chassis may be imported into Canada in a fully assembled form, or imported as an unassembled chassis, such as a chassis frame accompanied by the relevant subassemblies, with most or all of the integral items required to assemble a chassis into a finished form. For an unfinished or unassembled chassis to be subject to the scope, the parts for a single chassis do not have to enter at the same time.

26. The subject container chassis frames are steel skeletal frames forming the main frame of the trailer and typically include: coupler plate assemblies, bolsters consisting of transverse beams with locking or support mechanisms, gooseneck assemblies, drop assemblies, extension frame assemblies with locking mechanisms and/or rear impact guards. These container chassis frames are only used to manufacture a finished container chassis.

27. For greater certainty, the Subject Goods include unfinished or unassembled container chassis or container chassis frames, for painting, coating or further assembly with components such as, but not limited to hub and drum assemblies, brake assemblies (either drum or disc), axles, brake chambers, suspensions and suspension components, wheel end components, landing gear legs, spoke or disc wheels, tires, brake control systems, electrical harnesses and lighting systems.

28. The Subject Goods do not include the individual components of the container chassis or subassemblies when imported as individual components, meaning not as part of an unassembled or unfinished container chassis or as part of a substantially complete subassembly. Such non-subject individual components may include hub and drum assemblies, brake assemblies (either drum or disc), axles, brake chambers, suspensions and

suspension components, wheel end components, landing gear legs, spoke or disc wheels, tires, brake control systems, electrical harnesses and lighting systems. Some of these components may also be used in the production of non-subject trailers such as flatbeds, tankers, dumpers, grain hoppers and others.

29. The processing of the Subject Goods, such as trimming, cutting, grinding, notching, punching, drilling, painting, coating, staining, finishing, assembly, bolting, welding or any other processing in China or another country does not remove the product from the definition of Subject Goods. In addition, if unfinished chassis manufactured in China are merely assembled into a completed chassis in a third country, such as the United States or Mexico, the chassis remains subject to the scope of these investigations. The inclusion of additional components not identified as comprising the finished or unfinished container chassis does not remove the chassis from the definition of Subject Goods.

30. The Subject Goods do not include:

i) dry van trailers, meaning trailers with a wholly enclosed cargo space comprised of fixed sides, nose, floor and roof, with articulated panels (doors) across the rear and occasionally at selected places on the sides, with the cargo space being permanently incorporated in the trailer itself;

ii) refrigerated van trailers, meaning trailers with a wholly enclosed cargo space comprised of fixed sides, nose, floor and roof, with articulated panels (doors) across the rear and occasionally at selected places on the sides, with the cargo space being permanently incorporated in the trailer and being insulated, possessing specific thermal properties intended for use with self-contained refrigeration systems; and

iii) flatbed or platform trailers, meaning trailers that consist of load-carrying main frames and a solid, flat or stepped loading deck or floor permanently incorporated with and supported by frame rails and cross members.

c) The chassis manufacturing process

31. The standard production process for chassis primarily involves the fabrication and assembly of welded steel parts.

32. The chassis frame consists of welded steel parts in three basic subassemblies – the front, or forward beam and front cross-member, assembly, the middle assembly and the rear, or rear cross-member including the rear impact guard, assembly. The chassis frame subassemblies are composed of steel I-beams, fabricated beams from plates and flat bars, box beams, channels and angles that are cut and welded into the shape of the frame.[7]

33. The completed chassis also includes the running gear assembly, air brake system, and lighting and electrical systems.

34. The running gear assembly comprises the tires, hub and drum assemblies, axles and suspensions, brake chambers and other components.

35. Chassis producers use metal inert gas ("**MIG**") welders to weld the various steel components together. The middle, or drop frame assembly, consists of the main longitudinal beams (cross-members) and may include diagonal bracing. Once the steel parts are assembled and coated, the air brake system and electrical components are added to the assembly. The final assembly of the product prior to delivery can be described as follows:

    i) The front/gooseneck assembly, in an orientation with the king pin facing upward, provides for access to attach the landing gear and cross-brace.

    ii) The mainframe with the operational top surface being inverted for access to the lower portion of the structure provides access to install the

[7] See Appendix 93 – Example of Chassis Frame Parts Breakdown, Max-Atlas, April 2021, for a simplified breakdown of the parts and segments found in a typical chassis frame.

axle/wheel/tire portion of the suspension. In the case of a slider-type suspension, this can be done in the upright orientation. Additional wheel/tire combinations are also added to the axles at this stage, although typically a single wheel/tire is installed to each axle spindle with the pairing shipped free.

iii) The front section and mainframes are then oriented upright and the connection just behind the landing gear is completed. This requires a support at the king pin area of the front section and a support near the forward location of the mainframe, in order to align for fastener placement.

iv) The rear section, which can be comprised of the rear bolster and the rear impact guard, is secured to the rear portion of the main beam, behind the suspension.

v) The axle alignment procedure is then performed.

vi) Air and electrical system connections are completed from section to section.

vii) A final inspection, including light check, air brake timing tests and roadworthiness inspection is performed.

2.2 Tariff classifications

36. Chassis and subassemblies that are the subject of this Complaint are believed to be properly classified under the following Harmonized System ("**HS**") code. Not all goods classified under these HS codes are Subject Goods:

Table 2 – List of Applicable HS Codes

HS10 Code	Description
8716.39.30.90	Trailers and semi-trailers; other vehicles, not mechanically propelled; parts thereof. - Other trailers and semi-trailers for the transport of goods: - Other - Trailers and semi-trailers for road tractors or for motor vehicles for the transport of goods (excluding non-commercial snowmobile, utility, boat or horse trailers and trailers for use as permanent mountings for machinery or equipment) - Other

37. Some Subject Goods may be classified under the following HS codes (particularly 8716.90.30.00 for container chassis frames or unassembled container chassis), though this is, or at least ought to be,[8] the exception:

HS10 Code	Description
8716.39.90.90	Trailers and semi-trailers; other vehicles, not mechanically propelled; parts thereof. - Other trailers and semi-trailers for the transport of goods: - Other - Other - Other: - Other
8716.90.30.00	Trailers and semi-trailers; other vehicles, not mechanically propelled; parts thereof. - Parts - For use in the manufacture of trailers and semi-trailers
8716.90.99.10	Trailers and semi-trailers; other vehicles, not mechanically propelled; parts thereof. - Parts - Other: - Other - Axles and parts
8716.90.99.90	Trailers and semi-trailers; other vehicles, not mechanically propelled; parts thereof. - Parts - Other: - Other - Other

[8] *C. Keay Investments Ltd. DBA Ocean Trailer Rentals v President of the Canada Border Services Agency,* AP-2017-031.

8716.39.30.20	Trailers and semi-trailers; other vehicles, not mechanically propelled; parts thereof. - Other trailers and semi-trailers for the transport of goods: - Other - Trailers and semi-trailers for road tractors or for motor vehicles for the transport of goods (excluding non-commercial snowmobile, utility, boat or horse trailers and trailers for use as permanent mountings for machinery or equipment) - Lowbed

38. While the HS subheadings above are provided for convenience and customs purposes, the written description of the goods under investigation is dispositive. While other tariff codes may be used, these are the most commonly employed, insofar as Max-Atlas is best able to determine.

2.3 Country of origin/export

39. The subject chassis and subassemblies are produced in China and either exported directly from China or through the United States and Mexico.

40. Max-Atlas is aware of the Subject Goods being exported through these third countries wherein the chassis and subassemblies are further processed including, but not limited to, one or more of the following: trimming, cutting, grinding, notching, punching, drilling, painting, coating, staining, finishing, assembly or any other processing that would not otherwise remove the goods from the scope of the investigation if performed in the country of manufacture of the in-scope product.

41. This is particularly true of Subject Goods produced by CIMC. These Subject Goods may be assembled in the United States by CIMC's subsidiary, CIE, at CIE's facilities in South Gate, California and Emporia, Virginia, and then may be shipped to Canada in this finished state. The assembly operations by CIE in the United States do not remove the goods from the scope of the Subject Goods, as further discussed below.

2.4 Known exporters

42. Max-Atlas is aware of one predominant exporter and producer of the Subject Goods, CIMC Vehicles (Group) Co. Ltd. ("**CIMC Vehicles**"), which is majority owned and controlled by CIMC. Max-Atlas is only aware of CIMC Vehicles and its affiliates, such as CIE, being exporters of the Subject Goods. CIMC is a state-owned enterprise, owned and controlled by the Chinese government.[9] Below in section 6 is a more detailed analysis of the state ownership of CIMC.

43. Besides the exports directly from China, Max-Atlas is concerned by the entry of Subject Goods into Canada via third countries, the United States of America in particular.

44. CIMC indirectly owns a majority stake (53.82%) in a United States company known as CIE via CIMC Vehicles. CIMC Vehicles wholly owns CIMC Vehicle Investment, which wholly owns CIMC USA, Inc., which in turn wholly owns CIE.

45. CIE was previously known as CIMC Intermodal Equipment Inc., but changed its name to CIE in January 2020, likely to emphasize its *purported* manufacturing activities and to distance its perception from its Chinese state ownership and control.

46. CIE's operations are important to understanding the flow of Subject Goods into Canada. Max-Atlas understands that CIE's purported manufacturing activities are limited to the mere assembly of the Subject Goods from China, which arrive in kits, ready for final assembly into the final product. These kits may be composed of completed subassemblies ready for assembly into the finished chassis or kits of parts ready for assembly into finished subassemblies. These kits arrive in the United States as Subject Goods and retain the same essential characteristics after assembly. The United States International Trade Commission's ("**ITC**") preliminary investigation in September 2020 in the ongoing US

[9] Appendix 19 – Annual Report, CIMC Group, 2019, p. 193.

proceedings found that CIE's assembly operations were not sufficient to be considered domestic production.[10] As such, goods assembled by CIE are still Subject Goods.

47. Max-Atlas is aware that CIMC, similarly to its use of its subsidiary CIE in the United States, is also operating similarly in Canada through its Canadian dealerships, including Ocean Trailer. A greater discussion of this practice is outlined below in section 2.5.

2.5 Known importers

48. Based on publicly available information from the Canadian Importers Database, the following 3 companies are important importers of chassis from China under HS Code 8716.39 and account for 78.44% of the over $12.6 million worth of 2019 imports from China:[11]

i) C. Keay Investments Ltd (Delta, BC) (dba Ocean Trailers);
ii) Canadian Tire Corporation Limited (Brampton, ON);
iii) Groupe St-Henri Inc. (Lasalle, QC).

49. Max-Atlas does not believe that Canadian Tire Corporation Limited ("**Canadian Tire**") sells the Subject Goods. Rather, it imports Subject Goods for its own distribution purposes. Max-Atlas is also aware that Canadian Tire, [redacted], does not typically import, but rather purchases its chassis directly from [redacted]. The fact that Canadian Tire appears in the few listed companies in the Canadian Importers Database that imports chassis from China suggests that a major end user of these chassis in Canada is sourcing directly from China to take advantage of unfairly priced Subject Goods.

[10] Appendix 04 – US ITC Report on Chassis and Subassemblies from China, US International Trade Commission, September 2020, pp. 12-14.

[11] Appendix 05 – Major Importers from China, Canadian Importers Database, December 16, 2020.

50. Max-Atlas cannot confirm whether these importers are the same as those who import Subject Goods through the United States. The presumed advantages of CIMC selling directly to Canadian dealers would be an avoidance of the US tariffs on steel products from China, or at least the avoidance of having to go through the process of reclaiming duties paid when chassis are exported by CIE. The presumed advantage of CIMC selling to Canada via CIE is the benefit of being able to have larger-scale operations in the United States, closer to the customers, using any excess capacity of CIE's facilities to meet Canadian demand.

51. The remaining companies represent CIMC's dealership network in Canada and are also importing Subject Goods:

i) **C. Keay Investments Ltd. dba Ocean Trailer**, at the following locations (collectively, "**Ocean Trailer**"):[12]

a. 1600 Prince Rupert Boulevard, Prince Rupert, BC, V8J 2Z3;
b. 9341 Rock Island Road, Prince George, BC, V2N 5T4;
c. 9076 River Road, Delta, BC, V4G 1B5;
d. 861 Maughan Road, Nanaimo, BC, V9X 1J2;
e. 15205 131 Ave, NW Edmonton, AB, T5V 0A4;
f. 7288 84th Street, SE Calgary, AB, T2C 3W5; and
g. 415 Lucas Avenue, Box 58, Group 200 RR2, Winnipeg, MB, R3C 2E6;

ii) **Groupe St-Henri,** at the following locations (collectively, "**St-Henri**"):[13]

a. **Groupe St-Henri Eastern Canada Inc**. at 62 Medulla Ave, Etobicoke, ON, M8Z 5L9; and

[12] For an example of CIMC chassis models currently being sold by Ocean Trailer, please see Appendix 08 – CIMC Product Literature of Models Sold by Ocean Trailer, CIMC, 2020, which contains CIMC product literature obtained from Ocean Trailer's website; Appendix 06 – Marketing and Sales of Subject Goods Examples, Ocean Trailer Website, Ocean Trailer, December 16, 2020, pp. 41-47.

[13] Appendix 06 – Marketing and Sales of Subject Goods Examples, Groupe St-Henri Website, Groupe St-Henri, December 16, 2020, pp. 16-40.

b. **Groupe St-Henri Inc.** at 8000 Rue St-Patrick, Montreal, QC, H8N 1V1

52. Max-Atlas is also aware of Checker Flag Leasing Inc. ("**Checker Flag**") importing Subject Goods.

53. Beyond merely importing completed chassis, CIMC's Canadian distributors often take part in the final assembly steps of the chassis before putting them on the market. In its appeal of a customs re-determination before the Tribunal (*C. Keay Investments Ltd. DBA Ocean Trailer Rentals v President of the Canada Border Services Agency, AP-2017-031)*, Ocean Trailer was found to have been improperly importing chassis "kits" from CIMC for final assembly under the HS code for parts (8716.90.30) rather than that for trailers (8716.39.30) as stipulated by the CBSA.[14] The Tribunal confirmed the CBSA's decision that these chassis "kits" that were shipped to Canada ready for Ocean Trailer to assemble were indeed considered trailers under 8716.39.30.

54. In the Ocean Trailer Appeal, the Tribunal observed that CIMC would export "kits" to Ocean Trailer for assembly in Canada. Such kits included the chassis frames, along with equipment that includes couplers, kingpins, bolsters, bumpers, tires, rims, brakes, suspensions, axles, bearings, hangers, mud flaps and electrical equipment. Ocean Trailer provides the landing gear, cross members, twist locks and support brackets.[15] The mechanics at Ocean Trailer install the tires and wheels to the frame, as well as weld and attach the various additional components.[16]

55. One witness for Ocean Trailer testified that he worked directly with CIMC Vehicles in China to ensure that CIMC's chassis, once imported into Canada and assembled, would be

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[14] *C. Keay Investments Ltd. DBA Ocean Trailer Rentals v President of the Canada Border Services Agency,* AP-2017-031, para 2 [*Ocean Trailer Appeal*].

[15] *Ocean Trailer Appeal, supra* note 14, para. 30.

[16] *Ocean Trailer Appeal, supra* note 14, para. 31.

compliant with domestic regulations and would meet Ocean Trailer's customers' needs.[17] Counsel for Ocean Trailer also called on the CEO of Checker Flag, another distributor of CIMC chassis in Ontario, who explained that Checker Flag also imports CIMC chassis in a similarly disassembled state. He noted that Checker Flag will add pieces, depending on customer specifications, during the 20 hour-long assembly process.[18]

56. The Tribunal remarked that the chassis kits imported from CIMC cost Ocean Trailer anywhere between $12,000 and $17,000 per unit, but that the work invoiced by Ocean Trailer in assembling these units was significantly lower (in the 3 or 4 figure range).[19] Due to this issue of cost, as well as the minimal additions to the chassis performed by these Canadian dealers, the Tribunal ruled that the chassis kits had the essential character of semi-trailers, regardless of their arrival in a disassembled state.

57. Witnesses for Ocean Trailer testified that all operations performed on these chassis kits consisted purely of welding or bolting of subassemblies and mechanical components, in addition to the installation of the electrical components. The Tribunal noted that Ocean Trailer could not identify or provide evidence of any other type of "further working operation" being necessary to prepare the chassis. As a result of these proceedings, the Tribunal dismissed Ocean Trailer's appeal, and decided that the CBSA was correct in identifying these chassis kits from CIMC in China to be trailers under 8716.39.30.[20]

2.6 Other Chinese producers

58. In addition to CIMC, Max-Atlas has identified four other Chinese producers that likely produce container chassis for their domestic market, based on their websites, as well as

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[17] *Ocean Trailer Appeal, supra* note 14, para. 70.

[18] *Ocean Trailer Appeal, supra* note 14, para. 73.

[19] *Ocean Trailer Appeal, supra* note 14, para. 80.

[20] *Ocean Trailer Appeal, supra* note 14, paras. 87-92.

several other Chinese producers of semi-trailers and other special purpose vehicles which may possibly produce container chassis. Please see Appendix 121 for a list of such likely and possible domestic Chinese producers of container chassis.

2.7 Marketing and sale of Subject Goods

59. The marketing, pricing and distribution of imported Subject Goods into Canada does not follow a single model, however there are some readily observable trends.

a) Marketing of Subject Goods in Canada

60. The marketing of Subject Goods is substantially the same as that of the like goods. The marketing of chassis in Canada is accomplished through participation in trade shows, such as those organized or promoted by the Intermodal Association of North America ("**IANA**"), as well as direct marketing to end customers. Chinese manufacturers of Subject Goods participate in these same shows as Max-Atlas and other competing US producers. These trade shows are heavily attended by industry participants and potential customers. For example, the next IANA Intermodal Expo will occur in September 2021 and counts CIE and Canadian National Railway ("**CN**") among its sponsors.[21]

61. In Canada, Max-Atlas is an active exhibitor at both of the national truck shows, TruckCan (Toronto) and Expocam (Montreal), which alternate from year-to-year. Other important truck shows include Truxpo in British Columbia and the Atlantic Truck Show in the Atlantic Region. These trade shows allow chassis manufacturers to market their products directly to dealers.

62. Chassis are also marketed directly to consumers via publications and trade magazines. Features in these publications, such as Truck and Trailer, Truck News and L'Echo du Transport allow chassis manufacturers to present the advantages of their products and

[21] Appendix 06 – Marketing and Sales of Subject Goods Examples, Intermodal Expo Website, IANA, December 16, 2020, pp. 1-15.

highlight their national distributorship. Direct mailers are also used to target prospective clients.

63. Manufacturers are also able to increase their visibility in the market by not only participating in Canadian Trailer Equipment Association ("**CTEA**"), as discussed below, but also through sponsorship and active participation in associations where potential customers can be found, such as the Quebec Trucking Association, Ontario Trucking Association and Toronto Trucking Club.

64. Both Max-Atlas and manufacturers of the Subject Goods also participate in direct sales. In the case of Max-Atlas, the company employs sales persons in both Quebec and Ontario, for more direct contact. Having CIE, a United States subsidiary, allows CIMC to more easily target the Canadian market through having North American sales staff who are able to court Canadian buyers.

65. Suppliers of Subject Goods are also able to market online to Canadian buyers through major e-commerce platforms, including the China-based wholesale platform, Alibaba.com ("**Alibaba**").

66. Alibaba was founded in 1999 and connects millions of manufacturers, suppliers, exporters, importers, buyers and wholesalers globally to promote wholesale trade. This platform enables Chinese producers and exporters to advertise the Subject Goods directly to Canadian importers and end users.[22]

b) Distribution of Subject Goods in Canada

67. Subject Goods and like goods are both sold directly to the consumer or indirectly through distributor networks. In the case of direct sales, Max-Atlas makes direct sales in Ontario

[22] Appendix 06 – Marketing and Sales of Subject Goods Examples, Alibaba Website, Alibaba, November 3, 2020, pp. 48-54.

and Quebec, having salespeople in both provinces. Max-Atlas is aware that CIMC makes direct sales through its American subsidiary CIE, in addition to any direct sales it makes.

68. Both Chinese exporters and Max-Atlas also distribute the Subject Goods through distributor networks. In the case of CIMC, it is able to sell the Subject Goods in Canada through its distribution network, which includes Ocean Trailers in British Columbia, Alberta and Manitoba and Groupe St-Henri in Quebec and Ontario.[23] Max-Atlas similarly used the distributor Trailer Wizards in British Colombia, Alberta and Manitoba to distribute its goods. However, that relationship ended in 2020 with the acquisition of Trailer Wizards by TIP. Max-Atlas performs its own direct sales in Quebec and Ontario. With the exit of Trailer Wizards from its distribution network, Max-Atlas operated through new dealerships such as Valley Equipment Ltd. and Northeast Trucking in the Atlantic Region, where CIMC does not yet have a dealer network. As will be discussed in the injury section below, Max-Atlas is having difficulty in finding a new distribution network in the Prairies and British Columbia due to CIMC's overwhelming presence in the region.

c) Pricing of Subject Goods in Canada

69. Both Subject Goods and domestically produced goods are typically priced and sold on a per-unit basis. Price varies based on the features of the relevant product. Orders are often placed for multiple (sometimes tens or even hundreds) of units. Higher volume sales typically attract lower unit prices. The Subject Goods are sold in Canada at lower prices than those offered by domestic producers.

d) Lifecycle of chassis in Canada

70. The maximum lifecycle of a chassis can be as high as 30 years, if properly maintained, however the useful life of a chassis is highly dependant on the end user. The three largest

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[23] Appendix 06 – Marketing and Sales of Subject Goods Examples, Groupe St-Henri Website, Groupe St-Henri, December 16, 2020, pp 16-40; Appendix 06 – Marketing and Sales of Subject Goods Examples, Ocean Trailer Website, Ocean Trailer, December 16, 2020, pp. 41-47.

purchasers of chassis, being CN, Canadian Pacific Railway ("**CP**") and Canadian Tire, represent between [redacted] of the Canadian market of buyers in a given year and will tend to only purchase new chassis, maintaining them until they reach a certain age. For example, Max-Atlas is aware of [redacted] having internal policies to maintain purchased chassis for 15 years. At this point, the larger purchasers will sell the used chassis to the secondary market of smaller purchasers that will not use it as heavily and that are unable or unwilling to pay the price of a new chassis. Eventually, maintenance costs will outweigh the cost of purchasing a new (or newer used) chassis.

71. Larger purchasers will not typically purchase used chassis, since they prefer to have a new chassis to adhere to their standards and with a known history, until the purchaser is ready to replace the unit.

72. Furthermore, chassis technology in Canada is evolving. Chassis are becoming more flexible in terms of the container sizes they may accommodate. Simple chassis will carry a single size of container (e.g. a 20' or 40' container). Newer chassis offer greater flexibility in being extendable so as to be able to carry a larger container or two smaller containers (e.g. either a single 40' container or two 20' containers), or any size between 20' and 53'.

73. The loss of a sale of a chassis in Canada to dumped or subsidized Subject Goods has the potential to cause injury for a significant period of time following the sale.

3. Goods produced in Canada

74. Max-Atlas produces chassis, and the subassemblies thereof, for the transportation of containers, including intermodal cargo containers, marine shipping containers, electrical power generators and other containers. Max-Atlas designs and manufactures goods to accommodate a variety of container lengths, from 20' to 60', in single or multiple container configurations, as well as extendable chassis designed to accommodate containers of different sizes.

75. Max-Atlas' offerings are interchangeable with the Subject Goods. They share similar characteristics in terms of function, composition and physical appearance. The functions of both domestically produced like goods and Subject Goods includes the carriage of containers and equipment over land. Please refer to Appendix 07 for a presentation regarding the various models of chassis that Max-Atlas produces and associated product literature.

4. Classes of goods

76. There is a single class of goods in this complaint.

77. A number of factors are relevant to determining whether there is a single class of goods, including:

i) physical characteristics of the goods, such as composition and appearance, and

ii) market characteristics of the goods, such as substitutability, pricing, distribution channels, end uses and whether the goods fulfill the same customer needs.[24]

78. With respect to physical characteristics, the Subject Goods and the like goods are all composed of the same materials, namely primary structures composed of welded steel beams, landing gear assemblies (the legs), running gear assemblies (the wheels) and the lighting and electrical assemblies (brake lights, etc.). The Subject Goods are substantially similar in appearance, often being effectively longer or shorter versions of each other.

79. In terms of market characteristics, the chassis are all designed for use in the carriage of containers for road transport. In addition, chassis produced to the same dimensions or specifications are generally interchangeable. All chassis are sold through the same or

[24] *Hot-rolled Carbon Steel Place,* Statement of Reasons of the Tribunal, RR-2019-001, March 13, 2020, para. 25.

similar channels of distribution, namely (1) end users (trucking companies, chassis rental companies, etc.) or (2) distributor networks. All chassis covered under the scope of this complaint are manufactured in common facilities, using similar production processes and the same production employees.

80. Max-Atlas also notes that the Tribunal has ruled that the scope of the like goods should typically be co-extensive with the scope of the Subject Goods.[25] On this basis, goods that are excluded from the product definition, and the domestic production of such goods, need not be considered either in the class of goods analysis or the injury analysis.

81. Max-Atlas recognizes that the Subject Goods are marketed to different industries and applications, including the moving industry, firefighting, construction and utility equipment and the oil and gas industry. Such differences in marketing, however, are not illustrative of different classes of goods. The specific models marketed for particular uses are not necessarily the only model which can effectively be used to complete the tasks the customer requires and are interchangeable with other models of chassis. The fact remains that the function and role of the chassis are identical, namely the hauling of containers and goods.

5. Canadian industry

5.1 Known Canadian producers

82. Max-Atlas is the largest Canadian producer of like goods. Beyond Max-Atlas, there are very few domestic producers and their production volumes are much smaller than those of Max-Atlas.

83. The only other active and notable producers of like goods in Canada are:

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[25] *Seamless Carbon or Alloy Steel Oil and Gas Well Casing,* Statement of Reasons of the Tribunal, November 28, 2018, para. 27.

Name	Address	Contact
Raja Trailer ("**Raja**")	9108 River Road, Delta, BC, V4G 1B5	Phone: 604-940-8383
Innovative Trailer Design ("**ITD**")	161 The West Mall, Toronto, ON, M9C 4V8	Benny Di Franco Phone: 416-620-7755
Di-Mond	195 Constellation Drive, Stoney Creek, ON, L8E 0J5	Christopher Di Lillo Email: chris@di-mond.com

84. Max-Atlas is also aware of the following Canadian entities that may be capable of producing like goods, however Max-Atlas believes that neither of them produced any significant quantities of the like goods during the POI:

Name	Address	Contact
Manac Inc. ("**Manac**")	2275 107e Rue Saint-Georges, QC, G5Y 8G6	Email: info@manac.com
Lode King Industries ("**Lode King**")	135 Canada Street, Box 1146, Winkler, MB, R6W 4B2	Phone: 1-204-325-4345

85. Max-Atlas has obtained new vehicle registration data for trailers in Canada from IHS Markit. According to the data, during the period from 2017 to 2020, only [redacted] container chassis manufactured by Manac were registered. Given this insignificant figure, Max-Atlas submits that these chassis were likely produced as custom orders and are not indicative of any major production initiative. According to the IHS Markit data, [redacted].[26]

[26] Appendix 59 – Trailer Registration Data, 2017 – 2020, IHS Markit, January 2021.

5.2 Known associations of Canadian producers

86. Max-Atlas is a member of the CTEA, headquartered in Ottawa, ON. The CTEA has existed for around 55 years and has served commercial vehicle and component manufacturers.

87. The CTEA counts Trevor Ash of CIE as one of its directors on the board of directors, regardless of the fact that neither CIMC nor CIE presently manufacture goods in Canada.[27] Mr. Ash is presently the Vice President of Sales and Marketing at CIE.

88. The CTEA may be contacted by phone at 226-620-0779 or by email at sleveille@ctea.ca.

5.3 Known trade unions representing persons employed in chassis production in Canada

89. Max-Atlas is only aware of the Fédération démocratique de la métallurgie, des mines et des produits chimiques (FEDEM), which is the union of which Max-Atlas' employees are members. Max-Atlas maintains a good relationship with the union.

90. FEDEM may be contacted at (418) 529-8892 or 1 (888) 440-8892 or via email at info@fedem.ca.

5.4 Volume and value of domestic production for last 3 years

91. The following table summarizes the total volume of sales, in terms of chassis units sold, and the sales value of domestically produced chassis by calendar year and fiscal year:

Table 3 - Volume (Units) and Value (Sales in CAD) of Max-Atlas domestic production of like goods by Calendar Year

	2017	2018	2019	2020
Volume (Units)	[redacted]	[redacted]	[redacted]	[redacted]

[27] Appendix 09 –Board of Directors Listing, CTEA, December 16, 2020.

Sales Value ($)	[redacted]	[redacted]	[redacted]	[redacted]

Table 3.1 - Volume (Units) and Value (Sales in CAD) of Max-Atlas domestic production of like goods by Fiscal Year

	FY 2018	FY 2019	FY 2020	FY 2021 (9m)[28]
Volume (Units)	[redacted]	[redacted]	[redacted]	[redacted]
Sales Value ($)	[redacted]	[redacted]	[redacted]	[redacted]

5.5 Canadian production from other producers

92. Of the five other possible producers identified by Max-Atlas in section 5.1, Max-Atlas believes that only Raja, ITD and Di-Mond produced like goods during the POI.

93. Due to the small size of these producers, especially in comparison to Max-Atlas, Max-Atlas estimates that each of these producers holds no more than [redacted] of the domestic production of the like goods, although in some cases this production has recently tapered down significantly. Therefore, the estimated value and volumes of like goods produced by the other producers is as follows:

Table 4 – Estimated Volume (Units) and Value (Sales in CAD) of the domestic production of like goods[29]

	2017	2018	2019	2020
Raja				

[28] Given that Max-Atlas' fiscal years run from June 1 to May 31, data for Fiscal Year 2021 covers up to and including February 2021, being three quarters of the Fiscal Year 2021.

[29] Appendix 59 – Trailer Registration Data, 2017 – 2020, IHS Markit, January 2021; Sales values are based on Max-Atlas' estimate price of [redacted] per unit; Volumes are based on IHS Markit trailer registrations of container chassis.

Volume (Units)	[redacted]			
Sales Value ($)				
ITD				
Volume (Units)	[redacted]			
Sales Value ($)				
Di-Mond				
Volume (Units)	[redacted]			
Sales Value ($)				

94. As a result, Max-Atlas estimates that its own production constitutes between [redacted] of all Canadian production of like goods, significantly exceeding the standing requirements of subsection 31(2) of *SIMA*.

5.6 Views of other Canadian producers

95. Max-Atlas has no information on the views of the other Canadian producers and has not approached them for confidentiality reasons. Max-Atlas expects that the other Canadian producers will be supportive of this complaint given the significance of the impact of the imported Chinese Subject Goods.

5.7 Max-Atlas' relationship to exporters or importers of subject and like goods

96. Max-Atlas is not related to an exporter or importer of the Subject Goods and is not aware of any such relationship between another Canadian producer and an exporter or importer.

5.8 Max-Atlas' imports of Subject Goods

97. Max-Atlas does not import the Subject Goods and is unaware of any other Canadian producers importing such goods.

6. Dumping

98. Max-Atlas has seen significant dumping of Subject Goods into Canada. As set out below, Max-Atlas estimates that Subject Goods are being dumped in the range of [redacted]% of their export price.

99. The dumping of Subject Goods has caused, and is threatening to cause, injury to the domestic industry, which consists of Max-Atlas and a few smaller producers.

6.1 Normal value

a) SIMA section 15 normal values

100. *SIMA* section 15 normal values are usually the default starting point for dumping calculations. Sufficient information is not available to Max-Atlas to estimate normal values on the basis of section 15. Further, as explained in further detail below, *SIMA* section 15 normal values are not the appropriate method for calculating margins of dumping because *SIMA* section 20 conditions prevail in China with respect to the Subject Goods.

b) SIMA Section 19(b) normal values based on Max-Atlas' costs of production

101. As an alternative assessment of dumping, Max-Atlas estimates Chinese normal values using the section 19(b) constructed cost plus profit method. The costs used were based on those of the Max-Atlas' cost of production in Canada since these were the most reliable data and it was readily available.

102. Max-Atlas sells competitively in Canada and the United States. Accordingly, its cost structure is considered to reflect those in other competitive markets. Therefore, aside from labour and profit components, all of the Max-Atlas' costs, including materials and overhead, are reflective of costs experienced in other competitive markets.

103. Max-Atlas has provided a costing summary of reference product No. 2 and 5 from the U.S. chassis manufacturer [redacted] to show that Canadian costs largely reflect those in major competitive markets such as the US. More importantly, the price and cost

comparison for reference products #2 and #5 provided in Appendix 69 shows that Canadian and US prices are significantly higher than CIMC/CIE price quotes, which justifies the use of Max-Atlas' costing information to determine CIMC's export prices.

104. Section 19(b) normal values based on adjusted Canadian costs likely better reflect Chinese normal values than section 15 normal values given the existence of section 20 conditions in China (as will be discussed further below).

105. The per piece cost model for chassis has the following elements:

i) Total direct material cost

ii) Total labour cost (including both direct labour and labour component of overhead); and

iii) Non-labour overhead

106. Max-Atlas selected the top five most sold chassis models from its line of products for this analysis, which are the following:

#	CIMC Model	Comparable Max-Atlas product
Reference Product 1	20-40-45 City Combo WS Tridem	CCX-2045-3
Reference Product 2	40'/53' Extendable Tridem	CCXT 4053-3S
Reference Product 3	20' SL Tandem w/Rear Fifth Wheel	CCBL24-2S
Reference Product 4	20/40 Combo Tridem	CCBR3240-3S
Reference Product 5	40' Gooseneck Tandem	CC 40-2-00[30]

107. In aggregate, these five models make up [redacted][31] based on Max-Atlas' overall sales in 2019. The cost of production for these models are set out in Appendix 50.

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[30] See Appendix 52 for a comparison of reference products produced by CIMC and Max-Atlas.

[31] Appendix 97 – Sales by Max-Atlas model, 2019/20, tab 2.

Adjustments to Max-Atlas' labour costs

108. Labour costs in China have risen dramatically over the last few years, though they remain lower than in Canada. A November 2015 article in the Wall Street Journal reported on China's manufacturing labour costs.[32] The article relied on information gathered by the Boston Consulting Group ("**BCG**"). After adjusting for productivity, the article stated that manufacturing labour costs per hour in China were US$14.60 in 2015 compared to US$29.58 in Canada in the same year.

109. Max-Atlas used the ratio of these two numbers (49.4%) to deflate Max-Atlas' labour costs to account for lower Chinese labour costs because more recent data confirms that this ratio remains accurate.

110. Recent data published by BCG shows that this ratio has not changed. For example, the 2017 Global Manufacturing Cost-Competitiveness Index shows that the difference in hourly costs per worker in the US is 2.1 times higher than in China. The productivity-adjusted manufacturing labour costs in the US are at approximately US$40 per hour compared to US$20 per hour in China.[33]

111. The 2018 version of this index shows that the US and Canada are nearly identical in terms of productivity-adjusted manufacturing labour costs, merely showing a 2% difference in overall manufacturing costs. The labour portion of these manufacturing costs are also of similar proportion. Good cause exists to continue using the 49.4% as the ratio to deflate Chinese labour costs.[34]

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[32] Appendix 25 – An end to cheap labour, Wall Street Journal, November 23, 2015, pp. 12-13.

[33] Appendix 61 – Dumping and Subsidy Calculations, China's Next Leap in Manufacturing, BCG, December 13, 2018, p. 194.

[34] Appendix 61 – Dumping and Subsidy Calculations, How Shifting Costs Are Altering the Math of Global Manufacturing, BCG, December 11, 2018, p. 207.

112. The CBSA accepted this same methodology and data in initiating the most recent complaints against China (see e.g. CBSA's Statement of Reasons for Initiation of *Corrosion Resistant Steel*, para. 55 and the related Public Complaint, para. 78; and CBSA's Statement of Reasons for Initiation of *Decorative and Non-Structural Plywood*, para. 74).

113. For the purpose of the s. 19(b) constructed value, this deflation of multiplying Max-Atlas' labour costs by 0.494 was applied to the Chinese cost of production labour costs (direct labour and labour component of overhead).

SG&A

114. An amount for Chinese SG&A was estimated based on the 2019 SG&A expenses of Chinese producer CIMC Vehicles, which is the "world's No. 1 semi-trailer manufacturer in terms of sales volume". The estimated dollar amount per chassis was estimated using CIMC Vehicles' SG&A as a percentage of its cost of sales. [35] This percentage was 9.52%. CIMC Vehicles' SG&A is a reasonable benchmark because it is the largest Chinese producer of Subject Goods and the largest exporter of Subject Goods to Canada. [36]

Reasonable amount for profit

115. A net profit margin of 7.1% was added based upon CIMC Vehicles' profit for 2019 as a share of cost of sales and total SG&A costs. [37] CIMC Vehicles' profit is a reasonable benchmark for the same reasons as for SG&A.

116. Appendix 30, tab 2 provides the normal values using the *SIMA*, s. 19(b) constructed normal value method. The calculations for this normal value estimation clearly demonstrate that

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[35] Appendix 20 – Annual Report, CIMC Vehicles, 2019, p. 115.
[36] Appendix 20 – Annual Report, CIMC Vehicles, 2019, p. 115.
[37] Appendix 20 – Annual Report, CIMC Vehicles, 2019, p. 115.

Chinese goods exported to Canada are significantly dumped when compared to these normal values.

c) SIMA Section 20 Conditions Apply to the Semi-Trailer Industry in China that is the Subject of this Complaint

117. The President of the CBSA should apply section 20 of SIMA for the determination of normal values for Chinese-produced container chassis[38] because the Government of China substantially determines domestic prices of chassis produced by CIMC (and for the semi-trailer industry as a whole), which is the monopolist producer in China for the entire semi-trailer industry. As a result, domestic Chinese prices for chassis are not substantially the same as they would be in a competitive market.

118. China is a prescribed country for the purposes of section 20 of SIMA.[39] Paragraph 20(1)(a) of SIMA specifies that normal values of imported goods shipped to Canada from a prescribed country should be determined pursuant to section 20, where, in the opinion of the President:

> i) domestic prices are substantially determined by the government of that country; and
>
> ii) there is sufficient reason to believe that they are not substantially the same as they would be if they were determined in a competitive market.

119. The Government of China exercises significant control over the Chinese semi-trailer industry causing domestic pricing to be much lower than it would be if the Chinese semi-trailer industry operated under competitive market conditions.

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[38] References to "chassis" in this complaint are a short-hand for "container chassis" and specifically to this distinct type of semi-trailer. "Chassis" in this complaint should not be confused with other more generic types of chassis, or even the chassis of other types of semi-trailers.

[39] The People's Republic of China is a prescribed country for the purposes of subsection 20(1) of SIMA pursuant to section 17.1(a) of the *Special Import Measures Regulations*.

120. First, the major competitor in the industry, CIMC, is an SOE. CIMC describes itself as the leader, not only of the domestic industry, but the global semi-trailer industry.[40] CIMC is the only major producer left in China and has solidified its dominant position over the Chinese industry, which has seen a high degree of consolidation in the last few years at the direction of the Government of China. [41]

121. Second, CIMC is integrally linked to the Government of China through its two major controlling shareholders, China Merchants Group ("**China Merchants**") and China Ocean Shipping Company, Limited ("**COSCO**"). China Merchants and COSCO are "core", "central" or "backbone" SOEs, which are SOEs of national, strategic importance that have the same status as Chinese government ministries. Accordingly, every decision made by CIMC, including pricing decisions, is tantamount to an exercise of Chinese government decision-making. As the Government of Canada has recognized in its policy guidance, "the inherent characteristics of SOEs {are such} that they are susceptible to state influence."[42] It is incontrovertible that CIMC is highly susceptible to such influence by the Government of China.

122. Third, Chinese government instruments that regulate and control the semi-trailer industry have a substantial impact on domestic prices of chassis sold in China. As described below, each of the 13th Five-Year Plan, the Belt and Road Initiative, the Made in China 2025 Initiative, as well as industry-specific government directives and targeted preferential tax policies allow the Chinese semi-trailer industry to operate apart from a competitive market

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[40] Appendix 74 – A leader in the global semi-trailer industry, CIMC.

[41] In China, CIMC Vehicles acquired CIMC Yangzhou and Huajun Vehicle, CIMC Luoyang, CIMC Wuhu and CIMC Dongyue. These acquisitions also diversified product portfolio and increased market share in different regions in China according to Appendix 77 –CIMC Vehicles (Group) (1839 HK), CMB International, p. 17.

[42] Appendix 73 – Investment Canada Act Administrative Guideline – Investment by state-owned enterprises – Net benefit assessment, Industry Canada, December 19, 2016, p. 1.

because of: (i) the absence of domestic competition, (ii) a substantially reduced cost base due to subsidized steel, (iii) a lower tax burden and (iv) and targeted subsidies.

123. As a result, Max-Atlas has observed that prices for comparable goods sold in China are substantially lower than goods sold in Canada and in Europe, namely in Austria, Germany, Netherlands and Poland. Appendix 78 compares the pricing for like models between CIMC and Max-Atlas (on the one hand) and CIMC (on the other hand).[43] A summary of this comparison appears in Figure 3 below.

i) CIMC Dominates the Chinese Domestic Semi-Trailer Industry

124. CIMC is a Chinese conglomerate engaged in the manufacture of transportation equipment and the provision of logistics and energy solutions.[44] The company manufactures and sells a variety of semi-trailers for transportation vehicles, including: (i) chassis, (ii) flatbed trailers, (iii) fence trailers, (iv) tank trailers, (v) refrigerated trailers or "reefers" and (vi) van trailers, as well as (vii) truck bodies such as dump beds for dump trucks, mixers for cement trucks, and (viii) bodies for fire safety and rescue vehicles. CIMC also manufactures and sells a variety of shipping containers, including dry cargo containers, reefers, and other specialty containers.[45]

125. CIMC, through its subsidiary CIMC Vehicles,[46] is the largest producer of chassis in the world.[47] Industry source Global Trailer indicates that CIMC Vehicles produced 149,760

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[43] Appendix 78 – CIMC vs. Max-Atlas Prices.

[44] CIMC was incorporated on January 14, 1980 as China International Marine Containers Co., Ltd. and changed its current name after issuing some of its shares on the Shenzhen Stock Exchange on April 8, 1994. Appendix 19 – Annual Report, CIMC Group, 2019, p. 8.

[45] Appendix 19 – Annual Report, CIMC Group, 2019, p. 8.

[46] For more information on CIMC Vehicles, please see Appendix 77 –CIMC Vehicles (Group) (1839 HK), CMB International.

[47] Appendix 20 – Annual Report, CIMC Vehicles, 2019, p. 9.

chassis in 2019, nearly three times the amount produced by the second largest producer which is based in the U.S. No other Chinese producer appears in the most recent ranking.[48]

126. In 2015, the Global Trailers OEM ranking identified several other Chinese producers of chassis in its Top 30 ranking.[49] Chinese producers such as Huajun (now owned by CIMC)[50] had a significant annual output of 10,780 units. Hongtai produced 6,315 units, while Hua Yu Liangshan accounted for 4,599 units.[51] Those competitors were absent on the Global Trailer ranking of 2019.[52]

127. The SIMA Handbook notes that the complainant or CBSA staff should consider whether the government substantially determines domestic prices.[53] As detailed in the next sections, CIMC is an SOE directly under the control of the Government of China. Therefore, the Government of China, through CIMC, effectively has substantial control over domestic prices.

128. It bears noting that the Chinese semi-trailer industry is integrally linked with other industries over which the Government of China exercises significant control, including the steel industry and the logistics/transportation industry. Notably, steel accounts for approximately [redacted][54] of the raw material inputs for chassis and therefore the heavily subsidized steel supplied by Chinese steel producers to the Chinese chassis industry creates a cost base that does not reflect competitive market conditions. CIMC's two largest and

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[48] Appendix 27 – Top 35 Global OEM Ranking List, Global Trailer, 2019, p. 2.

[49] Appendix 75 –Top 30 Global OEM Ranking List, Global Trailer, 2015.

[50] See Appendix 77 - CIMC Vehicles (Group) (1839 HK), CMB International, p. 17.

[51] Appendix 75 – Top 30 Global OEM Ranking List, Global Trailer, 2015.

[52] The effect of CIMC's consolidation in the industry is further corroborated by the fact that between 2015 and 2019, CIMC Vehicles increased its annual output of chassis trailer from 100,300 to 149,760 units, whereas the output of its three main competitors disappeared.

[53] SIMA Handbook, Trade and Antidumping Programs Directorate, Commercial and Trade Branch, CBSA, September 17, 2019, p. 148.

[54] Appendix 50 – Cost of most popular products, Max-Atlas, October 15, 2020.

controlling shareholders, China Merchants and COSCO, dominate the logistics and maritime shipping industries in China.[55] We elaborate on these points below.

ii) The Government of China Controls CIMC through its SOE Shareholders

Shareholding Structure

129. The Government of China indirectly owns 76% of CIMC's shares through SOEs. COSCO and China Merchants are the two largest shareholders in CIMC and exercise substantial control over the company.[56] On a combined basis, those entities own more than 47% of the shares of CIMC. No other shareholder holds a 10% or greater (i.e., a significant) interest in CIMC.

Figure 1 – CIMC's SOE Shareholders

SOE Shareholder	Type of Shares[57]	% of CIMC Group
China Merchant Group	H Shares	24.56%
China COSCO Shipping	A Shares	14.47%
China COSCO Shipping	H Shares	8.23%
Hony Group Management Limited	H Shares	11.99%
Broad Ride Limited (Beneficial Holder)	H Shares	7.2%
Broad Ride Limited	H Shares	4.79%
Promoter Holding	H Shares	4.79%

[55] Appendix 79 – Leaping across the Ocean: The port operators behind China's naval expansion, Australian Strategic Policy Institute, February 2021, pp. 14, 25.

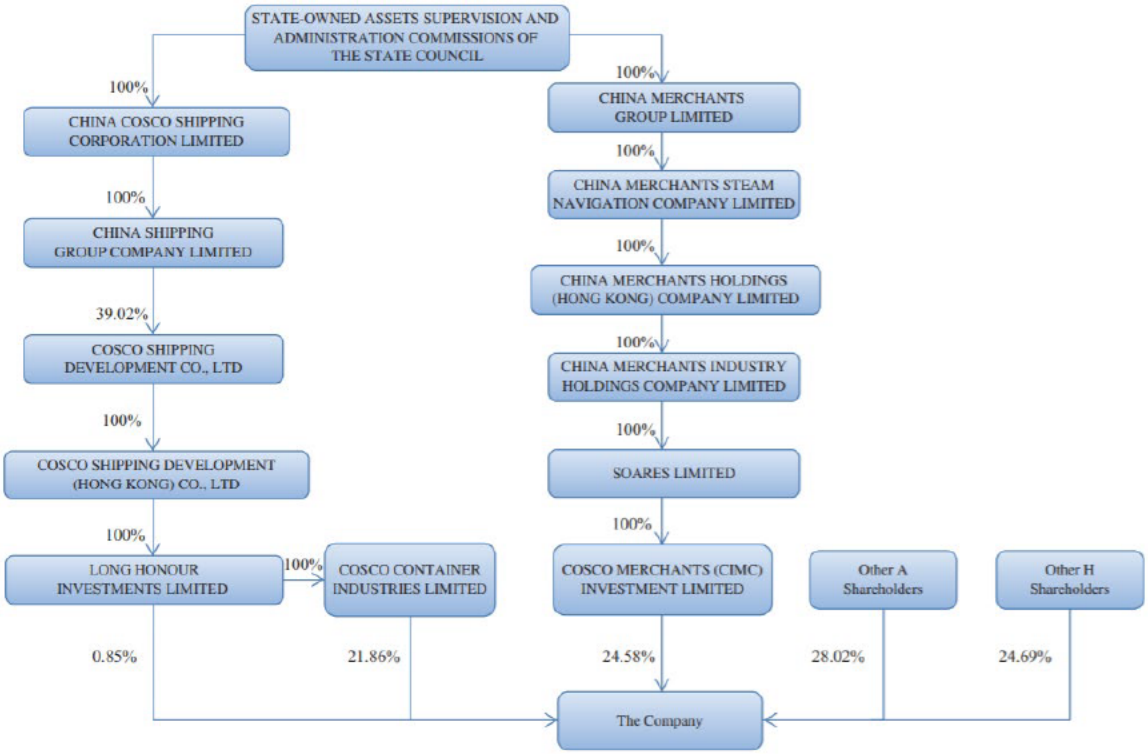
[56] CIMC's 2019 Annual Report refers to COSCO and China Merchants as the "substantial shareholders" of CIMC.

[57] A Shares are listed on the Shenzhen stock exchange, while H Shares are listed on the Hong Kong stock exchange; see Appendix 19 –CIMC Annual Report, 2019, p. 276.

SOE Shareholder	Type of Shares[57]	% of CIMC Group
Total		**76.03%**

130. Figure 2 below, pulled directly from CIMC's Annual Report, also illustrates CIMC's ownership structure, and shows that the only two shareholders of relevance are China Merchants and COSCO:[58]

Figure 2 – CIMC Organogram



131. COSCO and China Merchants are SOEs that are ultimately owned by the Government of China State-owned Assets Supervision and Administration Commission ("**SASAC**").

[58] Appendix 10 – Annual Report, CIMC, 2019, p. 193.

CIMC's other shareholders such as Hony Group, Broad Ride Limited and Broad Ride Limited (Beneficial Holder) and Promoter Holding, are also understood to be ultimately owned by SASAC.[59] CIMC previously refused to confirm that these entities are not SOEs in *Certain Chassis*,[60] and so the CBSA should infer that the other CIMC shareholders are also SOEs for the purpose of initiation:

> [We] find that necessary information is missing from the record of the investigation to determine whether Hony Management is an SOE. Further, […], we find that CIMC has withheld this information. Information on the record of this investigation indicates that Hony Management is the successor-in-interest to Hony Capital. [W]e are using this record information to determine that Hony Management, and therefore CIMC Group and any cross-owned affiliates, are SOEs (Emphasis added).[61]

132. Furthermore, Hony Group's website reveals that several prominent Chinese SOEs are among its shareholders, including the Bank of China Group Limited, China Merchants, Legend Holdings, the National Social Security Fund, and China Life Insurance, the Industrial and Commercial Bank of China,[62] which further corroborates that Hony Group is an SOE.

133. In the US DOC's final determination of the countervailing investigation in 2015 in *53-Foot Containers*, and in its preliminary countervailing determination concerning *Certain*

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[59] Appendix 19 – Annual Report, CIMC Group, 2019, p. 191.

[60] Appendix 55 – Decision Memorandum for the Preliminary Determination in the Countervailing Duty Investigation of Certain Chassis and Subassemblies Thereof from the People's Republic of China, US DOC, December 29, 2020, pp. 20-21.

[61] Appendix 85 – Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Certain Chassis and Subassemblies Thereof from the People's Republic of China, US DOC, March 15, 2021, pp. 6-7.

[62] Appendix 68 – List of Investors, Hony Group.

Chassis from China,[63] the US DOC determined that Hony Group is an SOE.[64] Broad Ride Limited is a subsidiary of Hony Group, which would also make it an SOE.[65]

134. While CIMC conducted an initial public offering on July 1, 2019 for a limited number of shares of its chassis-producing subsidiary CIMC Vehicles, CIMC Vehicles' 2020 interim report lists CIMC as the "controlling shareholder" with an over 50% ownership interest.[66] Therefore, CIMC Vehicles is an SOE, just like its parent company, CIMC.

State Council Supervision through SASAC & Government Appointed Management

135. SASAC describes itself as an "ad-hoc ministerial-level organization directly subordinated to the State Council. The Party Committee of SASAC performs the responsibilities mandated by the Central Committee of the Chinese Communist Party."[67]

136. SASAC's duties include the supervision and management of state-owned assets of enterprises under the supervision of the Government of China. Its responsibilities with respect to Chinese SOEs range from corporate governance, operational budgets, the appointment and removal of top executives, remuneration and incentives, to establishing laws and regulations regarding the management of SOEs.[68] In other words, SASAC is the

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[63] Appendix 55 – Decision Memorandum for the Preliminary Determination in the Countervailing Duty Investigation of Certain Chassis and Subassemblies Thereof from the People's Republic of China, US DOC, December 29, 2020, pp. 20-21.

[64] Appendix 23 – *53-Foot Containers*, Countervailing Duty Investigation, Issues & Decision Memorandum for the Final Determination, US Department of Commerce, International Trade Administration, April 10, 2015, pp. 40-41.

[65] Furthermore, note 3 on page 191 of CIMC's 2019 Annual Report (Appendix 19) states that "Hony Group Management Limited, through certain subsidiaries (including Broad Ride Limited) holds an interest in the H shares of the Company, and 258,244,615 H shares (L) are held in the capacity as interest of corporation controlled by the substantial shareholder and 171,657,660 H Shares (L) are held in the capacity as person having security interest in shares".

[66] Appendix 18 – Interim Report, CIMC Vehicles, 2020, p. 3.

[67] Appendix 36 – Government of China Industry Policies, SASAC, What we do, pp. 128-131.

[68] Appendix 36 – Government of China Industry Policies, SASAC, What we do, pp. 128-131.

Government of China's conduit to exert control and influence over all aspects of Chinese SOEs.

137. China Merchants was incorporated in 1986 and has also been a wholly state-owned company owned by the SASAC since its inception. China Merchants' operational focus is on transportation infrastructure (e.g., ports, toll roads, energy transportation and logistics).[69]

138. COSCO was incorporated in 1961 and has been a state-owned company since its inception to this day, and also remains to this day wholly-owned by the SASAC of the State Council. In addition to domestic containers, COSCO extends into marine transportation, logistics terminals, ship building, and repairing.[70]

139. The operations of COSCO and China Merchants are indistinguishable from the operations of the Government of China. In *53-ft Containers*, the US DOC confirmed this by stating that CIMC's board had controlling influence over CIMC and that board members and directors of COSCO and China Merchants were in positions to influence the decision-making of CIMC:[71]

> The board of directors carries out numerous duties, including operations which we determine exercise day-to-day influence/control of CIMC. For example, minutes of a board meeting indicate that the board has oversight over items such as the director's service contract, supervisor's service contract, and senior manager's service contract. The board of directors for CIMC also appoints the President and Vice-Presidents, per Article 224 of the AoA, thus controlling senior management.[72]

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[69] Appendix 83 – Introduction, China Merchants, retrieved April 3, 2021.

[70] Appendix 86 – Survey, China COSCO Shipping Group Profile, retrieved April 3, 2021.

[71] Appendix 22 – *53-ft Containers*, Issues and Decision Memorandum for the Final Determination of Sales at Less Than Fair Value, US Department of Commerce, International Trade Administration, April 10, 2015, pp. 46-53.

[72] Appendix 22 – *53-ft Containers*, Issues and Decision Memorandum for the Final Determination of Sales at Less Than Fair Value, US Department of Commerce, International Trade

140. The Government of China through SASAC, COSCO and China Merchants exercise significant control over the operations of CIMC, as is made clear by the public profiles of CIMC's directors and executives.

141. CIMC Group's executive management is tied into the "control pyramid", in which SASAC controls a group of enterprises, each of which controls entities further down the chain. This ensures control by the Government of China over SOEs like CIMC. With just two exceptions,[73] each and every one of CIMC Group's directors are either current or former executives of China Merchants and COSCO.[74] All members of CIMC's board supervisors are current or former executives at COSCO, SASAC, or the labour union, which is also under the control of the Government of China.[75]

142. Although the Government of China allows for minority ownership in its SOEs, it is able to exert more control than ownership estimates alone would suggest by constructing or extending enterprise "control pyramids."[76]

143. In its Public Body Analysis, which includes a recommendation that CIMC should be treated as an SOE, the US DOC explained that the Government of China uses such these "control pyramids" to diversify SOE ownership and to profit from public listings of SOEs without relinquishing meaningful control over SOE decision-making.[77] The government

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Administration, April 10, 2015, p. 49. CIMC's evidence on this point, such as the Articles of Association ("AoA"), was filed on a confidential basis in the US proceeding. The evidence therefore exists, and the best evidence available to the complainants on this point is the summary of the evidence provided by the US DOC.

[73] The CEO and President Mr. Mai Boliang and Ms. Lui Fung Mei Yee do not appear to be current or former executives of China Merchants and COSCO based on their public profiles.

[74] Appendix 19 – Annual Report, CIMC Group, 2019, pp. 195-203.

[75] Appendix 19 – Annual Report, CIMC Group, 2019, pp. 195-203.

[76] Appendix 36 – Government of China Industry Policies, The Emergence and Evolution of Chinese Business Groups: Are Pyramidal Groups Forming?, Dylan Sutherland and Lutao Ning, June 5, 2015, pp. 132-134.

[77] Appendix 70 – Public Body Analysis, US DOC, February 27, 2019, pp. 18-20.

maintains a controlling stake in listed firms, while minority shareholders provide financial liquidity but only achieve limited influence.[78]

144. CIMC fits the pattern of a "pyramid control" described in this Public Body Analysis through its ownership by COSCO and China Merchants and multiple intermediary companies, who are in turn owned by SASAC as the ultimate owner at the top.

145. The ruling Communist Party of China ("**CPC**") forms an integral part of SOEs. The CPC places CPC committees at the executive level of SOEs, including SOEs like CIMC's substantial shareholders COSCO and China Merchants.[79] This infiltration of SOEs by CPC committees allows the CPC to exercise control and influence over all entities within a "control pyramid".

146. In order to formalize this practice, the Government of China has recently implemented new regulations to further cement the CPC's control over SOEs, which is merely a formal recognition of practices that have been rolled out in the past several years rather than an announcement of new requirements. These regulations position CPC committees in SOEs ahead of the board of directors and stipulate that the party secretary of an SOE must be its chairman who must "execute the will of the party".[80]

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[78] Appendix 36 – Government of China Industry Policies, The Emergence and Evolution of Chinese Business Groups: Are Pyramidal Groups Forming?, Dylan Sutherland and Lutao Ning, June 5, 2015, pp. 132-134.

[79] Appendix 79 – Leaping across the Ocean: The port operators behind China's naval expansion, Australian Strategic Policy Institute, February 2021, pp. 14-16, 25-28.

[80] Appendix 36 – Government of China Industry Policies, China cements Communist Party's role at top of its SOEs, should 'execute the will of the party', South China Morning Post, January 8, 2020, pp. 126-127.

147. These new regulations, which took effect in early January 2020, stipulate that an SOE must include a recognition of the CPC in its articles of association and a party organ must be created in any SOE that employs more than three CPC members.[81]

148. The regulations further establish that "all major business and management decisions must be discussed by the Communist Party organ before being presented to the board of directors or management for decision."[82] In addition, they also specify that the party secretary and chairman of the board of an SOE should be "the same person", and the general manager position within an SOE must be filled by a deputy party committee secretary.[83]

149. This regulatory requirement of positioning the CPC within an SOE is apparent by looking at the titles and responsibilities of COSCO's and China Merchant's executives. All of COSCO's directors are members of the CPC committee, and so are two COSCO executives:[84]

Name	**Function within COSCO**	**CPC Role**
Xu Lirong	Chairman of the Board	Party Secretary
Fu Gangfeng	Director, President	Deputy Party Secretaries
Wang Haimin	Director	Deputy Party Secretaries

[81] Appendix 36 – Government of China Industry Policies, China cements Communist Party's role at top of its SOEs, should 'execute the will of the party', South China Morning Post, January 8, 2020, pp. 126-127.

[82] Appendix 36 – Government of China Industry Policies, China cements Communist Party's role at top of its SOEs, should 'execute the will of the party', South China Morning Post, January 8, 2020, pp. 126-127.

[83] Appendix 36 - Government of China Industry Policies, China cements Communist Party's role at top of its SOEs, should 'execute the will of the party', South China Morning Post, January 8, 2020, pp. 126-127.

[84] Appendix 46 – Top Management and Directors, COSCO, retrieved October 30, 2020.

Sun Yunfei	Executive Vice President, Chief Financial Officer	Party Committee Member
Huang Xiaowen	Executive Vice President	Party Committee Member
Zhang Wei	Executive Vice President	Party Committee Member
Feng Bo	Executive Vice President	Party Committee Member

150. High-ranking government appointees with strong ties to not only COSCO and China Merchants, but also the CPC, fill CIMC's board of directors. For example, Ming Dong is a deputy general manager and a member of the Party committee of COSCO, while Pan Zhengqi is a party committee secretary of Shenzhen Ocean Shipping Company and served as secretary of Party Committee Office, section head, deputy director, director, manager of Enterprise Planning Division and as director and secretary of Party Committee of No. 2 Ship Management Division and No. 4 Ship Management Division in Shanghai Ocean Shipping Company.

151. Vice Chairman Hu Xianfu is general manager of China Merchants, and Vice Chairman Liu Chong is currently executive director and the general manager of COSCO. Deng Weidong is the Director of Capital Management of China Merchants Group, and He Jiale previously served in senior executive positions at COSCO, including executive director from 2003 to 2006 and from 2012 to 2015.

152. Together, these six individuals with strong ties to the Government of China form a supermajority of CIMC's nine directors.[85]

153. Members of CIMC's board supervisory committee and senior management team also have strong ties to COSCO and China Merchants. For example, Chairman of the supervisory

[85] Appendix 19 – Annual Report, CIMC Group, 2019, pp. 194 – 198, 206; Appendix 90 – CIMC Directors, CIMC Group, April 5, 2021.

committee Lin Feng is the current chief accountant of COSCO Shipping Development Co., Ltd. and supervisor Lou Dongyang is the current Chief Financial Officer of China Merchants Industry Holdings Co., Ltd. These two individuals form a majority of the three supervisory committee members. Moreover, CIMC's Vice President Huang Tianhua currently holds senior positions on multiple committees subordinate to the CPC, such as President of China Federation of Logistics & Purchasing Cold Chain Logistics Committee, Vice Secretary General of the National Standardization Technical Committee, and member of the Shenzhen Chinese People's Political Consultative Conference.[86]

154. These measures of consolidating party control within central SOEs are a consequence of Chinese SOE's "rapid growth in size, complexity, and global reach throughout the 2000s", which simply outstripped the central government's monitoring capacity.[87] Facing this situation, the Government of China has used and enhanced other existing governance mechanisms and techniques to reclaim authority over SOEs in addition to party committees, namely central leading small groups, the cadre management system, and campaigns.[88]

155. Through these control mechanisms, the Government of China is in a position to: (i) direct policy coordination and formulation, leadership rotation and joint appointments to shake up enterprise management and increase CPC control over the largest and most strategically important state firms, (ii) take over decision-making authority for personnel appointment,

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[86] Appendix 19 – Annual Report, CIMC Group, 2019, pp. 198 – 203, 206.

[87] Appendix 36 – Government of China Industry Policies, Firm Control: Governing the State-owned Economy under Xi Jinping, Wendy Leutert, 2018, p. 138-148.

[88] Campaigns aim to mobilise mass participation and resources toward goals that leaders determine, shaking up the status quo in the process. Leaders can also use campaigns to target and facilitate the removal of individuals perceived to be their present or potential future political adversaries, and to promote political allies in their place. In the long term, these mobilisations bolster central authority by demanding loyalty and increasing pressure for ideological conformity (see Appendix 36 – Government of China Industry Policies, Firm Control: Governing the State-owned Economy under Xi Jinping, Wendy Leutert, 2018, p. 138-148.)

resource allocation, and policy-making and implementation, and (iii) create, modify, or eliminate rules, governance mechanisms, and techniques in a given policy domain.[89]

156. It is important to emphasize that there is a list of select, core SOEs, also referred to as "National Champions", of which there are only 53.[90] These core SOEs are often concentrated in strategically important industries with limited competition, and tend to be separated into two groups based on their size and strategic importance. The first group is a batch of "core" firms termed "important backbone state-owned enterprises". The second group, comprising the remaining central SOEs, is more diverse group of SOEs. It includes a mix of global industry leaders, lesser-known industrial conglomerates, and state-run research and design institutes.

157. Due to this variation in size and strategic importance, central state-owned enterprises and their leaders have different formal administrative standing: those in the first group have the equivalent of Government "vice-ministerial" ranking and those in the second one possess the equivalent of Government "department-level" ranking.[91]

158. COSCO is part of the "core" or "backbone" group of SOEs with vice-ministerial ranking. It is an SOE of vice-ministerial level, and its CEO is attributed the rank of Vice-Minister.[92] China Merchants is also a "backbone" SOE of vice-ministerial ranking.[93] This is clear and compelling evidence that CIMC's primary and controlling shareholders are among a select

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[89] Appendix 36 – Government of China Industry Policies, Firm Control: Governing the State-owned Economy under Xi Jinping, Wendy Leutert, 2018, p. 138-148.

[90] Appendix 36 – Government of China Industry Policies, Firm Control: Governing the State-owned Economy under Xi Jinping, Wendy Leutert, 2018, p. 138-148.

[91] Appendix 36 – Government of China Industry Policies, Firm Control. Governing the State-owned Economy under Xi Jinping, Wendy Leutert, 2018, p. 138-148.

[92] Appendix 36 – Government of China Industry Policies, Strategic decisions in Chinese state-owned enterprises as outcome of the sensemaking of the CEO: the case of COSCO's emerging involvement in the Port of Piraeus, Yuan Ma & Peter J. Peverelli, 2019, p. 155.

[93] Appendix 83 – Introduction, China Merchants Group.

group of SOEs that have strategic importance for the Government of China, and are therefore given the rank of a government ministry. They are therefore indistinguishable from the Government of China:

> Heads of China's central state-owned enterprises are not simply corporate executives; they are also government officials appointed, transferred, and removed by the Party-state. The Central Organisation Department, in consultation with higher Party authorities, appoints the top executives for the core central state-owned enterprises. Specifically, these positions are: Party committee secretary […], general manager […] or president […], and chair of the board of directors […], if one exists.[94]

159. CBSA should consider in its determination on section 20 government control over core SOEs and their vice-ministerial ranking, as well as the significant influence that CPC committees have over business decisions of SOEs as they carry out the will of the Government of China.

160. In addition to the evident control of CIMC by SASAC described above, in *53-ft* Containers, the US DOC also unequivocally determined in a lengthy and detailed analysis that CIMC was controlled by the Government of China through China Merchants and COSCO, and ultimately by SASAC.[95] Therefore, CIMC was not permitted to be assigned its own and separate normal values.[96] The DOC reconfirmed its analysis that the Government of China

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[94] Appendix 36 – Government of China Industry Policies, Firm Control. Governing the State-owned Economy under Xi Jinping, Wendy Leutert, 2018, pp. 138-148.

[95] Many of the relevant supporting documents filed in the US *53-ft Containers* and *Certain Chassis* cases are confidential. The best information reasonably available to the complainant (in accordance with the requirements of section 37 of the *Special Import Measures Regulations* is the US DOC's summary and analysis of that evidence. CBSA should request that the Government of China disclose information on the government's control over CIMC upon initiation.

[96] Appendix 22 – *53-ft Containers*, Issues and Decision Memorandum for the Final Determination of Sales at Less Than Fair Value, US Department of Commerce, International Trade Administration, April 10, 2015, pp. 46-53.

exercised control over CIMC in the preliminary countervailing determination concerning *Certain Chassis* from China.[97]

Chinese Government Can Direct CIMC to Further Government Policy Goals

161. With its control over CIMC through state ownership, SASAC administration and appointment of management, the Chinese government is able to direct CIMC to carry on business in furtherance of its policy objectives, rather than only in pursuit of CIMC's own business interests.

162. As will be detailed in the next section, the Chinese government has made the wide adoption of semi-trailer/container chassis an important policy goal in order to promote of drop-and-pull transport. As the dominant supplier of container chassis in China, CIMC maintaining chassis prices substantially less than the level that would be determined by a competitive market is consistent with the Chinese government's policy goal for promoting wide adoption of semi-trailer/container chassis.

iii) Chinese Government Instruments that regulate and control the Semi-Trailer Industry have a Substantial Impact on Domestic Prices of Chassis Sold in China

Active promotion for the adoption of semi-trailers

163. Five-Year Plans are an important economic policy tool within the Chinese socialist market economy. Within each plan, the Chinese government maps out its strategies for economic development, setting growth targets and launching economic reforms with respect to key industries. The 13th Five-Year Plan, covering the 2016-2020 period, emphasizes the importance of developing the logistics industry in several chapters. In particular, some of the Government of China's stated goals are to "reduce enterprise logistics costs by

[97] Appendix 55 – Decision Memorandum for the Preliminary Determination in the Countervailing Duty Investigation of Certain Chassis and Subassemblies Thereof from the People's Republic of China, US DOC, December 29, 2020, pp. 20-21.

improving logistics organization and management",[98] to "strengthen the construction of logistics infrastructure[99] and to "increase the overall efficiency of transportation and logistics."[100]

164. To further specify the policies to achieve the Five-Year Plan goals, the Chinese Ministry of Transport published the "13th Five-Year' Comprehensive Transportation Service Development Plan" in 2016. One of the 11 "main goals" of this development plan is to "build an intensive and efficient freight logistics system".[101] This is to be achieved by "promoting the comprehensive development of drop-and-pull transport".[102] The development plan further elaborates:

> Implement highway drop-and-pull transportation promotion projects, focus on promoting the accelerated development of thematic models such as cross-regional drop-and-pull, enterprise alliance drop-and-pull, network type drop-and-pull, postal (express) piece drop-and-pull, trunk transportation and urban distribution connection. Encourage the development of standard van semi-trailers, and promote the improvement of relevant laws, policies and technical standards. Improve the facilities of standardized drop-and-pull transport stations and support the construction of large-scale public zero-load drop-and-pull dedicated stations. Encourage the innovation of "trailer pool" and other emerging logistics services, support the development of long-distance feeder drop-and-pull transportation, encourage the development of trailer leasing, trailer

[98] Appendix 36 – Government of China Industry Policies, 13th Five-Year Plan for Economic and Social Development of the People's Republic of China (2016 – 2020), Government of China, p. 227.

[99] Appendix 36 – Government of China Industry Policies, 13th Five-Year Plan for Economic and Social Development of the People's Republic of China (2016 – 2020), Government of China, p. 233.

[100] Appendix 36 – Government of China Industry Policies, 13th Five-Year Plan for Economic and Social Development of the People's Republic of China (2016 – 2020), Government of China, p. 244.

[101] Appendix 36 – Government of China Industry Policies, "13th Five-Year" Comprehensive Transportation Service Development Plan, Government of China, pp. 481-483.

[102] Appendix 36 – Government of China Industry Policies, "13th Five-Year" Comprehensive Transportation Service Development Plan, Government of China, pp. 481-483.

> interchange and other businesses, and improve the related systems and regulations of trailer management.[103] (Translation provided & emphasis added by McMillan LLP)

165. Drop-and-pull transport, also known as drop-and-hook or drop-and-pick, is a system of freight transport whereby a truck driver drops off a container ("drop") and picks up another container ("pick" or "hook" or "pull").

166. The promotion of drop-and-pull transport as a means to further other policy objectives, such as improvement in energy efficiency. In 2017, the State Council issued "State Council Comment re further promotion lower-cost higher-efficiency logistics"[104], which once again puts emphasis on the promotion of the semi-trailer industry. As its 14th policy goal, this notice by the State Council declares the following as an important government policy:

> Promote breakthroughs in the development of multimodal transportation and drop-and-pull transportation. Do a good job in the second batch of multimodal transport demonstration work, vigorously promote container multimodal transport, actively develop van semi-trailer multimodal transport, and orderly develop piggyback transportation, and strive to open the piggyback multimodal transport test line within 2017. Vigorously develop road drop-and-hook transportation.[105] (Translation provided by McMillan)

167. The wide adoption of semi-trailer/container chassis is crucial for the promotion of drop-and-pull transport. In this regard, the Chinese government has implemented a number of

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[103] The original Chinese version of this translated paragraph is highlighted in Appendix 36 – Government of China Industry Policies, "13th Five-Year" Comprehensive Transportation Service Development Plan, Government of China, p. 483.

[104] Appendix 36 – Government of China Industry Policies, General Office of the State Council on Further Promoting Cost Reduction and Efficiency Increase in Logistics, Opinions on promoting the development of the real economy, State Council Fa (August 7, 2017) No. 73, p. 415.

[105] Appendix 36 – Government of China Industry Policies, General Office of the State Council on Further Promoting Cost Reduction and Efficiency Increase in Logistics, Opinions on promoting the development of the real economy, State Council Fa (August 7, 2017) No. 73, p. 415.

specific policies to encourage the use of semi-trailers/container chassis, which are detailed below.

Entrenching CIMC's monopoly position

168. The SIMA Handbook indicates that foreign governments can have an indirect influence on domestic prices by regulating or controlling "production levels or the number of producers or sellers permitted in the market in order to affect domestic prices".[106]

169. This influence does not have to be restricted to situations where a foreign government directly and overtly sets the price. The Federal Court of Appeal in *Tianjin Pipe (Group) Corporation v. Tenaris Algoma Tubes Inc.* clarified the standard of "substantially determined" in the context of governments setting prices:

> [9] In our view, the use of the expression "substantially determined" necessarily implies something less than completely determined and as such, Parliament did not intend the provision to be restricted to situations where a foreign government directly sets the prices. Indeed, the phrase captures the various ways in which governments can exert a determinative influence on pricing, whether directly or indirectly.[107]

170. The Government of China continues to substantially determine domestic prices of subject chassis through regulatory action. In 2018, it issued the "Administrative Regulation on Investment in the Automotive Industry", which aims to direct investment in the automotive industry into green, fuel-efficienct cars and electric car technology. These regulations restrict investments in the broad automotive sector (which includes the semi-trailer industry) through government control of production capacity and research and development activities, as well as in restricting access to new entrants.

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[106] SIMA Handbook, Trade and Antidumping Programs Directorate, Commercial and Trade Branch, CBSA, September 17, 2019, p. 148.

[107] *Tianjin Pipe (Group) Corporation v. Tenaris Algoma Tubes Inc.*, 2009 FCA 164, May 20, 2009, para. 9.

171. With respect to investments into special purpose vehicles and trailers[108], the regulations impose the following requirements in section 28:

> (1) For new investment projects of special purpose vehicles and trailer enterprises, the corporate legal person shall establish a product research and development organization, have a professional research and development team, have relevant research and development experience, and have the technical research and development and test verification capabilities of special devices;
>
> (2) It is forbidden to build new investment projects of ordinary transportation special vehicles such as warehouse trucks, pallet trucks, dump trucks, and ordinary vans, and ordinary transportation trailer enterprises;
>
> (3) Special-purpose vehicle enterprises shall not establish capacity to build any types of vehicle frames or full vehicles, except for vehicle frames built for one's own production of special-purpose vehicles.[109]

172. These regulations mandate "special purpose vehicles" producers like CIMC to invest into research and development. They prohibit investments into "ordinary transportation trailer enterprises", which removes any competitor that produces a substitute product to subject chassis from the domestic Chinese market, further contributing to CIMC's dominant position in the semi-trailer industry. Lastly, section 28 of these regulations prohibits companies like CIMC to produce "vehicle frames of full vehicles", other than those used for their own production of semi-trailers.

173. Although these regulations do not expressly set domestic prices of subject chassis, they do demonstrate the Government of China's control and strict regulation of production, investment, and research and development expenditures in the semi-trailer industry, which has a direct effect on pricing. Removing "ordinary transportation trailer enterprises" from

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[108] Appendix 36 – Government of China Industry Policies, Administrative Regulation on Investment in the Automotive Industry, p. 425 [translation provided by McMillan].

[109] Appendix 36 – Government of China Industry Policies, Administrative Regulation on Investment in the Automotive Industry, p. 425 [translation provided by McMillan].

competing in the semi-trailer industry protects CIMC's monopolistic position in the Chinese industry.

174. The impact of these regulations are consistent with the following section 20 factor listed in the SIMA Handbook, namely "the government can regulate or control production levels or the number of producers or sellers permitted in the market in order to affect domestic prices."[110] These are precisely the circumstances that best describe the impact of the "Administrative Regulation on Investment in the Automotive Industry" on domestic prices of subject chassis.

175. The Government of China's continued push to promote the drop-and-pull transport, through tax breaks and subsidies,[111] among others, has significantly increased the domestic demand for chassis. However, the domestic chassis prices in China remain low. This is inconsistent with what should be expected in a market dominated by a monopolist supplier. If the domestic chassis prices are free from significant influence from the Chinese government, a monopolist supplier like CIMC would have significantly raised prices *above* the competitive level and the price increase should be especially pronounced in an environment of high demand. The fact that Chinese domestic chassis prices remain low is indicative of CIMC keeping its prices low, in furtherance of the Chinese government's policy for wide adoption of chassis, rather than in pursuit of market-based competition and maximizing profits.

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[110] SIMA Handbook, Trade and Antidumping Programs Directorate, Commercial and Trade Branch, CBSA, September 17, 2019, p. 148

[111] Many of which are on the *purchase* of semi-trailers and not just on the *production* of semi-trailers. These subsidies will not necessarily be addressed through countervailing measures, but rather show Chinese government influence over price in the semi-trailer industry.

Subsidies for the adoption of semi-trailers

176. The SIMA Handbook indicates that foreign governments can have an indirect influence on domestic prices by "providing direct financial subsidies".[112]

177. In 2014, the Government of China implemented the "Interim Measures for the Administration of Vehicle Purchase Tax Revenue to Subsidize Local Funds", continuing a program that existed since at least 2012 to subsidize qualified projects of logistics enterprises for the building or upgrade of drop-and-pull stations, the purchase of drop-and-pull vehicles (including semi-trailers), and the building or upgrade of information management systems for drop-and-pull transport.[113]

178. This program has provided up to 10 million RMB for each qualified project. This program subsidizes purchases of semi-trailers at 15,000 RMB (or approximately CAD$2,850) per semi-trailer for projects that the enterprise invests 1 billion RMB or more and at 20% of the cost of the semi-trailer for projects that the enterprise invests less than 1 billion RMB.[114] Since the program's inception, the Chinese Ministry of Transport has accepted applications and granted subsidies almost every year. The most recent round of subsidies appears to have been in 2018.

179. This program significantly lowers the cost of the purchasing semi-trailers and thereby promotes the wider adoption of semi-trailers for use in drop-and-pull transport.

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[112] SIMA Handbook, Trade and Antidumping Programs Directorate, Commercial and Trade Branch, CBSA, September 17, 2019, p. 148.

[113] Appendix 36 – Government of China Industry Policies, Interim Measures for the Administration of Vehicle Purchase Tax Revenue to Subsidize Local Funds, Government of China (December 29, 2018), pp. 518-522, section 12.

[114] Appendix 36 – Government of China Industry Policies, Interim Measures for the Administration of Vehicle Purchase Tax Revenue to Subsidize Local Funds, Government of China, pp. 518-522, section 12.

Preferential Tax Treatment

180. The SIMA Handbook indicates that foreign governments can have an indirect influence on domestic prices "through taxation … which will affect selling prices".[115]

181. The Government of China provides preferential tax treatment to the purchase of chassis in China. The Ministry of Finance issued a directive on May 25, 2018, which cut the 10% sales tax applicable to vehicle purchases in China by half to 5%[116] for the purchases of chassis for the period of July 1, 2018 up to June 30, 2021.[117] The Ministry recently extended the tax break until December 31, 2023.[118]

182. The Ministry implemented this preferential tax policy measure with a stated purpose to "promote the development of drop-and-pull transport, improve logistics efficiency and reduce logistics costs".

183. This preferential policy of reducing the sales tax from 10% down to 5% is further evidence that the Government of China substantially determines domestic prices of subject chassis.

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[115] SIMA Handbook, Trade and Antidumping Programs Directorate, Commercial and Trade Branch, CBSA, September 17, 2019, p. 148.

[116] Appendix 36 – Government of China Industry Policies, Vehicle Purchase Tax Law of the People's Republic of China, adopted at the seventh meeting of the Standing Committee of the Thirteenth National People's Congress on December 29, 2018, 429-431.

[117] Appendix 36 – Government of China Industry Policies, Announcement of the Ministry of Finance and the State Administration of Taxation of the Ministry of Industry and Information Technology on the Reduction of Vehicle Purchase Tax on Trailers, Announcement No. 69 (2018) of the Ministry of Finance, p. 435.

[118] Appendix 36 – Government of China Industry Policies, Announcement of the Ministry of Finance and the State Administration of Taxation on Extending the Implementation Period of Some Preferential Tax Policies, Announcement No. 6 of 2021 of the Ministry of Finance and the State Administration of Taxation, p. 432. This government directive extends the validity of several preferential tax policy directives listed in Annex I, which includes the "Announcement on the Reduction of Vehicle Purchase Tax on Trailers" as item 16.

In a competitive market, the government would not exempt chassis or other vehicles from sales taxes.

iv) CIMC Benefits from the Belt and Road Initiative and Made-in-China 2025 Initiative

184. The Government of China has recently implemented a global infrastructure and logistics development strategy by the name of the Belt and Road Initiative ("**BRI**") to build out its global trade network of overland routes, rail and ocean transportation, energy pipelines, and streamlined border crossings that will stretch from East Asia to Europe. As a manufacturer of containers, chassis and other products that are essential to China's global trade network, CIMC and its shareholders COSCO and China Merchants play a pivotal role in this policy agenda of the Government of China.

185. COSCO, as the major Chinese SOE for shipping, has led the way expanding overseas while benefiting from massive subsidies from the Government of China, despite "struggling amid weak demand and shipping vessel oversupply." In 2017, COSCO announced it would receive BRI preferential lending of USD $26 billion from 2017 to 2021 from the China Development Bank with the stated purpose of "helping China boost its manufacturing capabilities, ramp up its maritime prowess and aid in the restructuring of SOEs."[119]

186. CIMC is also involved, with the CEO stating in a visit to the Philippines that CIMC is "actively involved in the 'Belt and Road' construction and strives to deliver premium and reliable equipment, services and solutions to the countries along the 'Belt and Road.'"[120] Further, CIMC has directly benefited from the artificial demand for containers and chassis created by the BRI with the creation of Chinese-led logistics networks.

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[119] Appendix 36 – Government of China Industry Policies, COSCO Shipping signs $26bn One Belt, One Road finance deal, Lloyd's Loading List, January 17, 2017, p. 77.

[120] Appendix 48 – Philippines President Rodrigo Duterte Met CIMC CEO & President Mai Boliang, CIMC Group, May 15, 2017, p. 2.

187. For example, the "launch of the China-Europe freight trains, [and] the increasing international cooperation along the Belt and Road route has spurred the development of multimodal transportation, which has offered a brand new market for container manufacturers." CIMC noted that "under the Belt and Road Initiative, countries along the Belt and Road have shown increasing demand for containers."

188. This increase in demand is not limited to only containers, it would also directly benefit CIMC's sales of ancillary products such as subject chassis, which are required for transporting containers by truck.

189. The BRI was also intended to increase international trade overland through road transport. As part of the BRI, China ratified the UN Convention on International Transport of Goods Under Cover of TIR Carnets ("**TIR Convention**") in 2016,[121] which facilitates international road transportation by removing en route customs inspections and on-site duty payments for approved carriers departing from select locations.[122] In 2018, China designated six Belt and Road gateways to start TIR operations into Russia and Central Asia. International Road Transport Union, which administers the TIR Convention, estimates that the improved road transport efficiency through China's participation in the TIR Convention may increase the total trade volume among China and major countries along the BRI route by up to US$13.6 billion.[123] This significant increase in overland trade by road transport brings significant new demand for container chassis.

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[121] Appendix 106 – China joins U.N. trucking treaty, stepping onto new Silk Road, Reuters, July 26, 2016, pp.1-9; Appendix 107 – TIR pivotal to China's "One Belt One Road" initiative, IRU, December 12, 2016, pp.1-2.

[122] Appendix 108 – How China's Belt and Road Just Got A Big Boost From Europe's TIR Convention, Forbes, March 31, 2018, pp. 1-7.

[123] Appendix 109 – First TIR transports in China advance Belt and Road prospects, IRU, May 18, 2018, pp. 1-4.

190. Overlapping with the BRI is the Made-in-China Initiative 2025 ("**MCI 2025**"), which was released by the State Council in 2015 and targets ten specific industries for promotion and development:

> "(1) advanced information technology; (2) robotics and automated machine tools; (3) aircraft and aircraft components; (4) maritime vessels and marine engineering equipment; (5) advanced rail equipment; (6) new energy vehicles; (7) electrical generation and transmission equipment; (8) agricultural machinery and equipment; (9) new materials; and (10) pharmaceuticals and advanced medical devices." (Emphasis added)

191. Further, the Made in China 2025 Notice expressly calls for China to achieve 40% 'self-sufficiency' by 2020, and 70% 'self-sufficiency' by 2025, in core components and critical materials in a wide range of industries.[124]

192. "[O]cean engineering equipment and high-tech shipping; modern rail transport equipment"[125], including certain chassis, benefit from MCI 2025 policies both directly and indirectly. For example, CIMC has benefited from MCI 2025 policies for robotics and machine tools with its automated lighthouse plants, which "comprehensively realize smart manufacturing with digital modeling and automated production."[126]

193. CIMC Vehicles' CEO stated outright in an interview that "with the general trend towards 'Made in China 2025,' the 25 subsidiaries of CIMC Vehicles will transform into lighthouse plants within the next three to five years based on the schedule." These lighthouse plants include the three CIMC Vehicles plants in Dongguan, Yangzhou and Zhumadian, all of which will manufacture container chassis.[127]

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[124] Appendix 36 – Government of China Industry Policies, Made In China 2025 - Backgrounder, Institute of Security & Development Policy, July 2018, p. 120.

[125] Appendix 36 – Government of China Industry Policies, Made In China 2025 - Backgrounder, Institute of Security & Development Policy, July 2018, p. 119.

[126] Appendix 49 – Light Tower Plant: 40% Uplift of Productivity, CIMC Vehicles, p. 3.

[127] Appendix 20 – Annual Report, CIMC Vehicles, 2019, p. 37.

194. Although this top-down initiative reiterates the Chinese government's long-held objectives toward indigenous innovation and import substitution, MCI 2025 is larger in scope and resources with greater government coordination than previous plans.[128]

195. The BRI and MCI 2025 policy agendas are just two of multiple policy plans by the Government of China to strengthen its global trade network through massive subsidization and political control over its companies, especially SOEs like CIMC and its shareholders COSCO and China Merchants.

v) CIMC Benefits from Substantially Reduced Cost Base due to Low Priced Steel

196. The President should also consider that Government of China control over Chinese domestic steel production and pricing results in artificially low prices for steel, which significantly influence prices from chassis producers like CIMC who benefit from an unfair advantage in the form of artificially low input costs. The Chinese steel industry's production imperative is rooted in Government of China policy and results in overcapacity that distorts Chinese steel prices, and therefore helps supress semi-trailer (including chassis) prices.

197. The SIMA Handbook lists among the relevant section 20 factors circumstances in which a government "subsidize[s] producers by providing direct financial subsidies or low priced inputs in order to maintain the selling price of the product at a certain level."[129] Significantly lower input costs encourages CIMC to sell chassis at prices that are significantly lower than they would be under competitive market conditions.

198. As can be seen in Appendix 50 – Cost of Most Popular Products, steel is the primary input in the production of chassis. When calculating the percentage of total costs represented by

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[128] Appendix 36 – Government of China Industry Policies, The 13th Five-Year Plan, U.S. Economic and Security Review Commission, p. 7.

[129] SIMA Handbook, Trade and Antidumping Programs Directorate, Commercial and Trade Branch, CBSA, September 17, 2019, p. 148.

the steel inputs such as the structure, the suspension and axle, and other inputs, the cost of steel products comprises approximately [redacted] of direct material costs and approximately [redacted][130] of total costs.[131]

199. Some key factors that show that input costs for Chinese producers are distorted include the following:

(i) CBSA has recently and repeatedly recognized a high degree of government control over domestic Chinese prices for steel goods products. The circumstances upon which those decisions were made have not changed.

(ii) Chinese domestic prices for steel products are significantly lower than in competitive market economies because of government influence;

(iii) A large number of the major producers of steel goods are SOEs.

200. While the Chinese Government claims that the steel industry is "market-oriented", the 13th Five Year Plan on National Economic and Social Development[132] clearly explains the role of SOEs in controlling and shaping the Chinese market (see excerpts in Appendix 20, pp. 96 – 100). Chapter 11 of the 13th Five Year Plan explains the principles to guide China's economy, the report states:

> We will ensure that public ownership is dominant and that economic entities under diverse forms of ownership developed side by side. We will remain dedicated to strengthening and developing the public sector of the economy while also encouraging, supporting, and guiding the development of the

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[130] Appendix 50 – Cost of most popular products, Max-Atlas, October 15, 2020.

[131] In order to substantiate the costs of certain steel inputs, such as the axles, suspensions and raw steel, we have included invoices received by Max-Atlas for such inputs in Appendix 80.

[132] Appendix 36 – Government of China Industry Policies, The 13th Five-Year Plan, U.S.- China Economic and Security Review Commission, February 14, 2017, p. 165-383.

> non-public sector. We will exercise oversight over economic entities under all forms of ownership in accordance with the law (Emphasis added).

201. Thus, while public utterances claim the existence of a market economy, the 13th Five-Year Plan clearly sets out the role of SOEs in controlling economic activities to further national strategic objectives. Given the market power of the steel industry SOEs and the influence of these organizations on steel pricing in China, government control of pricing of subject chassis and their significant inputs is apparent.

202. The Government of China also exerts influence through sector-specific policy instruments. In November 2016, the Government of China released the Iron and Steel Industry Adjustment and Upgrade Plan (2016-2020).[133] An analysis of a draft of this document (by steel associations around the world) concluded that the Government of China would be continuing "its top-down management" of all aspects of the steel industry including the number and location of enterprises, the products that they produce, and the technologies they should use to produce them.[134]

203. A comparison between domestic pricing in the US and China shows that the pricing in China that is substantially determined by the Chinese government is substantially different from pricing in a competitive market.[135]

204. This becomes evident when comparing the Chinese pricing of specific steel products used in the production of chassis with the same steel products sold domestically in competitive markets. As can be seen by filtering for specific steel products in the list of inputs contained in tab "CCX2045-3" of Appendix 50, the main steel inputs in the production of subject

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133 Appendix 36 –Government of China Industry Policies, Iron and Steel Industry Adjustment and Upgrade Plan, Government of China (2016-2020), pp. 436-445.

134 Appendix 36 –Government of China Industry Policies, Iron and Steel Industry Adjustment and Upgrade Plan, Government of China (2016-2020), pp. 436-445.

135 Appendix 29 – Steel Pricing Data, 2019 – 2020.

chassis are steel plate (*plaque*), hollow structural steel (*HSS*), flat bar (*barre plate*), round bars (*tiges rondes*), H-beams (*poutre en H*), and U-beams (*profilé en U*).

205. Apart from the suspension and the axle, the most common and most significant steel inputs on an aggregate basis used in the production of the CCX2045-3 are: (i) steel plate which accounts for [redacted] of total material costs that amount to [redacted], (ii) H-beams which account for [redacted] of total material costs, (iii) hollow structural steel which accounts for [redacted], and (iv) flat bars which account for [redacted].[136]

206. In Appendix 29, Max-Atlas was able to retrieve domestic pricing data for 2019 and 2020 for steel plate based on SBB Steel pricing data and medium sections & beams (H-Beams) pricing provided by [redacted] In 2019, H-Beams in China were on average [redacted] less expensive than in Canada and [redacted] less expensive in 2020. Similarly, Chinese prices for H-Beams were [redacted] less expensive in China compared to the United States in 2019 and [redacted] less expensive in 2020.

207. SBB steel pricing data demonstrates similar distortions in Chinese domestic steel prices. The domestic Chinese prices for steel plate in 2019 were [redacted] less expensive than for the same product sold domestically in Germany, and [redacted] less expensive compared to delivered US pricing. In 2020, Chinese domestic pricing for steel plate was similarly distorted – It was on average [redacted] less expensive than steel plate sold domestically in Germany, and [redacted] less expensive than US domestic delivered pricing.[137]

208. Moreover, the role of SOEs extends to not just the Chinese steel industry in general, but to the steel products used as inputs for chassis production in particular, which are produced by some of the largest SOE steelmakers in China.

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[136] Appendix 50 – Cost of most popular products, tab 3, Max-Atlas, October 15, 2020.
[137] Appendix 29 – Steel Pricing Data, 2019 – 2020.

209. China Baowu Steel Group Corporation Limited ("**Baowu**") is the largest steelmaker in China.[138] It is an SOE that is 100% owned and controlled by the SASAC of the State Council.[139] Baowu owns and controls a number of publicly traded subsidiaries, including Baoshan Iron & Steel Co., Ltd. ("**BaoSteel**") and Maanshan Iron & Steel Company Limited ("**Magang**").

210. Baosteel produces structural steel, galvanized steel, steel plates, steel rods, etc.[140] It is 64.12% owned by Baowu, including indirectly through Wuhan Iron & Steel Group ("**Wugang**"), which is itself a wholly subsidiary of Baowu.[141] In fact, among its ten largest shareholders, other than Baowu and Wugang, there are four other shareholders that are Chinese SOEs, collectively owning a further 8.71% of Baosteel's shares.[142] Its annual report describes the SASAC of the State Council as its "ultimate holding party"[143] and describes its principal business as "mainly operat[ing] the state-owned assets within the scope authorized by the State Council."[144]

211. Magang is a producer of steel plates, section steel, and wire rods, among others.[145] 45.54% of its shares are owned by a holding company which is 51% owned by Baowu and 49% owned by SASAC of the Anhui provincial government; 11.64% of its shares are owned by a Baosteel Hong Kong Investment, which is a wholly owned subsidiary of Baowu.

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[138] Appendix 117 – 2020 Report, World Steel Association, 2020, p. 9.
[139] Appendix 116 – Annual Report, Magang, 2019, p. 73.
[140] Appendix 110 – Hot Rolled Steel, iBaosteel.
[141] Appendix 115 – Annual Report, Baosteel, 2019, pp. 55-58.
[142] Appendix 115 – Annual Report, Baosteel, 2019, p. 55.
[143] Appendix 115 – Annual Report, Baosteel, 2019, p.193.
[144] Appendix 115 – Annual Report, Baosteel, 2019, p. 57.
[145] Appendix 111 – Company Profile, Maanshan Iron & Steel Company Limited, pp. 1-2.

Therefore, more than 57% of Magang's shares are state-owned. Its annual report describes the SASAC of the State Council as its "actual holder".[146]

212. HBIS Group Co. Ltd ("**HBIS**") is the second largest steelmaker in China,[147] including being the second largest supplier of automotive steel in China.[148] It produces steel plates, steel structural sections, steel rods and galvanized steel, among other steel products.[149] HBIS is fully owned by the Hebei provincial government and is the largest single enterprise under the Hebei SASAC, accounting for 41% of its total assets.[150]

213. Angang Group Company Limited ("**Angang**" or "**Ansteel**") is China's fourth largest steel maker[151] and it produces a galvanized steel, steel sections and steel rods among many other steel products.[152] It is 100% owned and controlled by the SASAC of the State Council. Its publicly traded subsidiary Angang Steel Company Limited is 53.33% owned by Angang and has four other state-owned shareholders in its top ten shareholders, which together account for a further 14.96% of its shares.[153]

214. Shougang Group Co. Ltd. ("**Shougang**") is the fifth largest steel maker in China.[154] It produces steel plates, steel beams, and structural steel, among others.[155] Shougang is 100% owned and controlled by the SASAC of the Beijing municipal government. Its publicly

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[146] Appendix 116 – Annual Report, Magang, pp. 72-73.
[147] Appendix 117 – 2020 Report, World Steel Association, p. 9.
[148] Appendix 112 – Group Profile, HBIS Group, pp. 1-2.
[149] Appendix 118 – HBIS Product, HBIS Group, pp. 1-3.
[150] Appendix 119 – Fitch Affirms HBIS at 'BBB+'; Outlook Stable, Fitch Ratings, September 29, 2020, at pp. 1-4.
[151] Appendix 117 – 2020 Report, World Steel Association, 2020, p. 9.
[152] Appendix 113 – About Ansteel, Ansteel, pp. 1-4.
[153] Appendix 120 – Annual Report, Angang, 2019, p. 120.
[154] Appendix 114 – Annual Report, Beijing Shougang Co., Ltd., 2019.
[155] Appendix 114 – Annual Report, Beijing Shougang Co., Ltd., 2019.

traded subsidiary Beijing Shougang Co., Ltd. is 64.38% owned by Shougang and 15% owned by Baowu, China's largest SOE steelmaker.

215. These major SOEs are some of the largest steelmakers in China. They are all producers of the types of steel inputs used as inputs for chassis production. Therefore, the Chinese government's substantial influence over steel prices clearly extend to these specific steel products.

216. Accordingly, the application of section 20 of *SIMA* to China is appropriate in this case based on the Government of China's direct control and influence over the domestic price of subject chassis, which are influenced by the Government of China's ownership, policies and direct and indirect control over major inputs such as steel.

vi) CIMC Receives Specific Subsidies from the Various Levels of Chinese Government to Support its Chassis Production

217. The SIMA Handbook indicates that foreign governments can have an indirect influence on domestic prices by "providing direct financial subsidies".[156]

218. Part 7 of this Complaint provides extensive details regarding the subsidies and government grants CIMC receives from various levels of Chinese government to support it chassis production. This is another element of the Chinese government's effort to promote the wide adoption of chassis and drop-and-pull transport

219. The Chinese government is providing material and specific subsidies to CIMC and thereby influences the domestic prices of chassis.

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[156] SIMA Handbook, Trade and Antidumping Programs Directorate, Commercial and Trade Branch, CBSA, September 17, 2019, p. 126.

vii) Related Party Transactions between CIMC and its Two Largest Shareholders Distorts Domestic Pricing.

220. CIMC engages in related party transactions with its two largest shareholders, COSCO and China Merchants. Both of these major shareholders are Government of China vice-ministerial level entities). These SOE-to-SOE transactions further influence the Chinese semi-trailer industry by suppressing domestic prices across the entire Chinese domestic semi-trailer market. Any of CIMC's potential competitors would have to lower their prices to CIMC's level in order to compete for orders from COSCO and China Merchants.

221. In addition to operating a massive fleet of containerships and 59 container terminals, COSCO provides "trailer service at the port of departure".[157] Such service would require a massive number of trailer chassis, which are supplied in a substantial quantity by CIMC. As noted in CIMC's 2019 annual report:

> We have been providing CIMC Connected Persons semi-trailers, truck bodies and components as well as container repairing and supply chain services etc. In the ordinary and usual course of our business, the Group provides various products and general services to CIMC Connected Persons.[158]

222. The fact that CIMC's substantial shareholders—both of which are core SOEs that control CIMC—are among its main purchasers leads to the reasonable conclusion that CIMC cannot freely determine its domestic prices, and that prices are lower than they otherwise would be in a competitive market. CIMC's government protected monopolist position, along with its supply to China Merchants and COSCO, helps CIMC's economies of scale by reducing its overall cost base, which further reduces what prices would be compared to in a competitive market.

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[157] SIMA Handbook, Trade and Antidumping Programs Directorate, Commercial and Trade Branch, CBSA, September 17, 2019, p. 148.

[158] Appendix 20 – Annual Report, CIMC Vehicles, 2019, p. 88.

viii) Domestic Prices of Chassis in China are <u>not</u> substantially the same as they would be if they were Determined in a Competitive Market

223. Paragraph 20(1)(a) allows the President to form the opinion that there is sufficient reason to believe that the prices which are substantially determined by the government are not substantially the same as they would be if they were determined in a competitive market. According to the SIMA Handbook, this condition requires a comparison of the actual domestic prices compared to the prices that exists in a competitive market, which Max-Atlas has provided in Figure 3 below.[159]

224. The Government of China's significant degree of influence and control over the Chinese semi-trailer industry and domestic prices for subject chassis results in blatant, artificially low domestic pricing for subject chassis. Max-Atlas was able to retrieve six examples of such artificially low domestic prices from offers on Chinese online marketplaces like Alibaba and Diyiqi.

225. The six online offers for CIMC chassis provided in Appendix 84 are sold exclusively for the domestic Chinese market and are not intended for export markets. Given that these online offers are on websites that are exclusive to Chinese buyers, there is no English translation available. However, Max-Atlas has included an English translation generated by Google Translate for CBSA's review.

226. The six CIMC models, as well as the closest-matching Max-Atlas and European models, their pricing information and pricing differentials in percentage are shown in Figure 3 below. As noted above, the sales tax on chassis was specially reduced from the normal 10% to 5% in 2018 and this tax reduction will be in effect until at least the end of 2023.[160] Although the 5% sales tax is subtracted from the domestic sales price, Max-Atlas has not

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[159] SIMA Handbook, Trade and Antidumping Programs Directorate, Commercial and Trade Branch, CBSA, September 17, 2019, p. 149.

[160] See paragraphs 62-64.

made a downward adjustment for the a dealer mark-up given that the online marketplaces do not indicate whether these chassis are sold directly by CIMC or through a trader.

227. This comparison shows that prices of container chassis in Canada and certain European countries exceed the domestic Chinese selling price by [redacted]. This estimate is conservative. The price differential would be even greater if it were possible to confirm that the CIMC prices are offered by dealers and not by CIMC directly.

228. The legal and regulatory standards for container chassis differ significantly from one jurisdiction to the other, so it was not possible to identify identical models across the North American, Chinese and European markets. In selecting comparable models that closely resemble each other, Max-Atlas considered major key characteristics, such as chassis length, number of axles, tare weight and gross vehicle weight rating. These specifications are summarized in columns C, F and J of Appendix 78 for the sake of comparison.

Figure 3 – Comparison between CIMC domestic prices vs. Max-Atlas & European Prices (see Appendix 78 for more details)

CIMC Model	Price[161]	Closest-Matching Max-Atlas Model	Max-Atlas Price	Max-Atlas Price / Chinese Price	Closest-Matching Model by European Manufacturer (Austria, Germany, Netherland, Poland)	Price[162],[163]	European Manufacturers' Price / Chinese Price
	(A)	(B)	(C)	(C) / (A)	(D)	(E)	(E) / (A)
[redacted]							

[161] Converted from RMB to CAD using the exchange rate of 0.19. Sales tax of 5% subtracted. See Appendix 76 – Annual Exchange Rates, Bank of Canada (as of March 28, 2021).

[162] Converted to CAD using exchange rate of 1.53. Sales tax of 19 – 23 % subtracted. Appendix 76 – Annual Exchange Rates, Bank of Canada (as of March 28, 2021).

[163] The sales tax rate applicable in each of the four European countries was subtracted from the sales price before the foreign currency conversion from EUR to CAD. These rates are based on information in Appendix 87 – VAT Rates in Europe, Tax Foundation, February 28, 2019, pp. 3 - 5.

CIMC Model	Price[161]	Closest-Matching Max-Atlas Model	Max-Atlas Price	Max-Atlas Price / Chinese Price	Closest-Matching Model by European Manufacturer (Austria, Germany, Netherland, Poland)	Price[162],[163]	European Manufacturers' Price / Chinese Price
	(A)	(B)	(C)	(C) / (A)	(D)	(E)	(E) / (A)
[redacted]							

229. These staggering differences between Chinese domestic prices and comparable products in Canada, and especially in Europe, clearly prove that conditions under paragraph 20(1)(a) of SIMA are met, namely that domestic prices for subject chassis in China are not substantially the same as they would be if they were determined under a competitive market.

d) The US is the Most Appropriate Surrogate for China

230. Given that Chinese normal values are most appropriately determined pursuant to section 20, CBSA should look to a surrogate market – namely the US – to determine normal values under subsections 20 (c) and (d).

231. The US and China are by far the world's largest economies by GDP. Both countries have large populations and occupy vast geographies.

232. The US and China have among the largest network of roads and highways in the world. The US Department of Transportation reported that its road network encompasses 6,742,319 km in 2019,[164] whereas China's Ministry of Transport reported a network of public roads that amounts to 5,012,500 km in the same year.[165]

233. A heavily industrialized, large production of chassis is required in both countries to meet the high demand by the transport and logistics industry. No other country is comparable. This becomes evident when comparing the units produced by country in Global Trailer's Top 35 OEMs ranking. These 35 producers combined produce 575,145 units of which 149,760 units are produced by CIMC Vehicles, whereas US producers combined produced 283,725 units. The country that produced the third most units in this ranking is Germany with 47,766 units, an amount that is three times less than the production of CIMC.[166]

234. Based on Max-Atlas's discussions, it believes there is a reasonable possibility that [redacted].

235. Max-Atlas has provided estimated U.S. normal values based on the section 20 methodology in tab 8 of Appendix 30. None of the U.S. manufacturers of like goods

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[164] Appendix 33 – Public Road Length, US Department of Transportation, 2019.
[165] Appendix 32 – Road Network Data, Government of China, Ministry of Transport, 2019.
[166] Appendix 27 – Top 35 Global OEM Ranking List, Global Trailer, 2019.

publish annual reports. Therefore, the amount for profit and SG&A costs were calculated based on the 2019 annual report of Wabash, a U.S manufacturer that does not produce container chassis, but a wide variety of other kind of semi-trailers.

236. More specifically, Wabash produces "a diverse range of products, including dry freight and refrigerated trailers, platform trailers, bulk tank trailers, dry and refrigerated truck bodies, structural composite panels and products, trailer aerodynamic solutions, and specialty food grade and pharmaceutical equipment."[167]

237. In total, Wabash produces 54,650 commercial trailer products annually based on 2019 figures.[168] Based on the significant size of its manufacturing output and its rank as the fifth biggest semi-trailer manufacturer in the world[169], Wabash's financial statements serve as the best source that was readily available to Max-Atlas for the calculation of U.S. surrogate normal values. Utility Trailer Manufacturing and Great Dane, the third and fourth biggest semi-trailer manufacturers in the world would have been a better source[170] – However, neither company publishes an annual report because they are not publicly listed.

238. In calculating the surrogate normal values under section 20, Max-Atlas employed the same methodology as for Chinese normal values under subsection 19 b). Max-Atlas used its production costs for its five most popular models as a basis and made adjustments for labour costs, SG&A and the amount for profit.

239. U.S. labour costs were adjusted by dividing the U.S. hourly rate for manufacturing labour costs of US$22.68 by the Canadian hourly rate of US$29.58 contained in Appendix 25 on

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[167] Appendix 95 – Wabash, Annual Report, 2019, p. 9.
[168] Appendix 95 – Wabash, Annual Report, 2019, p. 101.
[169] Appendix 27 – Top 35 Global OEM Ranking List, Global Trailer, 2019.
[170] Appendix 27 – Top 35 Global OEM Ranking List, Global Trailer, 2019.

page 12. As a result, Max-Atlas' labour costs were multiplied by 0.7667 to account for the downward adjustment in labour costs.

240. The SG&A amount of 8.58% was calculated based on Wabash's share of the total costs of sales represented by selling and distribution expenses, as well as interest and other expenses. The SG&A amount was then determined by multiplying the total cost of U.S. production by 8.58%.[171]

241. The amount for profit of 14.02% was determined by dividing Wabash's 2019 profit before income tax by the total cost of sales.[172] 14.02% was then multiplied by the adjusted cost of production and SG&A to determine the amount for profit.[173]

242. The margin of dumping based on the difference between Chinese export prices and U.S. surrogate normal values is similar to the margin of dumping calculated based on subsection 19 b) above. The margin of dumping ranges from [redacted].[174]

243. Based on the foregoing, the CBSA should use the costs of US producers of like goods as a surrogate to determine Chinese normal values based on section 20.

i) Mexico is an Appropriate Alternative Surrogate Country

244. As an alternative, Mexico could be considered as a surrogate country for China as third biggest source of imports of semi-trailers to Canada after the US and China, according to

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[171] Appendix 30 – Normal Values, Export Pricing and Margin of Dumping Calculations, Max-Atlas, 2020, tab 6.

[172] Appendix 95 – Wabash, Annual Report, 2019, p. 96.

[173] Appendix 30 – Normal Values, Export Pricing and Margin of Dumping Calculations, Max-Atlas, 2020, tab 6.

[174] Appendix 30 – Normal Values, Export Pricing and Margin of Dumping Calculations, Max-Atlas, 2020, tab 8.

Statistics Canada import data for the relevant HS Codes in section 2.2 of the Complaint.[175] Despite having a much smaller economy than China with a smaller chassis trailer industry, Mexico could serve as an appropriate alternative surrogate country if CBSA is not satisfied with the U.S. However, it is worth noting that the receipt of a response to a surrogate country questionnaire from a Mexican producer is less likely than in the case of a US producer.

245. As the third largest source of imports of like goods into Canada after the US and China, Mexico is comparatively small country with a road network of only 582,175 km[176] and a much smaller population than China and the US.

246. Hyundai Translead, headquartered in San Diego, California, is Mexico's largest semi-trailer producer. In 2016, it produced 45,000 trailers in its plant in Tijuana and it opened a second plant with a capacity of 30,000 units, making it the second largest semi-trailer manufacturer in North America.[177] Mexico is home to a few other smaller semi-trailer producers such as Fruehauf de México, S.A. de C.V. ("**Fruehauf**"), who have relatively modest sales of like chassis of only 2,128 units annually.[178]

247. Max-Atlas has provided estimated Mexican normal values based on the section 20 methodology in Tab 9 of Appendix 30. Financial statements of Mexican semi-trailer manufacturers were not reasonably available to Max-Atlas. Hyundai Translead would have been the best possible basis for these surrogate country normal value calculations. However, Hyundai publishes its annual report at the group level (and not at the individual

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[175] Appendix 10 – Statistics Canada Trailer Import Data, 2017-2020, Statistics Canada, September 2020.

[176] Appendix 81 – Public investment drives upgrade and extension of road network in Mexico, Oxford Business Group, October 18, 2019, p. 1.

[177] Appendix 88 – Here's what happens when Hyundai engineers team up to design a trailer plant, Trailer Body, August 4, 2017.

[178] Appendix 82 – Top 25 Trailer Builders and Manufacturers, MPOFCINCI.com, May 2, 2018, p. 4.

company level for subsidiaries like Hyundai Translead), and these would not be representative for these calculations given Hyundai's large variety business ventures in the automotive sector and its vast international footprint. Financial data from smaller Mexican manufacturers of semi-trailers like Fruehauf would have been preferable, but these companies are not publicly listed and do not publish any annual report.

248. Therefore, Max-Atlas calculated the amount for profit and SG&A costs based on the 2019 annual report of Grupo Industrial Saltillo, S. A. B. de C. V. ("**GIS**") – Listed on the Mexican stock exchange, GIS is a large Mexican producer of auto parts for the manufacture of brakes, engines and chassis systems with 14 production facilities worldwide, 6,000 employees[179] and 642,351,000 Mexican Pesos[180] (approx. $41M) in annual revenue based on 2019 figures.[181] Although GIS is not a producer of like goods, GIS supplies the the automotive sector with parts for chassis systems.[182] It is therefore the best possible alternative source of financial data from Mexico that was readily available to Max-Atlas.

249. For this normal value calculation, Max-Atlas used its own production costs and made certain adjustments for labour costs, SG&A and the amount for profit. Labour costs were again determined using BCG labour costs data, which is adjusted for productivity.[183] Max-Atlas' labour costs were multiplied by .03154, which is the result of dividing Mexican hourly labour costs of US$9.33 by Canadian hourly labour costs of US$29.58.[184]

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[179] Appendix 96 – GIS Annual Report, 2019, p. 8.
[180] Appendix 96 – GIS Annual Report, 2019, p. 73.
[181] Appendix 96 – GIS Annual Report, 2019, p. 140.
[182] Appendix 96 – GIS Annual Report, 2019, p. 13.
[183] Appendix 25 – An end to cheap labour, Wall Street Journal, November 23, 2015, pp. 12-13.
[184] Appendix 25 – An end to cheap labour, Wall Street Journal, November 23, 2015, pp. 12-13.

250. An SG&A amount of 21.15% were multiplied by the adjusted costs of production. This amount was determined based on GIS' share of the total cost of sales represented by administration, selling expenses and financial costs.[185]

251. The amount for profit was also calculated by dividing the GIS' profit before income tax by the cost of sales. This percentage of 18.10% was then multiplied by the adjusted cost of production and SG&A costs to determine the amount for profit used in the normal value calculations.[186]

252. The margin of dumping based on the difference between Chinese export prices and Mexican surrogate normal values is similar to the margin of dumping calculated based on subsection 19 b) above. The margin of dumping ranges from [redacted].[187]

253. Mexico could serve as an alternative surrogate country to determine Chinese normal values based on section 20, if the CBSA is not satisfied with the US.

e) Conclusion on Section 20 of SIMA

254. To summarize, the major producer of subject chassis that exports to Canada, namely CIMC and its subsidiary CIMC Vehicles, are SOEs that are controlled by, and indistinguishable from, the Government of China. The production of chassis is highly influenced by Government of China policy measures relating to production, pricing and inputs and strategic policy initiatives such as the BRI and MCI 2025 agendas and targeted government directives and preferential tax policies.

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[185] Appendix 30 – Normal Values, Export Pricing and Margin of Dumping Calculations, Max-Atlas, 2020, tab 6.

[186] Appendix 30 – Normal Values, Export Pricing and Margin of Dumping Calculations, Max-Atlas, 2020, tab 6.

[187] Appendix 30 – Normal Values, Export Pricing and Margin of Dumping Calculations, Max-Atlas, 2020, tab 9.

255. For all of these reasons, Max-Atlas requests that the President of the CBSA form an opinion that normal values for Subject Goods from China should be determined pursuant to section 20 of *SIMA*. In the alternative, it is requested that the CBSA investigate government control of pricing in the Chinese chassis industry, and that in conducting this analysis, a request for information should be directed to the Government of China and to SOEs in the industry such as CIMC in order for CBSA to have a full appreciation of the conditions affecting prices in the Chinese domestic market for subject chassis.

6.2 Export price

256. With few exceptions, Chinese producers/exporters of chassis sell the vast majority of Subject Goods to trucking companies, logistics companies, and chassis dealers. Chinese producers of chassis and Canadian producers of chassis price the Subject Goods based on a number of factors including: (1) the size of the chassis (dictated primarily by chassis length and the type of load it is intended to carry), (2) the load rating of the chassis, (3) whether the chassis body contains certain features such as being extendable, having a "goose neck", having additional axles, and (4) the designed purpose of the chassis (carrying standard containers, carrying generators, carrying non-containerized freight, etc.).

257. Despite the wide variance in features and options found in chassis, Chinese and domestic producers of chassis compete for the same customers on a daily basis.

258. For the purpose of calculating the estimated margin of dumping for Subject Goods, Max-Atlas has provided information about export prices of Subject Goods to Canada from various sources, which can be found in Appendix 30. More precisely, in tab 5 "Deductive EP calcs", column C, CIMC's prices as offered in the Canadian market for five popular chassis was used as a starting point. Max-Atlas was able to source these price quotes from customers, which received offers from CIMC or its dealers.

259. From this Canadian price, Max-Atlas subtracted a retailer mark-up of [redacted], which is Max-Atlas' average of gross margins listed in tab 1 of Appendix 37. This is a conservative

estimate as Max-Atlas believes that dealers use even higher mark-ups given how low CIMC baseline prices are.

Ocean freight

260. Ocean freight costs were calculated based on the Shanghai Containerized Freight Index in August 2019,[188] inland transport cost in China and Canada, as well as handling and brokerage fees were determined based on the World Bank's *Doing Business* publications, which provide economic benchmark data for doing business in certain countries.

261. According to the Shanghai Containerized Freight Index, ocean freight costs for a 40 foot container from China to the US East Coast were [redacted], down 22.7% compared to the preceding year.[189] This pricing was used for freight costs from China to Canada given that the distance from China to the US and Canadian coasts are similar.

262. Since three 40 foot long Chassis fit into a 40 foot Container,[190] freight costs of [redacted] per Chassis were deducted from the export price, using an USD/CAD foreign exchange rate of 1.33. This pricing was based on 2019 when freight costs were significantly lower than they are currently. Freight costs for a 40 foot container for the same trajectory cost [redacted] toward the end of 2020.[191]

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[188] Appendix 61 – Dumping and Subsidy Calculations, BIMCO questions whether Chinese goods are being transshipped through Europe, then onward to the U.S. East Coast to avoid tariffs, Freight Waves, September 20, 2019, p. 187.

[189] Appendix 61 – Dumping and Subsidy Calculations, BIMCO questions whether Chinese goods are being transshipped through Europe, then onward to the U.S. East Coast to avoid tariffs, Freight Waves, September 20, 2019, p. 187.

[190] Appendix 03 – Container Chassis Presentation, Max-Atlas, September 2019, p. 20.

[191] Appendix 54 – Boxed out: Chinas exports pinched by global run on shipping containers, Reuters, December 10, 2020, p. 2.

Inland transport costs in China and Canada

263. According to information available to Max-Atlas, CIMC has its main manufacturing facilities in the town of Wangniudun in the municipality of Dongguan in Guangdong province,[192] near its headquarters in Shenzhen. Given the relatively short distance of 104 km to the next port,[193] the goods in question are likely sent by truck from the company's facilities to the to the Port of Yantian in Shenzhen.

264. Based on the data provided by the World Bank in *Doing Business in China*, the transport of 15 MT[194] of merchandise across 31km would cost US$179 in China,[195] which amounts to US$5.77 on a per km basis. Given that the weight of a chassis is approximately 5 MT (see Appendix 8), this rate of 5.77 km per km would need to be divided by three to obtain a per unit rate. As can be seen in the calculation in Appendix 30, an amount for inland transport costs in China of $266 per chassis was therefore subtracted from the export price.

265. In order to determine the inland transport costs from the port in Canada to one of its Canadian dealers, we calculated the distance between the busiest port in Ontario, the port of Hamilton, and CIE's certified dealer in the Greater Toronto Area, GSH Eastern Canada Inc. The distance between these two locations is 60 km.[196]

266. When applying the transport cost per km provided in the World Bank's *Doing Business in Canada* of US$2 to this distance and dividing it by three, the cost to transport a chassis

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[192] Appendix 20 – Annual Report, CIMC Vehicles, 2019, p. 37.

[193] Appendix 61 – Dumping and Subsidy Calculations, Google Maps – Distance from Wangniudun to Port of Yantian, p. 193.

[194] Appendix 61 – Dumping and Subsidy Calculations, Doing Business in China 2020, World Bank Group, 2020, p. 147.

[195] Appendix 61 – Dumping and Subsidy Calculations, Doing Business in China 2020, World Bank Group, 2020, p. 150.

[196] Appendix 61 – Dumping and Subsidy Calculations, Port of Hamilton to CIMC/CIE Dealer, Google Maps, February 4, 2021, p. 191.

across this distance would amount to $44. A more detailed calculation of this amount can be found in Appendix 30, tab 6.

Handling and brokerage fees

267. Based on the World Bank's research, the cost for port or border handling, which typically includes handling and brokerages costs, amounts to US$226 for a load of 15MT. On a per unit basis, the cost of $100 was subtracted from the export price of each chassis.

268. Similarly in Canada, the World Bank specifies that the fee for clearance and inspections required by CBSA amounts to US$171. On a per unit basis, this would mean that each chassis would cost $76 to be cleared by customs in Canada.

Total amount for transport and associated costs

269. The total amount for transport of a chassis from the CIMC's main production facility in China to one of its dealers in Canada would be approximately $1,680 based on the figures provided above.

270. This amount is likely to be much higher, especially given the recent rise in ocean freight costs caused by the current container shortage. In the Petition brought by the Coalition of American Chassis Manufacturers in the US, the total amount for freight and associated costs was US$1,700,[197] which is roughly 33% higher than the estimate used by Max-Atlas.

[197] Appendix 26 – Petition: Certain Chassis and Subassemblies thereof from the People's Republic of China, US Petition, Exhibit II – 3 (Excerpt), Coalition of American Chassis Manufacturers, July 30, 2020.

MFN Duty Rate

271. Lastly, once the 9.5% MFN duty rate applicable to Subject Goods was removed from the retail price, Max-Atlas was able to determine the ex-factory export price, which ranges from [redacted].[198]

6.3 Margin of dumping

272. Max-Atlas expects that margins of dumping based on an appropriate *SIMA* section 20 methodology, and based on more complete information the CBSA, likely to be able to be obtained through an investigation, will show margins of dumping at least in line with the margins Max-Atlas has estimated based on a *SIMA* s. 19(b) methodology in Appendix 30, which range from [redacted]%.

7. Subsidizing

273. Max-Atlas submits that the President of the CBSA should investigate the subsidization of subject chassis. It is hereby alleged that the Government of China maintains a complex system of economic programs and policies that have conferred, and continue to confer, massive countervailable subsidies on Chinese producers of chassis, which are materially injuring the Canadian domestic industry. As such, Max-Atlas submits that the President of the CBSA should investigate the subsidization of subject chassis.

274. Max-Atlas has been materially injured and is threatened with material injury from unfairly priced Subject Goods. Part of this injurious unfair price advantage comes from Chinese government subsidization of chassis, which includes all levels of government in China (national, provincial, municipal, local).

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[198] Appendix 30 – Normal Values, Export Pricing and Margin of Dumping Calculations, Max-Atlas, 2020, tab 3.

275. Subsidy is defined in part under *SIMA* as:

> (a) a financial contribution by a government of a country other than Canada in any of the circumstances outlined in subsection (1.6) that confers a benefit to persons engaged in the production, manufacture, growth, processing, purchase, distribution, transportation, sale, export or import of goods […]

276. As recognized in the *SIMA* Handbook, countervailable subsidies may be either direct subsidies, or indirect ("upstream") subsidies (see *SIMA* Handbook (September 17, 2019), p. 580).[199] Upstream subsidies are important in this case because a significant input into the production of chassis, namely steel, is heavily subsidized.

277. As an SOE, CIMC and CIMC Vehicles benefit from a large variety of subsidies both as SOEs and at the nexus of several promoted industries and policies of the Government of China for producing certain chassis. Additionally, SOEs are not constrained by profit and incur enormous losses while pursuing policy objectives of the Government of China because they are supported by government subsidies.

278. The Government of China employs many tools in subsidizing Chinese companies and SOEs like CIMC, ranging from direct methods such as cash or land grants, equity infusions, and the provision of low-priced inputs. The Government of China also subsidizes companies and SOEs indirectly through tax breaks, debt restructuring, preferential lending, or other subsidy schemes.

279. CIMC and CIMC Vehicles both produce equipment used in the logistics industry, ranging from shipping containers to certain chassis to drilling platforms. The strategic importance of CIMC to the growth and development of the Chinese economy lies in its central role in the manufacture of goods and provision of services required by the Chinese shipping

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[199] See SIMA Handbook (September 17, 2019), p. 580.

industry. The growth and efficiency of the Chinese shipping industry has been and remains essential to the growth of China's international trade and decades-long strategy of export-led growth.

280. At the municipal level, companies like CIMC benefit from a variety of subsidy and support programs. For example, Shenzhen launched a plan in 2012 to "create one of the world's largest logistics centres" and aimed to lure companies with "tax incentives, bank loans and other preferential policies." Shenzhen has tax incentives in place to develop the Qianhai Cooperation Zone to include a "modern logistics" zone as it considers the logistics industry to be a pillar industry.[200]

281. Regionally, the Government of China is developing the Pearl River Delta region of Shenzhen, Hong Kong, and Guangzhou to compete with "transshipment ports of Taiwan, Singapore, Busan and Tanjung Pelepas." However, these efforts are complicated by local efforts of each city in the Pearl River Delta to compete over market share rather than cooperate, including incentives to logistics companies. For example, Shenzhen has tax incentives in place to develop the Qianhai Cooperation Zone to include a "modern logistics" zone.[201]

282. The "Official Reply on General Development Planning for Qianhai Shenzhen-Hong Kong Modern Service Industry Cooperation Zone of Shenzhen from the State Council" provides

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[200] Appendix 36 – Government of China Industry Policies, From Qianhai to Shanghai – resurgence of regional incentives?, International Tax Review, November 29, 2013, pp. 116-129; Appendix 36, Government of China Industry Policies, General Development Planning for Qianhai Shenzhen-Hong Kong Modern Service Industry Cooperation Zone of Shenzhen, State Council (GOC), pp. 231-247.

[201] Appendix 36 – Government of China Industry Policies, From Qianhai to Shanghai – resurgence of regional incentives?, International Tax Review, November 29, 2013, pp. 116-129.

further details on the benefits that this modern logistics zone offers.[202] This reform and opening project is still active today and companies like CIMC and Cosco have a significant involvement in this project as owners of Qianhai.[203]

283. At the national level, logistics equipment companies such as CIMC benefit from an array of national policies such as the BRI and the MIC, and Government of China's subsidization of the steel sector and steel-processing industries, which will be discussed in further detail below.

284. The longstanding, inseparable relationship between the Government of China and CIMC and its shareholders reflects the strategic importance of CIMC and the shipping and logistics industry that CIMC serves. This strategic importance and the priority the Government of China places on the promotion of this industry are likewise reflected in China's latest Five-Year Plan (the "**Thirteenth Five Year Plan**").[204]

285. In fact, CIMC's publicly available 2019 Annual Report confirms that it received government grants in the amount of RMB 1,088,594,000 (approx. $215 million) in government subsidies annually.[205] This represents 5.8% of CIMC's revenue from its main operations of RMB 83,883,719,000 in 2018.[206]

286. Likewise, CIMC Vehicles 2019 Annual Report specifies the amounts in government grants received in 2019. A staggering RMB 238,431,000 (approx. $46 million) was received in

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[202] Appendix 36 – Government of China Industry Policies, Official Reply of the State Council on Policies Supporting the Development and Opening Up of the Qianhai Shenzhen-Hong Kong Modern Service Industry Cooperation Zone, State Council (GOC), 2021, pp. 248-251.

[203] Appendix 36 – Government of China Industry Policies, The new special economic zone of Qianhai in Shenzhen, China Britain Business Council, April 6, 2020, p. 245.

[204] Appendix 36 – Government of China Industry Policies, US-China Economic and Security Review Commission, the 13th Five-Year Plan, February 14, 2017, pp. 34-98.

[205] Appendix 19 – Annual Report, CIMC Group, 2019, p. 399.

[206] Appendix 19 – Annual Report, CIMC Group, 2019, p. 410.

government subsidies in 2019, which is nearly a six-fold increase to the amount received in the prior year.[207]

287. The following allegations identify subsidies that Max-Atlas has found through research of reasonably available public information, including many programs that the CBSA has found countervailable in previous investigations. Max-Atlas has also identified subsidy programs recently implemented by the Chinese government that the CBSA has not yet investigated.

288. The evidence in this complaint supporting these facts is sufficient to justify CBSA initiating a countervail investigation on the basis of the very programs found to have constituted countervailable subsidies in other cases.

289. Max-Atlas will demonstrate that the Government of China has subsidized chassis production, as well as relevant input materials, most notably steel. Based on the limited information reasonably available to Max-Atlas, the amount of subsidization is estimated to be in the likely range of [redacted]% of their export price.

7.1 Overview of Subsidization by the Government of China

290. China maintains extensive industrial policies aimed at furthering China's economic growth and development. These industrial policies are implemented through subsidy programs that affect every aspect of the Chinese economy, including the production and export of subject chassis.

291. In *Sucker Rods*, for example, the CBSA investigated 22 subsidy programs available to relevant exporters in various forms including:

a. Preferential Loans and Loan Guarantees

[207] Appendix 20 – Annual Report, CIMC Vehicles, 2019, p. 179.

b. Grants and Grant Equivalents

c. Debt-Equity Swap Programs

d. Preferential Tax Programs

e. Relief from Duties and Taxes

f. Goods/Services Provided by the Government at Less than Fair Market Value

g. Acquisition of Government Assets/Inputs at Less Than Fair Market Value

292. The Government of China and the majority of Chinese exporters did not participate in the CBSA's investigation of *Sucker Rods* and the investigation was significantly impeded by limited verifiable information provided. Accordingly, the CBSA established the applicable subsidy amounts of these programs as follows:

> [201] For exporters of Subject Goods originating in or exported from China that did not provide a response to the Subsidy RFI or provided incomplete or unreliable information, the CBSA determined an amount of subsidy pursuant to subsection 30.4(2) of *SIMA* on the basis of facts available.
>
> [202] In establishing the methodology for determining the amounts of subsidy, the CBSA examined all information on the record, including information from the complaint, information provided by exporters and publically available information. The CBSA considered that the information provided by exporters who provided sufficient information in response to the CBSA's Subsidy RFI, as well as the information on the potentially actionable subsidy programs that were identified at the initiation of the investigation was the best information on which to base the methodology for determining amounts of subsidy.

293. Pursuant to a ministerial specification, the amount of subsidy for "all other" exporters in this investigation was determined to be 68.1%.[208]

294. As explained below, it is likely that CIMC is benefitting from an even larger amount of subsidy programs at an amount of subsidy that exceeds the amount that were attributed to Chinese exporters in *Suckers Rods*.

a) Special Economic Zones, Economic Development Zones, Industrial Clusters in China

295. Chinese producers of Subject Goods, and their upstream Chinese suppliers of inputs, benefit from the Chinese government's vast and pervasive network of preferential benefits and subsidies at national and subnational levels. This includes Special Economic Zones ("**SEZs**"), Economic Development Zones ("**EDZs**"), Industrial Clusters ("**ICs**") and other types of designated preferential areas. Some of these zones are designated geographical areas where special policies and measures support particular economic functions while others include free-trade areas, industry parks and bonded zones.[209] Overall, these preferential zones are estimated to contribute to 60% of China's exports.[210]

296. The Rand Corporation published a major study on the role of EDZs in Chinese development strategies stating:

> Since the 1980s, the Chinese government has established more than 10 types of EDZs for the purposes of increasing exports, domestic economic growth, and tax revenues. Each type employs a combination of preferential policies set by the central government and zone-specific policies tailored to

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[208] *Sucker Rods*, SR 2018 IN, Statement of Reasons, CBSA, November 29, 2018, para. 204.

[209] Appendix 35 – China Market Subsidization Articles, China's Special Economic Zones, World Bank, May 26, 2020, p. 206.

[210] Appendix 35 - China Market Subsidization Articles, China's Special Economic Zones, World Bank, May 26, 2020, p. 207.

> attract businesses and investors. For the past three decades, growth in exports and output from EDZs has been remarkable . . .[211]

297. Additionally, a World Bank report on SEZs and ICs driving Chinese economic development states:

> To encourage firms to invest in the zones, the SEZs had in place various preferential policies, including inexpensive land, tax breaks, rapid customs clearance, the ability to repatriate profits and capital investments, duty-free imports of raw materials and intermediate goods destined for incorporation into exported products, export tax exemption, and a limited license to sell into the domestic market, among others . . . Favorable policies were also in place to attract skilled labor, including the overseas diaspora, such as the provision of housing, research funding, subsidies for children's education, and assistance in 'Hukou' transfer, among others.[212]

298. The WTO further corroborates evidence of the Chinese Government providing domestic manufacturers with tax preferences, direct transfers and access to credit, which aim to accelerate industry growth and to enhance global competiveness.[213] The Chinese Government's Five-Year Plans, including its most recent Thirteenth Five-Year Plan (2016-2020), prioritize strategic areas including intelligent manufacturing and services that are implemented through a combination of national, sub-national and local programs.[214] The Chinese Government also has sector-specific five-year plans that set policy guidelines.

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[211] Appendix 35 – China Market Subsidization Articles, The Role of EDZs in National Development Strategies – The Case of China, Rand Corporation, 2013, p. 16.

[212] Appendix 35 - China Market Subsidization Articles, How do SEZ and Industrial Clusters Drive China's Rapid Development?, World Bank, March 2011, p. 161.

[213] Appendix 35 – China Market Subsidization Articles, Trade Policy Review on China, World Trade Organization, June 6, 2018, pp. 198-202.

[214] Appendix 35 – China Market Subsidization Articles, Trade Policy Review on China, World Trade Organization, June 6, 2018, p. 198.

Provincial and local governments also provide financial support to particular industries for fixed periods.[215]

299. Chinese SEZs function as zones of rapid economic growth by using tax and business incentives to attract foreign investment and technology.[216] Moreover, they enable foreign investors to develop their own infrastructure including the ability to make key investment, production and marketing decisions without the approval of the Chinese Government.[217] These preferential zones have significantly increased in population, for example, Shenzhen's population grew from 30,000 people in 1979 to more than 1 million people by the beginning of the 21st century.[218] According to certain estimates, Shenzhen's current population in 2020 is believed to have already surpassed the 20 million mark.[219]

300. Chinese producers and exporters of the Subject Goods located in these preferential areas have access to Chinese government subsidies, programs and benefits which allow them to produce certain input materials and finished goods at unfairly low subsidized costs relative to Canadian domestic producers.

301. CIMC and CIMC Vehicles' registered head office and headquarters, as well as its main production facilities are located within Shenzhen, Guangdong province, one of the most significant SEZs in China. CIMC Vehicles also has productions facilities for Subject Goods in Yangzhou City, Jiansu Province and Zhumadian City, Henan Province, which Max-

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[215] Appendix 35 – China Market Subsidization Articles, Trade Policy Review on China, , World Trade Organization, June 6, 2018, p. 200.

[216] Appendix 35 – China Market Subsidization Articles, Special Economic Zone, Britannica, May 26, 2020, p. 204.

[217] Appendix 35 – China Market Subsidization Articles, Special Economic Zone, Britannica, May 26, 2020, p. 204.

[218] Appendix 35 – China Market Subsidization Articles, Special Economic Zone, Britannica, May 26, 2020, p. 204.

[219] Appendix 34 – Shenzhen's population size, key to gauging economic development, remains a matter of debate, South China Morning Post, November 26, 2020.

Atlas reasonably believes to be located within a SEZ, EDZ or IC.[220] CIMC and CIMC Vehicles thereby benefit from a large variety of preferential policies that are listed in the World Bank report.[221]

302. These financial contributions by the Government of China consist of government revenue that is otherwise due but is forgiven or not collected, pursuant to section 2(1.6)(b) of *SIMA*. SEZs can be considered specific pursuant to subsection 2(7.2) of *SIMA* because it is limited to enterprises in certain industries and those that are located within the SEZ.

b) Preferential loan and guarantee programs specific to the Chinese chassis industry

303. The Government of China directly subsidizes the chassis industry through preferential loans and guarantees from state-owned commercial banks ("**SOCB**") and other government-controlled banks based on Government of China driven industrial priorities. As discussed above, the logistics industry is a focus of the Government of China, both at the national level as part of the BRI, and at the local level in Shenzhen as a pillar industry.[222] As an SOE specializing as an equipment and solution provider in the logistics and energy industries, CIMC has received policy loans at a preferential interest rate. CIMC's 2019 annual report states this explicitly:

> For the policy-based preferential interest rate loans received by the Group, the entry value of the borrowings shall be the borrowing amount actually received, and the relevant borrowing costs shall be calculated based on the principal of the borrowings and the policy preferential interest rate. The

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[220] Appendix 20 – Annual Report, CIMC Vehicles, 2019, pp. 4 & 37; Appendix 19 – Annual Report, CIMC Group, 2019, p. 532.

[221] Appendix 35 – China Market Subsidization Articles, How do SEZ and Industrial Clusters Drive China's Rapid Development, World Bank, March 2011, p. 161.

[222] Appendix 36 – Government of China Industry Policies, Overview of the Shenzhen Regional Market, Trade Commissioner, November 28, 2019, p. 218.

> financial interest subsidy directly received by the Group reduces the relevant borrowing costs.[223]

304. Similarly, SOCBs are known to provide preferential loan guarantees to assume the debt obligation of a borrower if that borrower defaults. CBSA has previously deemed this loan guarantee program to be countervailable in *Large Diameter Carbon* and *Alloy Steel Line Pipe*.

305. As an SOE, CIMC has access to even more preferential borrowing rates than do non-SOE companies. In a study conducted by the National Bureau of Economic Research, SOEs were found to pay interest rates on government loans that were more than 300 basis points lower than for loans received by privately held companies.[224]

306. Preferential policy-based loans and loan guarantees by SOCBs confer a benefit to the exporter by way of reducing its financial costs upon obtaining loans and guarantees from financial institutions and provide a financial contribution pursuant to paragraph 2(1.6)(c) of *SIMA* equal to the difference between what the recipients paid on their loans and the amount they would have paid on comparable commercial loans. The program is specific pursuant to subsection 2(7.3) of *SIMA* because the Government of China specifically designates projects and enterprises that will benefit.

c) Export Credit Insurance Programs for Chinese SOEs

307. The China Export & Credit Insurance Corporation ("**SINOSURE**"), is a state-funded insurance company that has independent legal person status.[225] SINOSURE, established in 2001, supports Chinese foreign trade and economic cooperation through its nationwide

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[223] Appendix 19 –Annual Report, CIMC Group, 2019, p. 302.

[224] Appendix 35 – China Market Subsidization Articles, Can a Tiger change its stripes? Reform of Chinese state-owned enterprises in the penumbra of the State, NBER, January 17, 2019, p. 236.

[225] Appendix 35 – China Market Subsidization Articles, China Export & Credit Insurance Corporation, China Go Abroad, June 6, 2020, p. 214.

service network.[226] Serving the Government of China's strategy to expand international trade, SINOSURE provides Chinese exporters with access to a wide range of export credit insurance options to mitigate against non-payment risks:

i) Medium- and Long-Term Export Credit Insurance;

ii) Overseas Investment (Leasing) Insurance;

iii) Short-Term Export Credit Insurance;

iv) Inbound Investment Insurance;

v) Domestic Trade Credit Insurance;

vi) Bonds & Guarantees concerning foreign trade, investment and cooperation;

vii) Reinsurance concerning credit insurance, investment insurance, bonds and guarantees;

viii) Insurance Fund Management;

ix) Accounts Receivable Management, Debt Collection, Factoring, Credit Risk Consultation and Credit Rating; and

x) other products and services approved by the Government,[227]

308. SINOSURE's services are offered online through "SINOSURE Online", a multi-function e-commerce platform, as well as the "E-Plan", an online insurance platform specifically

[226] Appendix 35 – China Market Subsidization Articles, China Export & Credit Insurance Corporation, China Go Abroad, June 6, 2020, p. 214.
[227] Appendix 35 – China Market Subsidization Articles, China Export & Credit Insurance Corporation, China Go Abroad, June 6, 2020, p. 214.

for SME policyholders. By the end of 2011, SINOSURE was reported to have supported export, domestic trade and investment for an estimated USD $742 billion.[228]

309. Max-Atlas believes that the Government of China subsidizes these insurance and financing offerings that are specifically available to Chinese Subject Good producers and exporters, which provide an unfair advantage over domestic producers of like goods. Chinese government has long made it a policy that SINOSURE's insurance and financing offerings are to be focused on supporting specific priority industries, including the automobile industry and ancillary industries.

310. In 2011, the Ministry of Finance, Ministry of Commerce and the Ministry of Industry and Information Technology jointly issued a notice to various government departments and SINOSURE, noting that "export credit insurance is an internationally accepted means of promoting trade" and emphasized that "special support will be given to the export of ships, automobiles and complete sets of equipment."[229]

311. In 2021, the Ministry and Commerce and SINOSURE jointly issued a further notice instructing SINOSURE to "optimize support measures for key markets and leading enterprises in the construction machinery and automobile industries."[230]

312. Therefore, this program constitutes a financial contribution pursuant to paragraph 2(1.6)(c) of *SIMA*, and confers a benefit to Chinese producers by reducing their financial costs, where the benefit is equal to the amount of the exemption/deduction. The program is

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[228] Appendix 35 – China Market Subsidization Articles, China Export & Credit Insurance Corporation, China Go Abroad, June 6, 2020, p. 214.

[229] Appendix 102 – Notice on Utilizing the Advantages of Export Credit Insurance Policy to Accelerate the Transformation of Foreign Trade Development Mode, China Association of Automobile Manufacturers.

[230] Appendix 105 – Notice on further exerting the role of export credit insurance and accelerating the high-quality development of commerce, Ministry of Commerce of the People's Republic of China, March 15, 2021.

specific pursuant to subsection 2(7.3) of *SIMA* because it is not generally available to all Chinese companies.

d) Tax Benefit Programs

313. The national, provincial, and local Chinese governments provide a variety of tax exemptions, reductions, and credits that directly benefit China's steel chassis producers. These programs have provided and continue to provide a financial contribution specifically to CIMC in the form of revenue forgiven by the Chinese government, and are countervailable subsidies.

Income tax reductions for high and new technology enterprises

314. The Enterprise Income Tax Law of the People's Republic of China ("**EIT**") was adopted on March 16, 2007 by the 5th Session of the 10th National People's Congress of the People's Republic of China and came into effect on January 1, 2008. The EIT states that certain "enterprise income tax for State-encouraged high and new technology enterprises shall be levied at a reduced rate of 15 percent."[231] The standard corporate tax rate in China is 25%.[232]

315. Under this program, an enterprise must undergo an application, designation and certification process, and upon approval by the relevant authorities, is then issued a High

[231] Appendix 36 – Government of China Industry Policies, Enterprise Income Tax Law of the People's Republic of China, China Securities Regulatory Commission, March 16, 2007, pp. 190-198.

[232] Appendix 36 – Government of China Industry Policies, Enterprise Income Tax Law of the People's Republic of China, China Securities Regulatory Commission, March 16, 2007, p. 190-198.

and New Tech Enterprise Certificate, before it can claim the tax benefits under Article 28.[233]

316. Available financial information for Chinese chassis producers shows that they have benefitted from this tax program. Specifically, CIMC Vehicles 2019 Annual Report reveals that it has received a "reduced preferential corporate income tax rate of 15%" for certain subsidiaries in China that are "approved as 'high and new technology enterprise.'"[234]

317. CIMC Vehicles' parent SOE, CIMC, lists 25 different subsidiaries which are recognized as high tech companies and have received preferential tax rates of 15%. It is likely that other producers have benefited from this program, as well as enterprises to reduce their tax liability by up to 10%.[235]

318. These tax advantages are a financial contribution consisting of government revenue that is otherwise due but is forgiven or not collected, pursuant to section 2(1.6)(b) of *SIMA*. The program is also specific pursuant to subsection 2(7.2) of *SIMA* because it is limited as a matter of law to certain enterprises, namely, firms designated as important high- and new-technology enterprises.

Tax offsets for research and development under the EIT

319. Article 30 of the EIT allows enterprises to deduct research expenditures incurred in the development of new technologies, products, and processes. Article 95 of Regulation 512 provides that, if eligible research expenditures do not "form part of the intangible asset value," an additional 50% deduction from taxable income may be taken on top of the actual

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[233] Appendix 35 – China Market Subsidization Articles, Subsidies - Replies to Questions Posed by Canada Regarding the New and Full Notification of China, WTO, April 27, 2016, p. 287.
[234] Appendix 20 – Annual Report, CIMC Vehicles, 2019, p. 188.
[235] Appendix 19 – Annual Report, CIMC Group, 2019, pp. 316-318.

accrual amount. Where these expenditures form the value of certain intangible assets, the expenditures may be amortized based on 150% of the intangible assets costs.

320. In *Certain Photovoltaic Modules and Laminates*,[236] the CBSA determined that two exporters received benefits under this program. Further, the Government of China has listed this title in its notification of subsidy programs to the WTO.[237]

321. This program is specific because it is limited to research and development in eligible high-technology sectors. Reasonably available information suggests that CIMC Vehicles benefited from this program. CIMC Vehicles' financial statement indicates that the enterprise received a "research and development expenses bonus deduction", and is approved as a "high and new technology enterprise". [238]

322. These tax advantages are a financial contribution consisting of government revenue that is otherwise due but is forgiven or not collected, pursuant to section 2(1.6)(b) of *SIMA*. The program is also specific pursuant to subsection 2(7.2) of *SIMA* because it is limited as a matter of law to certain enterprises, namely, firms designated as important high- and new-technology enterprises.

Income tax credits for domestically owned companies purchasing domestically produced equipment

323. Pursuant to China's WTO subsidies notification, the Government of China offers preferential tax policies to domestic enterprises if they upgrade their manufacturing operations with Chinese-made equipment. The notification provides that domestic enterprises which upgrade technology consistent with the Government of China's

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[236] *Certain Photovoltaic Modules and Laminates*, Final Determination, Statement of Reasons, CBSA, June 18, 2015, Appendix 2.

[237] Appendix 35 – China Market Subsidization Articles, Semi-Annual Report under Article 25.11 of The Agreement, China, WTO, January 1 - June 30, 2020, p. 267.

[238] Appendix 20 –Annual Report, CIMC Vehicles, 2019, p. 188.

industrial policies may deduct 40% of the purchase price of the domestic equipment from their next year's income tax obligation. "In those circumstances where the income tax due is less than 40% of the price of the equipment, the remainder of the price may be deducted in subsequent years, for a period of up to five years."[239]

324. Although information on the purchases of specific equipment by Chinese chassis producers is not publicly available, Max-Atlas reasonably believes that CIMC and CIMC Vehicles likely purchased domestically produced equipment. CIMC Vehicles' financial statements indicate that it received government subsidies for "construction of vehicle manufacturing facilities, the upgrade of vehicle manufacturing technologies and the purchase of land use rights."[240]

325. This likely includes the purchase of domestic equipment. Max-Atlas notes that the Government of China has claimed that this program was terminated effective January 1, 2008, pursuant to the Circular on Relevant Issues with Respect to Ceasing Implementing of Income Tax Credit to Purchase of Domestically Produced Equipment by Enterprises.[241]

326. However, the CBSA should examine whether benefits under this program have terminated or whether benefits continue under a new name. Because they are made available contingent upon the use of domestic over imported goods, this is government revenue that is forgiven or not collected, pursuant to section 2(1.6)(b) of *SIMA* that is also specific pursuant to subsection 2(7.2) of *SIMA*.

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[239] Appendix 35 – China Market Subsidization Articles, New and Full Notification Pursuant to Article XVI:1 of the GATT 1994 and Article 25 of the SCM Agreement, People's Republic of China, WTO, April 11, 2006 (Excerpt), pp. 277-279.

[240] Appendix 20 – Annual Report, CIMC Vehicles, 2019, p. 239.

[241] Appendix 65 – Issues and Decision Memorandum for Final Determination in the Countervailing Duty Investigation of Circular Welded Carbon Quality Steel Line Pipe (Line Pipe) from the People's Republic of China, US DOC, November 17, 2008, p. 18.

Import tariff and VAT exemptions on imported equipment in encouraged industries

327. The State Council's Circular on Adjusting Tax Policies on Imported Equipment exempts certain domestic enterprises and FIEs from paying value-added taxes ("**VAT**") and tariffs on imported equipment not for resale.[242] Information also indicates that the objective of this program is to encourage foreign investment and introduce advanced equipment from abroad into China in order to upgrade domestic industrial technology.

328. CIMC Vehicles' financial statements indicate that it received government subsidies for "construction of vehicle manufacturing facilities, the upgrade of vehicle manufacturing technologies and the purchase of land use rights."[243] Max-Atlas reasonably believes that CIMC Vehicles, along with other respondents, likely imported equipment and utilized this program.

329. This is a program that CBSA has deemed countervailable in *Certain Photovoltaic Modules and Laminates*, and in *Unitized Wall Modules* because it is a financial contribution by the Government of China that consists of government revenue that is otherwise due but is forgiven or not collected, pursuant to section 2(1.6)(b) of *SIMA*. The program is specific pursuant to subsection 2(7.3) of *SIMA* given that the subsidy is not generally available.

e) Debt-equity swap programs: Government directed debt restructuring in the Chinese chassis industry

330. In 2016, the Chinese government launched a massive program to restructure heavily indebted enterprises, as well as selected strategically important SOEs. While the program was ostensibly designed as a means of financing capacity cuts under the "supply side

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[242] Appendix 36 – Government of China Industry Policies, Circular of the State Council Concerning the Adjustment in the Taxation Policy of Import Equipment, translated by US Congressional-Executive Commission on China, Government of China (State Council), February 7, 2007, pp. 214-216.

[243] Appendix 20 – Annual Report, CIMC Vehicles, 2019, p. 238.

structural reform" initiative, it has operated in practice as an industrial bailout scheme in which state-owned and controlled banks have absorbed losses in order to keep politically important enterprises in business. In some cases, bailouts have been accompanied by state-directed mergers, in which an enterprise with a more sustainable financial outlook has been tasked with absorbing and sustaining the productive assets of loss-making competitors.[244]

331. Notably, the current debt-to-equity swap program extends to "all categories of loans – not only nonperforming but also performing and special mention loans – are eligible to be swapped for equity in target companies."[245]

332. CIMC's 2019 Annual Report lists that in "2019, interest capitalized by the Group was RMB 1,181.927 million,"[246] indicating that CIMC is not current on its debt payments and may have restructured its debt. It is, therefore, likely that CIMC may have undergone debt restructuring.

333. CBSA has identified such programs by the Government of China as countervailable in other investigations, including *Seamless Casing*, *OCTG I*, *Carbon Steel Welded Pipe*, *Pup Joints*, and *Stainless Steel Sinks*.

334. Government of China directed debt restructurings under this program are a financial contribution that consist of government revenue that is otherwise due but is forgiven or not collected, pursuant to section 2(1.6)(b) of *SIMA*. The program is specific pursuant to subsection 2(7.3) of *SIMA* because it is limited to SOEs and to enterprises in priority or

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[244] Appendix 36 – Government of China Industry Policies, China launches a $52.5 bln restructuring fund for state-owned firms, Reuters, September 26, 2016, p. 217.

[245] Appendix 35 – China Market Subsidization Articles, Tracking China's Debt-to-Equity Swap Program: "Great Cry and Little Wool", Peterson Institute for International Economics, June 24, 2019, pp. 280-285.

[246] Appendix 19 – Annual Report, CIMC Group, 2019, p. 84.

pillar industries (i.e., the logistics industry). There is also reason to believe that actual recipients of the subsidy are limited in number on an enterprise or industry basis.

f) Government Grants

335. CIMC lists 45 government grants it received, which amounted to RMB 1,088,594,000 in 2019.[247] Its subsidiary, CIMC Vehicles, which produces subject chassis, does not list all of the subsidy programs it benefits from, but states that it received RMB 238,431,000 in government grants in 2019.[248]

336. In its 2019 Annual Report, CIMC provides a summary of accounting practices relevant to the government grants that it receives. These grants are defined as "transfers of monetary assets or non-monetary assets from the government to the Group at nil consideration except for the capital contribution from the government as an investor in the Group, including refund of taxes and financial subsidies, etc."[249]

"Famous Brands" Program

337. The Government of China at the central and sub-central levels of government provides grants to companies identified as "famous brands" or "China World Top Brands." Some local jurisdictions provide rewards of up to RMB 1 million for companies that obtain the "famous brand" designation.[250] The General Administration of Quality Supervision, Inspection and Quarantine of the People's Republic of China, a ministerial administrative body directly under the State Council, is responsible for the organization as well as the

[247] Appendix 19 – Annual Report, CIMC Group, 2019, pp. 398-399.
[248] Appendix 20 – Annual Report, CIMC Vehicles, 2019, p. 178.
[249] Appendix 19 – Annual Report, CIMC Group, 2019, pp. 50 & 302.
[250] Appendix 103 – 2020 summary of foreign trademark registration subsidy policies in various provinces and cities, please collect dry goods!, Yida International, June 14, 2020.

implementation of state measures and polices on "the promotion strategy of Famous Brand Names."[251]

338. CIMC, with operations throughout eastern China, with a concentration in major ports and shipping centers along the East coast, has been recognized as a "Famous Brand". It can therefore be assumed that CIMC receives significant subsidies under this program.[252]

339. For instance, CIMC's 2019 Annual Report shows a focus on "consistently enhanced international management and increased brand premium." This includes a discussion of how in the past few years, by deepening the content of "Local Knowledge", the Group has established a localized brand in North America, namely Vanguard National Trailer: owned a 42-year-old brand "SDC" in England; a 75-year-old brand "LAG" in Belgium; and has been actively promoting "CIE", a semitrailer brand with series of products that carries all the advantages of the Group's "upgraded product modules" and "improved Light Tower Plant" and can fully realize its production in North America and Europe. At the same time, the Group will take the opportunity to launch "New Marketing" and "New Retail" focusing on the CIE brand in North America, Europe, Australia and South Africa.[253]

340. Based on this increased focus on its brand and the "China Famous Brand" one of its subsidiaries received,[254] it can be assumed that CIMC receives significant subsidies under this program.

341. This grant is a financial contribution by the Government of China that is a direct transfer of funds pursuant to section 2(1.6)(a) of *SIMA*. This program may be considered specific

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[251] Appendix 36 – Government of China Industry Policies, What is AQSIQ?, AQSIQ, February 17, 2021, pp. 223-227.
[252] Appendix 66 – 2018 Annual Report (Excerpt), CIMC Group, 2018, p. 2.
[253] Appendix 19 – Annual Report, CIMC Group, 2019, p. 8.
[254] Appendix 66 – 2018 Annual Report (Excerpt), CIMC Group, 2018, p. 2.

pursuant to subsection 2(7.3) of *SIMA* as it may not be generally available to all Chinese companies.

Export Assistance Grants

342. Chinese companies also receive Export Assistance Grants to assist in the development of export markets or to recognize export performance. Publicly available evidence indicates that CIMC Vehicles is export-oriented. For example, CIMC Vehicles Annual report states that export revenue was RMB 8,444.7 million out of a total operating revenue of RMB 13,551.4 million or more than half of its revenue for the semi-trailer business.

343. According to a report by Capital Trade Incorporated, the value of Chinese export subsidy rates could be up to 45%, with the average rate of 18.6%.[255]

344. It is therefore likely that Chinese chassis producers received support under this program. Export assistance grants are a financial contribution by the Government of China that is a direct transfer of funds pursuant to section 2(1.6)(a) of *SIMA*. This program may be considered specific pursuant to subsection 2(7.3) of *SIMA* as it may not be generally available to all Chinese companies.

Foreign Trade Development Fund

345. Max-Atlas also believes that CIMC receives the Foreign Trade Development Fund. Pursuant to this program, the Chinese government at the national and sub-national levels provide grants to support projects undertaken by exporting companies to improve the competitiveness of their exported products, develop an export processing base, support the registration of trademarks in foreign countries, support the training of foreign trade professional, and explore international markets.

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[255] Appendix 104 – An Assessment of China's Subsidies to Strategic and Heavyweight Industries, US-China Economic Security Review Commission.

346. More specifically, the province of Guangdong, where CIMC has its headquarters and main production facilities, also provides Foreign Trade Developments Funds "to increase the strength of support for the establishment of foreign trade public service platforms, and enterprise investment in research and development, design, and technological innovation."[256]

347. Max-Atlas reasonably believes that CIMC and CIMC Vehicles, as exporting companies in the Guangdong province, received Foreign Trade Development Funds.

348. This grant represents a financial contribution by the Government of China and is a direct transfer of funds pursuant to section 2(1.6)(a) of *SIMA*. The program is specific pursuant to subsection 2(7.3) of *SIMA* because it is contingent upon exports, and therefore, not generally available to all Chinese companies.

State Key Technology Renovation Project Fund

349. The State Key Technology Renovation Project Fund program (''Key Technology Program'') was created pursuant to state circular Guojingmaotouzi (1999) No. 886 (Circular No. 886), and operates under the regulatory guidelines provided in Circular No. 886, including ''Measures for the Administration of National Debt Special Fund for National Key Technological Renovation Project'' (''Special Fund Measures''), Guojingmaotouzi (1999) No. 122, Guojingmaotouzi (1999) No. 1038 and state circular Guojingmaotouzi (2000) No. 822.[257]

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[256] Appendix 35 – China Market Subsidization Articles, Subsidies, Request from the United States to China pursuant to article 25.10 of the Agreement, Committee on Subsidies and Countervailing Measures, WTO, April 19, 2017, pp. 271-276.

[257] Appendix 67 – Coated Free Sheet Paper from the People's Republic of China: Amended Preliminary Affirmative Countervailing Duty Determination, Federal Register, April 9, 2007, p. 8.

350. The State Key Technology Renovation Project Fund is intended to promote: (a) technological renovation in key industries; (b) technology upgrades; (c) improvements in product structure; (d) improvements in quality; (e) increases in supply; (f) the expansion of domestic demand; and (g) further development of the state economy. Under this program, companies can apply for funds to cover the cost of financing specific renovation projects.[258]

351. Payments are disbursed in the form of grants covering two years of interest payments on loans to fund the project, or up to three years for enterprises located in the Northeast, Central, or Western areas of China. "Under Article 1 of the Special Fund Measures, Key Technology Program funds may also be disbursed as 'loan interest grants,' which are calculated with reference to the amount of the project loans and prevailing interest rates during the period of one to two years." This program has also been implemented by provincial authorities.[259]

352. CIMC's 2019 financial statements report government grants related to "research and development fund of key technologies," "MEA special funds to support industrial innovation," "Jiajing Technology key Industry Technology Research Institute," and "TAS technology development fund" totalling RMB 2,186,000 as of June 30, 2020.[260] Accordingly, the CBSA should investigate this program.

353. These grants are a financial contribution pursuant to paragraph 2(1.6)(a) of *SIMA*. They are a direct transfer of funds from the government and confers a benefit to the recipient equal

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[258] Appendix 67 – Coated Free Sheet Paper from the People's Republic of China: Amended Preliminary Affirmative Countervailing Duty Determination, Federal Register, April 9, 2007, p. 8.

[259] Appendix 67 – Coated Free Sheet Paper from the People's Republic of China: Amended Preliminary Affirmative Countervailing Duty Determination, Federal Register, April 9, 2007, p. 8.

[260] Appendix 19 – Annual Report, CIMC Group, 2019, pp. 398-401; Appendix 19 – Interim Report, CIMC Group, 2020, pp. 297-298.

to the amount of the grants. The program is specific pursuant to subsection 2(7.3) of *SIMA* because it is limited as a matter of law to certain enterprises or industries.

Grants for retiring outdated capacity/ industrial restructuring

354. The Government of China at the central and sub-central levels provides grants to enterprises that "eliminate outdated capacity" in overcapacity sectors. In 2007, the Ministry of Finance issued the Provisional Measures for the Administration of Central Budget Award Funds for the Elimination of Outdated Capacity ("Provisional Measures"). The Provisional Measures delegated responsibility for eliminating outdated capacity to local governments and provided that the central government would allocate award funds according to the scale of eliminated capacity for distribution by local authorities in accordance with their circumstances.[261]

355. Award funding was restricted to eliminating outdated capacity in certain overcapacity sectors. Local governments were also instructed to allocate local award funds to be used in tandem with award funds from the central budget. The Ministry of Finance replaced the 2007 Provisional Measures in 2011 with the Measures for the Administration of Central Budget Award Funds for the Elimination of Outdated Capacity.

356. This measure operates in the same manner as discussed above. According to reports, funds received for closing outdated capacity in the steel industry are frequently used to replace them with newer, larger facilities that are no longer considered "outdated" under relevant industrial policy requirements.[262]

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[261] Appendix 36 – Government of China Industry Policies, Ministry of Finance on Printing and Distributing Notice on the Interim Measures for the Administration of the Central Financial Reward Funds for Eliminating Outdated Production Capacity, Ministry of Finance, China, December 11, 2007, pp. 210-213.

[262] Appendix 36 –Government of China Industry Policies, Ministry of Finance on Printing and Distributing Notice on the Interim Measures for the Administration of the Central Financial

357. It is likely that Chinese chassis producers or their cross-owned affiliates have also benefitted from grants to eliminate outdated capacity. Specifically, CIMC's financial statements list subsidies received for "Enric relocation compensation," "YZTH relocation compensation," and "Shenyang Jietong factory demolition government grants" totaling RMB 368,839,000 as of June 30, 2020.[263]

358. This grant is a financial contribution pursuant to paragraph 2(1.6)(a) of *SIMA*. It is a direct transfer of funds from the government and confers a benefit to the recipient equal to the amount of the grant. The program is specific pursuant to subsection 2(7.3) of *SIMA* because it is limited to certain overcapacity industries enumerated in the measure pursuant to which the program operates.

Grants for Energy Conservation and Emission Reduction

359. In 2015, the Ministry of Finance issued the Provisional Measures for the Administration of Subsidy Funds for Energy Conservation and Emissions Reduction. The measure provides for payments in the form of grants, awards, and interest payment subsidies to support projects related to: (i) innovations in structures and mechanisms for energy conservation and emissions reduction, (ii) basic capabilities and building public platforms for energy conservation and emissions reduction, (iii) comprehensive standardization of energy conservation and emissions reduction financial policies, (iv) energy conservation and emissions reduction in priority spheres, priority sectors, and priority regions, (v) demonstration, popularization, renovation and upgrading related to key priority energy conservation and emissions reduction technologies, and (vi) other relevant items. 304

Reward Funds for Eliminating Outdated Production Capacity, Ministry of Finance, China, December 11, 2007, pp. 210-213.

[263] Appendix 19 – Annual Report, CIMC Group, 2019, p. 398; Appendix 19 – Interim Report, CIMC Group, 2020, pp. 297-298.

Funds are to be allocated to the fund from the central government budget, or through similar funds established by sub-central levels of government.[264]

360. Reasonably available information also suggests that Chinese chassis producers have benefited from grants under this program. CIMC's 2019 financial statements include "Green Manufactory" grants.[265] Additionally, several CIMC subsidiaries, including chassis producer CIMC Vehicles, have received green factory awards:

> Dongguan CIMC Vehicle was awarded as a national green factory. Tianjin CIMC and WHVS were awarded as provincial green factories. WHVS was awarded as a "National Green Supply Chain Management Demonstration Enterprise". TCCI MCTUE and TCCI MCS were awarded as "Blue Rating Enterprises" of local environmental credit evaluation by local regulatory authorities.[266]

361. Nantong CIMC was awarded as a "Green Rating Enterprise" of local environmental credit evaluation by local regulatory authorities. This program confers a financial contribution pursuant to paragraph 2(1.6)(a) of *SIMA*. It is a direct transfer of funds from the government and confers a benefit to the recipient equal to the amount of the grant. The program is specific pursuant to subsection 2(7.3) of *SIMA* because the measure pursuant to which the subsidy is granted limits the subsidy to six types of applications.[267]

362. The above programs are merely a subset of subsidy programs made available by the Government of China to SOEs like CIMC and its subsidiaries. CBSA should investigate

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[264] Appendix 36 – Government of China Industry Policies, Notice of the Ministry of Finance on Printing and Distributing the Interim Measures for the Administration of Energy Saving and Emission Reduction Subsidy Funds, Ministry of Finance, China, May 12, 2015, pp. 228-231.

[265] Appendix 19 – Annual Report, CIMC Group, 2019, p. 399.

[266] Appendix 19 – Annual Report, CIMC Group, 2019, p. 170.

[267] Appendix 19 – Annual Report, CIMC Group, 2019, p. 170.

these programs and further determine whether Chinese chassis producers benefit from other subsidy programs.

Government provision of electricity for less than fair market value

363. Like many of the direct subsidies granted to Chinese industries, it is widely known that particular industries are eligible for discounted electricity rates in an effort to promote production. A 2015 study carried out by the International Monetary Fund confirmed that China is by far the top energy subsidizer worldwide with an annual subsidy amount exceeding US$2 Billion.[268] Max-Atlas has reason to believe that China's National Development and Reform Commission ("**NDRC**") employs preferential power rates as a policy tool to promote and encourage the development of China's industrial sectors, including the shipping industry embodied by CIMC.

364. For example, in 2019, the NDRC issued a directive to lower level governments and the national electricity grid companies to lower electricity rates to industrial and commercial users by 10%.[269] In February 2020, to support the resumption of production during the COVID-19 pandemic, NDRC issued a directive to lower the electricity rates by a further 5%.[270]

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[268] Appendix 35 – China Market Subsidization Articles, IMF Survey: Counting the Cost of Energy Subsidies, International Monetary Fund, July 17, 2015, p. 218.

[269] Appendix 100 – Notice of the National Development and Reform Commission on reducing general industrial and commercial electricity prices", Fa Gai Price (2019) No. 842, Government of China State Council, May 19, 2019, pp. 1-3.

[270] Appendix 101 – Notice of the National Development and Reform Commission on the phased reduction of the electricity cost of enterprises to support the resumption of work and production of enterprises", Fa Gai Price (2020) No. 258, Government of China State Council, February 22, 2020, pp. 1-3.

365. Aside from the central government, many provinces and local governments in China have established policies that provide preferential electricity rates to attract investment to their respective areas.

366. In particular, provincial and local governments have created special economic areas that offer numerous incentives to investors. In addition to tax incentives, investors often also receive additional concessions, including fee waivers for facilities, such as electricity.

367. These preferential rates for electricity confer a financial contribution pursuant to paragraph 2(1.6)(c) of *SIMA* and is specific pursuant to subsection 2(7.3) of *SIMA* because it may not be available to all Chinese companies. The CBSA should therefore also investigate whether CIMC has received electricity, and also other resources such as land use, at less than fair market value.

7.2 Indirect subsidies through steel producers

368. Steel is a significant input in the production of chassis that represent roughly [redacted] of all direct material costs.[271] Chinese producers benefit from unfairly priced, highly subsidized steel products. A cause of these price distortions is the extensive control over the steel sector in China, which has been proven through previous investigations and is further discussed in the section 20 analysis above. The CBSA has gathered an extensive body of evidence showing this, and in many cases, these have yielded better information than what is reasonably available to Max-Atlas in preparing this Complaint.

a) Pricing in China is not the same as it would be a competitive market – steel plate, H-beams and steel bars as a significant input

369. Chinese domestic prices for steel sheet, plate, and steel bars are consistently significantly lower than in any of the three comparator markets. While these steel inputs are not yet processed and ready for assembly, they are a significant input cost to produce container

[271] Appendix 50 – Cost of Most Popular Products, Max-Atlas, October 15, 2020.

chassis. The abnormally low input cost of these steel inputs would therefore translate into a lower cost, and selling price, of subject chassis in China.

370. The significant differences in pricing for steel plate and H-beams in China compared to competitive markets like the U.S. and Germany are discussed in detail in section 6.1 c) v) above.

371. These pricing differences for steel inputs further contribute to prices of container chassis in China not being substantially the same as they would be in a competitive market economy.

b) CBSA's consistent treatment of China's Steel Sector as heavily subsidized

372. The CBSA has consistently found China's steel sector as a sector that is heavily subsidized, including in proceedings related to steel plate and H-beams, which are just two major steel inputs used to manufacture subject chassis.

373. In *Cold-Rolled Steel*, the CBSA reviewed several Government of China policies, including the:

i) 13th Five-Year National Economic and Social Development Plan;[272]

ii) Steel Capacity Replacement Policy;

iii) Iron and Steel Industrial Adjustment and Upgrade Plan;[273]

iv) Iron and Steel Industrial Restructuring Policy;

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[272] Appendix 36 – Government of China Industry Policies, The 13th Five-Year Plan, US-China Economic and Security Review Commission, February 14, 2017, pp. 33-96.

[273] Appendix 36 – Government of China Industry Policies, Steel Industry Adjustment Policy, GOC, 2015, pp. 23-32.

v) National Steel Policy and the Steel Revitalization/Rescue Plan; and

vi) 12th Five-Year Development Plan for the Steel Industry.

374. Notably, the CBSA found that the "[…] 13th Five-Year Plan together with the Steel Capacity Replacement Policy, indicate that the Government of China plays a key role in the administration of the steel industry". The CBSA also noted that the "Iron and Steel Industry Adjustment and Upgrade Plan, along with the discussion on the draft Steel Industry Adjustment Policy, together with [an] article from the American Iron and Steel Institute, indicate that these measures and reforms affect all of the steel industry in China". The CBSA recognized that "[s]hould steel enterprises not follow the Government of China's requirements, laws and industrial policies, there are repercussions which include the withdrawal of steel production licenses and credit support".

375. Furthermore, the CBSA's research into the Chinese steel industry found that eight of the top ten steel producers by volume in China were SOEs. The CBSA concluded that the extensive government ownership and control of steel producers "means that these companies produce and market steel according to Government of China objectives and policies instead of market conditions" (see *Cold-Rolled Steel*, Statement of Reasons of the Final Determination, CRS-2018 IN, paras. 93 – 100, 105, 117, 121 – 124, 259 – 268).

376. Apart from the 12th-Year Plan, which was replaced by the 13th-Year National Economic and Social Development Plan, the Government of China instruments listed above continue to apply to the Chinese steel sector.

377. There is substantial evidence of subsidization of steel in China. In the last decade, since 2008, there have been a number of cases increasingly demonstrating subsidization of Chinese goods. Previous CBSA investigations have discovered many countervailable subsidies conferred at the federal, provincial and local levels in China. Fifteen such investigations specifically found extensive countervailable subsidies relating to Chinese steel products, eight of which related to steel oil and gas products:

Chinese steel products

i) Seamless Casing
ii) OCTG I
iii) Pup Joints
iv) Small Diameter Line Pipe
v) Large Diameter Line Pipe
vi) Fabricated Industrial Steel Components
vii) Carbon Steel Welded Pipe I
viii) Sucker Rods
ix) Steel Grating
x) Stainless Steel Sinks
xi) Steel Piling Pipe
xii) Galvanized Steel Wire
xiii) Rebar I
xiv) Cold-Rolled Steel
xv) Corrosion-Resistant Steel Sheet

378. In *Sucker Rods*, the most recent CBSA investigation of Chinese subsidization of a steel product, the CBSA identified 22 potentially actionable subsidy programs for Chinese producers of sucker rods in its November 29, 2018 reasons for final determination. The Government of China refused to provide information required by the CBSA to determine specific amounts of subsidy, and the CBSA received a limited number of usable responses from Chinese producers. Presumably this occurred at least in part because the Chinese entities did not want to disclose the high level of subsidization received by Chinese steel producers of goods for the oil and gas industry. CBSA estimated subsidies at 119.54 RMB/piece or 68.1% of export price.

379. Similarly, *Large Diameter Line Pipe* is CBSA's most recent subsidy investigation into Chinese steel tubular products for the oil and gas sector. In that case, CBSA identified 160 potentially actionable subsidy programs for Chinese producers of line pipe in its October

5, 2016 reasons for final determination. Neither the Government of China, nor any Chinese exporters provided any information required by the CBSA to determine specific amounts of subsidy. The reasonable inference here is that this lack of cooperation was motivated at least in part because Chinese entities did not want to disclose the full degree of Government of China subsidization. CBSA estimated subsidies at 1657.11 RMB/tonne or 30.3% of export price.

380. China is not a developing country (see *Small Diameter Line Pipe* - Statement of Reasons for Initiation, para. 116), so the applicable standard for a significant subsidy is 1% or greater, as set out in the definition of insignificant under section 2(1) of *SIMA*. All of the above subsidy amounts, and all amounts found in recent subsidy case in respect of China, are well in excess of this threshold. The evidence from these cases demonstrates that the Government of China consistently provides significant actionable subsidies to its steel producers.

7.3 Amount of subsidy

381. Max-Atlas does not know and is not able to determine the actual amounts of subsidy. Three pieces of information assist in estimating the level of subsidisation of the Subject Goods, including that it is above the 1% threshold of insignificance.

382. An amount of subsidy can be estimated by calculating the difference between the selling price of the Subject Goods and their costs of production. Any goods sold below their costs of production must be subsidized to a profitable or break-even level, otherwise their sale would be economically irrational.

383. The difference between the export price and cost of three models of Subject Goods studied shows that they are being sold in Canada substantially below their costs of production, indicating a significant amount of subsidy (per section 2 of the *SIMA*), i.e. at margins of [redacted]% as a percentage of export price as set out in the table below.

Table 5 – Estimated amount of subsidy[274]

Estimated ex-factory EP (to be conservative, using highest example in Appendix 30, "MOD" tab	Estimated Chinese cost (cost of production + SG&A per Appendix 30 – "Section 19b NVs" tab	Difference = subsidy (% of EP)
[redacted]		

384. In a recent preliminary determination in the US countervailing investigation against Chassis from China, published on December 29, 2020, the US DOC ruled that Chinese producers were receiving countervailable subsidy rates of 38.5%, which is further evidence of unfair subsidies provided by the Government of China to Chinese producers of the Subject Goods.[275] On April 8, 2021, The US DOC amended its calculations to increase the subsidy amount to 44.32%.[276]

385. Following the amendment of the final subsidy amount for CIMC, The U.S. International Trade Commission made a final determination in the countervailing investigation to

[274] Appendix 30 – Normal Values, Export Pricing and Margin of Dumping Calculations, Max-Atlas, 2020, tab 7.

[275] Appendix 55 – Certain Chassis and Subassemblies thereof from the People's Republic of China, Preliminary Determination of Countervailing Investigation & Decision Memorandum, US DOC, December 29, 2020, p. 4.

[276] Appendix 99 – Amended Final Determination Calculations for CIMC Vehicles (Group) Co., Ltd. Countervailing Duty Investigation of Certain Chassis From China, US DOC, April 8, 2021.

confirm that imports of subsidized chassis and subassemblies from China caused material injury to the U.S. industry on April 13, 2021.[277]

386. For all of the reasons above, Max-Atlas requests that the CBSA initiate an investigation against injurious direct or indirect subsidies conferred upon Chinese producers of chassis by the government and government entities in China.

8. Demonstrating Injury

387. Exporters of dumped and subsidized Subject Goods are increasingly exporting the Subject Goods into the Canadian market at injurious prices and quantities. This trend is expected to continue now that the U.S. has imposed tariffs on certain Chinese-made goods, including the Subject Goods. Domestic producers like Max-Atlas are unable to compete with these unfairly traded goods, resulting in the loss of significant clients, declining gross margins and an erosion of market share.

388. Without relief, Max-Atlas will not only continue to lose market share to unfairly traded Subject Goods, it will be forced to lower prices to unsustainable levels, ultimately threatening the viability of the company. Given that Max-Atlas represents the vast majority of domestic production, the loss of Max-Atlas as a viable, independent Canadian producer would decimate the domestic industry and lead Canada to become an import market for chassis.

8.1 Subject import volume and market share trends

389. The Statistics Canada import data for the primary container chassis HS code 8716.39.30.90 (the "**Other Trailers**" HS code) presents challenges for interpreting the number of Subject Goods imported into Canada, given the large scope of goods, including non-subject and

[277] Appendix 98 – Press Release regarding final countervailing determination in Chassis case, US ITC, April 13, 2021.

non-like goods, which it incorporates. According to the WCO explanatory notes, other examples of "other trailers for the transport of goods" may also include:

i) Tanker trailers (whether or not fitted with pumps).
ii) Agricultural, public works, etc., trailers (whether or not tipping).
iii) Refrigerator or insulated trailers for the transport of perishable goods.
iv) Removal trailers.
v) Single or double-decker trailers for the transport of livestock, motor cars, cycles, etc.
vi) Trailers adapted for the transport of certain goods (e.g., plate glass).
vii) "Road-rail" (intermodal) trailers (intended mainly for use as road trailers, but so designed that they may be transported on special railway wagons fitted with guide rails).
viii) Trailers fitted with rails for road transport of railway wagons.
ix) Drop-frame trailers with loading ramps for the transport of heavy equipment (tanks, cranes, bulldozers, electrical transformers, etc.).
x) Two-or four-wheel independent timber-carrying bogies.
xi) Logging trailers for the transport of timber.
xii) Small trailers towed by cycles or motor cycles.

390. Due to the amount of non-like goods under the Other Trailers HS code, import data should be analyzed according to the facts at hand, using the best available data. As documented by the *Ocean Trailer Appeal*, Chinese-origin goods have been documented as entering under 8716.90.30.00 (the "**Trailer Parts**" HS code), further complicating matters. Due to these challenges, IHS Markit data should be used to support this analysis for Chinese imports. While this data is reliable, the CBSA should use the best available information. Therefore, for the analysis of US imports, counsel for Max-Atlas has collaborated directly with the Coalition to obtain US export figures. A more detailed explanation for the methodology underpinning the analysis performed in section 8.1(a) follows.

a) Import volumes by country of origin

391. The table below demonstrates the estimated volumes and market share for container chassis from China, the United States and all other countries, based on country of origin, using data from IHS Markit, the Coalition and Statistics Canada.

Table 7 - Canadian market participation by volume, including imports and domestic production

	2017		2018		2019		2020	
	Qty	%	Qty	%	Qty	%	Qty	%
China imports[278]								
US imports[279]								
All other country imports[280]	42		26		117		74	
Canadian production[281]								
Total		100		100		100		100

[278] Appendix 59 – Trailer Registration Data, 2017 – 2020, IHS Markit, January 2021; Data for Chinese-origin Subject Goods is limited to those manufactured by CIMC, having its Chinese WMI in the VIN pattern.

[279] Appendix 60 - US Chassis Coalition Data, 2017-2020, Coalition of American Chassis Manufacturers, February 2021.

[280] Appendix 10 – Statistics Canada Trailer Import Data, 2017 – 2020, Statistics Canada, February 2021; Includes all trailers imported under HS code 8716.39.30.90, having a unit value above $9,000, thereby representing a wide variety of trailers that includes container chassis, but also several other types of trailers not subject to this complaint.

[281] Estimate based on Max-Atlas' production and IHS Markit data, per the analysis performed in section 5 above.

392. The historical import data above demonstrates that Chinese-origin chassis, which Max-Atlas believes had hardly existed in the Canadian marketplace prior to 2017, has grown to seize a significant share of the market by 2019. In 2017, Chinese-origin chassis accounted for an already significant [redacted] of the estimated Canadian market. This market share grew to [redacted] in 2018 before reaching over [redacted] in 2019, meaning that their import volume grew by nearly [redacted] over this period. The Subject Goods increase in market share of nearly [redacted] is very closely attributable to the loss of market share that the domestic industry has suffered in this time period.

393. The fact that Canadian production [redacted], while [redacted] is indicative of general gains in the market and does not show a lack of injury. Had unfairly traded Subject Goods not been present in the Canadian market, domestic producers would have been able to produce more container chassis to meet any increased demand rather than lose these sales. For instance, had the domestic industry maintained its [redacted] market share from 2017 in 2019, this would have resulted in the production of an additional [redacted] chassis being sold by domestic producers rather than unfairly traded imports by CIMC.

394. These conclusions are supported by

b) Import volume methodology: Chinese-origin imports of Subject Goods

395. IHS Markit provides a variety of data services. The data used in this complaint is from IHS Markit's new vehicle registrations for trailers in Canada. The VIN pattern[282] data, registration locations and dates are sourced from the various provincial vehicle registration agencies, such as the Société de l'assurance automobile du Québec (SAAQ) and its other provincial equivalents. IHS Markit then uses the publicly available VIN decoding

[282] VIN patterns are the first two segments of VIN numbers, typically up until the check digit, and will include the manufacturer's identification code and other identifiers such as body type, vehicle length, etc.

information from the United States Department of Transportation's National Highway Traffic Safety Administration ("**NHTSA**") to classify the trailers by body type.

396. This match of VIN pattern to the VIN decoding rules is based on an internal database created by IHS Markit from the NHTSA data. The original data received from IHS Markit contained a significant quantity of entries for which the body type was listed as "unknown" due to IHS Markit's database being incomplete. The fact that these body types were "unknown" did not mean that they were unknowable. Counsel for Max-Atlas directly accessed the NHTSA website and undertook significant efforts to decode the VIN patterns and identify the trailer body types of nearly every entry for which the body type was indicated as "unknown".

397. In cases where the NHTSA website did not provide sufficient or up-to-date information for some manufacturers, research was undertaken about the manufacturer to determine whether the manufacturer produces or has produced container chassis. In these cases, the trailer body types are indicated as "Non-chassis". Extracts from the websites of these manufacturers are provided and demonstrate that these manufacturers do not produce container chassis or similar products.[283]

398. Given that a trailer cannot logically be registered to be put on the road until it is complete, Max-Atlas submits that the IHS Markit data will present the most accurate portrait of the imports of Subject Goods, whether they were imported as assembled and finished chassis under the Other Trailers HS code or in an unassembled state, possibly under the Trailer Parts HS code, as was previously practiced by Ocean Trailer, one of CIMC's official dealers in Canada. Furthermore, given that not all trailers may be immediately registered, such as those held in inventory by dealers, it is possible that the true number of imported

[283] Appendix 92 – Trailer Manufacturer Website Extracts

Subject Goods is higher than those figures reported in Table 7. These figures are therefore the theoretical minimum import figures of Chinese Subject Goods.

c) Import volume methodology: US-origin imports of like goods

399. Max-Atlas has no knowledge of US-origin imports of container chassis arriving in an unassembled or unfinished state and therefore believes that all of such imports are finished container chassis that should be found under the Other Trailers HS code in the Statistics Canada import data.

400. However, given the proximity of the United States market, the relatively larger size of its economy and market and the significant prevalence of several types of significantly cheaper and commodity trailers in the relevant HS Code, Max-Atlas believe that the Other Trailers HS code is grossly over-representative of US-origin container chassis entering Canada. Counsel for Max-Atlas has collaborated with counsel to the Coalition to obtain the export figures of the Coalition companies. According to the US ITC, the Coalition members "represent nearly all U.S. production of chassis and chassis subassemblies in 2019", meaning that this export data is likely representative of accurate numbers of container chassis exported from the US.[284] Counsel for the Coalition confirmed that [redacted].[285] The figures from the Coalition were also filed by those US producers with the US Department of Commerce and International Trade Commission and were declared true and accurate on pain of criminal offences.

401. These export figures represent the entirety of exports from these Coalition companies, the total sum of which were primarily if not exclusively exported to Canada. The figures should

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[284] Appendix 04 - US ITC Report on Chassis and Subassemblies from China, US International Trade Commission, September 2020, p III-1; the Coalition consists of Cheetah Chassis Corporation, Hercules Enterprises LLC, Pitts Enterprises, Pratt Industries Inc. and Stoughton Trailers LLC.

[285] Appendix 60 - US Chassis Coalition Data, 2017-2020, Coalition of American Chassis Manufacturers, February 2021.

therefore represent the maximum amount of US exports of container chassis to Canada. Export data for domestic exports of 8716.39 from the United States ITC Data Web indicates that, on average between 2017 and 2020, Canada absorbs only about 80% of US trailer exports.[286] The true number of US-origin imports of container chassis is therefore estimated to be 80% of the Appendix 60 figures. These figures are [redacted] as the IHS Markit figures, which will understandably differ given that imported trailers may not always be registered immediately after importation.

d) Import volume methodology: All other country imports of like goods

402. Data from Statistics Canada relating to the volumes of imports of the Subject Goods is the best available data to determine the quantities like goods being imported from all other countries, given that the IHS Markit data only reports a single manufacturer from all other countries, namely Hyundai de Mexico, S.A. de C.V. ("**Hyundai Translead**").

403. Max-Atlas is unaware of any significant imports of container chassis from other countries on the Canadian market. However, if there were any imports from other countries, these would likely be from Mexico, the country for which the Statistics Canada data demonstrates the highest instance of imports under the Other Trailer HS code (and which would have no incentive to attempt to classify container chassis kits under the Trailer Parts HS code because finished container chassis from Mexico benefit from a 0% duty pursuant to the USMCA).

404. As with US-origin like goods, Max-Atlas has no knowledge of container chassis from any country other than China arriving in an unassembled or unfinished state, therefore the totality of imports of like goods from all other countries should be found under the Other Trailers HS code.

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[286] Appendix 91 - US domestic exports of trailers, 2017 – 2020, US ITC, April 2021.

405. Furthermore, due to container chassis being a more niche trailer product within the greater trailer industry, it is unlikely that the full import volumes of trailers in the Other Trailers HS code are indeed like goods. Therefore, to simplify the analysis while still providing conservative figures, Max-Atlas has taken the full figure of import volumes under the Other Trailers HS code, after removing all entries having a unit value below $9,000, to eliminate smaller trailers that are not like goods.[287] This method is likely to still result in highly conservative figures that are overly inclusive of non-like goods, given that the data will continue to include non-like trailers having a similar unit value to the Subject Goods.

e) Vehicle Identification Number decoding

406. In addition, Max-Atlas encloses Vehicle Identification Number ("**VIN**") encoding information for any vehicles produced by CIE, as provided by the NHTSA.[288] The VIN encoding rules of the NHTSA apply to vehicles produced by CIE in both its South Gate, CA and Emporia, VA locations. Furthermore, VIN numbers begin with the WMI code of the manufacturer. The following is a list of publicly available WMI codes for various CIMC entities, retrieved from the NHTSA:

Table 6 – WMI Codes for CIMC Entities

WMI Code	Country	Entity
LA9SZJ	China	Shenzen CIMC Heavy Industries Co. LTD
LJR	China	CIMC Vehicles Group Co., Ltd.

[287] The methodology for determining this $9,000 threshold is elaborated in section 8.2. Max-Atlas notes that this is based on [redacted]. Given that no dumping is alleged for "All other countries", using this figure again would result in an overly inclusive and conservative quantity of potential container chassis when filtering the Statistics Canada import data.

[288] Appendix 51 – CIE VIN Encoding Rules, US National Highway Traffic Safety Administration, May 2020

57V	USA	Direct Chassis, LLC (dba CIE)
527	USA	CIMC Reefer Trailer Inc.

407. WMI codes are coded with the country of the manufacturer as the first character:

Table 6.1 – WMI Region Codes

First Character	Country
L	China
1, 4 and 5	United States
3	Mexico
2	Canada

408. If the CBSA were to review VIN numbers found on the customs documentation of imported chassis in an accessible format, the VIN encoding rules could be used to decode the exact quantities of imported chassis, with precision to the specific model type (e.g. container chassis). Such a review would provide more precise identification of trailer body types than relying on the HS code.

8.2 Subject import price trends

409. The injurious nature of the increased volumes of the Subject Goods in the Canadian market is made even clearer when one accounts for the fact that these imported goods are being sold at substantially lower prices than the domestic like goods. The table below demonstrates the average unit prices for imports of the Other Trailer HS code from China and all other countries, based on country of origin, using data from Statistics Canada. Given that the volume of imports from all countries other than China and the United States each accounts for a minute percentage of the total imports, these other countries were counted in the aggregate.

410. The average unit values below are an annual average of the average unit value per entry, after having filtered out all entries below $9,000 as they are unlikely to be container chassis. This figure was chosen as a floor value given that the lowest price for a CIMC container chassis that Max-Atlas has observed in Canada is [redacted], per account specific example 4. Given that this price is the delivered price from a dealer, it would be reasonable to deduct [redacted] to account for: 1) transportation, stacking and unstacking fees; 2) dealer mark-up and sales commissions and 3) the value of assembly work performed by the dealer, as per CIMC's modus operandi. Such deductions are reasonable given that a standard dealer mark up is about [redacted], and that Max-Atlas' transportation, labour and supplies costs for a similar model are nearly [redacted].[289]

411. For the United States pricing, counsel for Max-Atlas has received export pricing data from counsel to the Coalition in the United States which was used in the similar American proceedings and is the most accurate information available.

Table 8 - Import prices to Canada ($CAD per unit)

In $ CAD	**2017**	**2018**	**2019**	**2020**
China imports[290]	9,185	14,965	11,520	11,256
US imports[291]	[redacted]			

[289] Appendix 50 – Cost of Most Popular Products, Tab CC40-2.

[290] Appendix 10 – Statistics Canada Trailer Import Data, 2017 – 2020, Statistics Canada, February 2021; Average unit values filtered to remove all entries below $9,000 which are unlikely to be container chassis.

[291] Appendix 60 – US Chassis Coalition Data, 2017-2020, Coalition of American Chassis Manufacturers, February 2021; Converted to CAD at the Bank of Canada's average annual exchange rates of 1.2986, 1.2957, 1.3269 and 1.3415 CAD to 1 USD for each of 2017, 2018, 2019 and 2020, respectively.

In $ CAD	**2017**	**2018**	**2019**	**2020**
All other countries[292]	18,762	22,739	36,357	26,741

412. Chinese-origin chassis are priced significantly below US-origin chassis, with US-origin chassis having a unit value of up to [redacted] that of Chinese-origin chassis in 2020. This is particularly noteworthy given that the unit values of US-origin chassis are [redacted] the average unit values from all other countries. The presence of unfairly priced Chinese goods on the Canadian marketplace will have the effect of driving down market prices, especially considering that the more common chassis types (standard chassis for 40' and 20' containers) are effectively commodity goods that compete predominantly on price.

413. The 2020 average unit prices in Table 8 for imports from China and from all other countries are consistent with the 2017 to 2019 values. In fact, these 2020 average unit prices are nearly perfect averages of the 2017 to 2019 values. This means that the apparent decrease in pricing for all other countries in 2020 is most likely to be a return to the norm, rather than indicative of any sort of trend. In contrast, [redacted] being higher end or custom models for which no CIMC equivalent exists. Based on the trends in Table 7, dumped and subsidized Chinese-origin container chassis has [redacted] on the Canadian market.

414. Max-Atlas has already witnessed this effect on the market in the course of its own sales, whereby existing and prospective customers were provided quotes for Subject Good

[292] Appendix 10 – Statistics Canada Trailer Import Data, 2017 – 2020, Statistics Canada, February 2021; Average unit values filtered to remove all entries below $9,000 which are unlikely to be container chassis.

chassis at prices substantially lower than what the domestic industry can reasonably offer while remaining profitable.

8.3 Account specific allegations

415. The presence of unfairly traded Chinese-origin chassis in the Canadian market has caused Max-Atlas to lose potential sales to the Subject Goods and has observed Subject Goods being sold at substantially lower prices than the like goods. Max-Atlas has had to lower prices in order to secure sales and, in certain cases, even after lowering prices has still lost the sale to CIMC.

a) Account-specific example #1 – [redacted]

416. Max-Atlas had provided a quote to [redacted] on March 12, 2019 for an order of [redacted] of its chassis (40'-53' extendable tridem). Each chassis had a unit price of [redacted], with the ultimate contract price coming to [redacted]. Following discussions on price, Max-Atlas agreed to lower its unit prices substantially in order to maintain business with [redacted].[293]

417. Even with price reductions, [redacted] was unwilling to make the full purchase from Max-Atlas, and was provided with a revised quote on April 24, 2019 for [redacted] of these chassis, which is a mere [redacted] of the original order. Max-Atlas discounted its unit prices on this order to [redacted], regardless of the fact that the actual unit costs had increased since the original quote from [redacted] to [redacted]. As a result, the profitability of the sale was affected in addition to the gross revenues of the sale, which were [redacted].[294] Max-Atlas received [redacted].

[293] Appendix 11 – Account-specific example 1, Max-Atlas, March/April 2019, p. 1.

[294] Appendix 11 – Account-specific example 1, Max-Atlas, March/April 2019, p. 2.

418. This is not the first time that Max-Atlas had to offer lower prices to [redacted] in order to secure sales. In January 2018, Max-Atlas had also offered a [redacted] discount per unit to [redacted], regardless of an increase in costing, in order to compete with unfairly priced chassis in the Canadian market.[295]

b) Account-specific example #2 – [redacted]

419. In providing a quote for 21 chassis to [redacted] in May 2020, Max-Atlas learned that its customer had recently purchased 10 chassis (40' fixed tridem) from CIMC for approximately $20,000 per unit. CIMC has an alleged 300 chassis/day production capacity and therefore had chassis in stock.[296]

420. Max-Atlas was never contacted for a quote on the prior sale of 10 chassis since [redacted] knew that CIMC's distributor, St-Henri, maintained stock of cheaply imported CIMC chassis and would have known that the CIMC prices were lower than what Max-Atlas could offer, given that Max-Atlas had recently provided [redacted] a quote having a unit value of [redacted] in September 2019.[297]

421. Max-Atlas ultimately lost the sale on the quote of 21 chassis.

c) Account-specific example #3 – [redacted]

422. On October 2, 2019, Max-Atlas provided a quote for one of its chassis (CCBR3240-3S-13, 40' extendable tridem b-train rear) at [redacted] to [redacted]. Max-Atlas

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[295] Appendix 11 – Account-specific example 1, Max-Atlas, March/April 2019, pp. 3-11.

[296] Appendix 12 – Account-specific example 2, Max-Atlas, May 2020 /September 2019, p. 1.

[297] Appendix 12 – Account-specific example 2, Max-Atlas, May 2020 /September 2019, p. 3.

understood that an equivalent CIMC chassis was being offered for $26,735 at that time, but was still able to secure the sale.[298]

423. On February 24, 2020, Max-Atlas provided another quote to [redacted] for 10 more of this same chassis, but this time it was required to lower its pricing to [redacted] per unit, in order to compete with CIMC pricing. Ultimately, Max-Atlas was able to secure this sale through its long-standing and personal relationships with its customer, but the sales win came at a financial cost to Max-Atlas. CIMC's unfair competition cut into Max-Atlas' revenues on the sales of these units by [redacted].[299]

d) Account-specific example #4 – [redacted]

424. [redacted] requested a quote from Max-Atlas on August 19, 2019, for 200 chassis (40' tandem) with a delivery requirement of 50 chassis to Toronto every six months until the order was filled. The general manager of [redacted] noted that [redacted] had a total of 350 leased chassis in its fleet that it planned on replacing with new chassis that it would own. Therefore, in addition to the request for a quote for 200 chassis, there was also a potential sales opportunity for 150 additional chassis.

425. Max-Atlas submitted a quote for the initial batch of 50 chassis, due to the potential for pricing fluctuations that could occur during the two year period that these chassis would be delivered. These chassis were quoted at [redacted] per unit, with an additional [redacted] in transport fees per stack of 5 chassis, making for a total unit price of [redacted] delivered.

426. Carmel Transport responded with a quote they had received from CIMC for similar chassis which were priced at $14,000 per unit, delivered. Max-Atlas reduced its prices to a total

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[298] Appendix 13 – Account-specific example 3, Max-Atlas, February 2020 / October 2019, pp. 1, 3-7.

[299] Appendix 13 – Account-specific example 3, Max-Atlas, February 2020 / October 2019, pp. 8-12.

unit price, inclusive of delivery fees, of [redacted] and offered to deliver the first batch of 50 chassis in about one month's time to allow Carmel Transport some savings on its monthly lease payments. Regardless, Carmel Transport refused to purchase, likely opting for the quote it received for CIMC chassis.[300]

427. Furthermore, on October 5, 2020, Max-Atlas provided a quote for a chassis (20' tandem lead), and quoted the price at [redacted], with a manufacturing date between November 9 and 20, 2020. The customer declined to purchase as they had received a quote for a CIMC chassis at $21,400 from Checkered Flag in Mississauga, Ontario. Considering that Checkered Flag is a dealer and not the manufacturer of the chassis, its price would have naturally included a dealer markup, meaning that that the actual price of the CIMC chassis when it was purchased by Checkered Flag would have been even lower. Max-Atlas also lost the sale due to the chassis already being in stock, with a delivery time during the week of October 5.[301]

e) Account-specific example #5 – [redacted]

428. [redacted] requested quotes from Max-Atlas on December 15, 2020 for 50 chassis (20-40-45'). Max-Atlas was requested to provide quotes for these chassis with three options: 1) tridem galvanized, 2) tridem painted, and 3) tandem painted. Max-Atlas provided the three quotes the same day but [redacted] indicated its intention to only purchase 20 of the tridem painted chassis at the offered unit price of [redacted] with delivery possible in the first week of January. With transportation fees of [redacted] to Toronto, the total unit price comes to [redacted]. Once presented with the revised quote for 20 of these chassis, [redacted] asked for a discount, noting that this time

[300] Appendix 14 – Account-specific example 4, Max-Atlas, August 2019 / October 2020, pp. 1-10.

[301] Appendix 14 – Account-specific example 4, Max-Atlas, August 2019 / October 2020, pp. 11-19.

it did not "[redacted]" for the purchase even though "[redacted]".[302]

429. Max-Atlas was unable to lower the prices, given increase to the price of steel. [redacted] refused this price and requested either a [redacted]. The president of [redacted] noted that Groupe St-Henri is currently offering the galvanized variant, with delivery to Toronto included, for $16,500 USD per unit, which is currently about $21,086 CAD. This price for the galvanized CIMC unit from Groupe St-Henri is [redacted] less than the price offered by Max-Atlas for the similar painted unit and [redacted] less than the equivalent galvanized unit.[303]

430. This undercutting by Groupe St-Henri is particularly significant given that Max-Atlas is offering direct pricing as a manufacturer, while Groupe St-Henri is only a dealer. Groupe St-Henri's prices include a certain profit margin over the price it would have originally paid CIMC for the chassis. One would therefore expect Groupe St-Henri's price to be higher than that of Max-Atlas, yet the Groupe St-Henri prices are significantly lower.

f) Account-specific example #6 – [redacted]

431. Max-Atlas is aware of North America's second-largest container chassis rental company, [redacted], having purchased and imported three CIMC chassis (20' - 40' tridem) priced at a unit value of $19,577 USD from Flexi-Van Leasing Inc. SECA in New Jersey on March 1, 2019, which is about 11% below the prices Max-Atlas would have quoted for these chassis. These chassis were manufactured in China, which can be confirmed by the VIN numbers. Customs documentation for this import reveals that the USD exchange rate used by CBSA was 1.3266, meaning the chassis were

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[302] Appendix 15 – Account-specific example 5, Max-Atlas, December 2020, pp. 2-4.

[303] Appendix 15 – Account-specific example 5, Max-Atlas, December 2020, pp. 1, 3.

valued for duty at $25,971. After applying the 9.5% duties, the value of the CIMC chassis is $28,438.[304]

432. On December 6, 2018, Max-Atlas provided a quote to [redacted] for [redacted] chassis of a similar model, at a unit price of [redacted], for a total sale price of [redacted], but it was unable to secure the sale.[305]

433. On February 27, 2019, Max-Atlas provided another quote to [redacted] for a similar model of chassis. The Max-Atlas quote was for [redacted] chassis, but at a reduced unit price of [redacted] in hopes of securing the sale, which would have resulted in a total sale price of at least [redacted]. Despite the lower unit price, Max-Atlas was unsuccessful in securing the sale and [redacted] ultimately purchased the unfairly traded CIMC chassis.[306]

434. Furthermore, during February 2019, Max-Atlas had quoted equivalent chassis models to [redacted] and [redacted] at a unit price of [redacted]. On these units, Max-Atlas would have profited about [redacted] per unit, after factoring in both fixed and variable costs. The price difference between the Max-Atlas equivalent product and the unfairly traded CIMC product is [redacted], meaning that if Max-Atlas had lowered its prices to compete with the CIMC products, [redacted].[307]

g) Account-specific example #7 – [redacted]

435. Max-Atlas was recently approached by one of its clients, [redacted], to provide a quote for 50 of its chassis (40 – 53' extendable tridem). Max-

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[304] Appendix 16 - Account-specific example 6, Max-Atlas, pp. 1, 2.

[305] Appendix 16 - Account-specific example 6, Max-Atlas, p. 3.

[306] Appendix 16 - Account-specific example 6, Max-Atlas, p. 4.

[307] Appendix 16 – Account-specific example 6, Max-Atlas, pp. 5-6.

Atlas provided this quote on December 2, 2020, offering a unit price of [redacted], but [redacted] opted to purchase 25 CIMC chassis to fulfill part of its needs.[308]

436. For the remaining 25 chassis, Max-Atlas provided a revised quote on December 10, 2020. [redacted] indicated that Max-Atlas would have to decrease its pricing by $950 per unit in order to compete. While the revised quote was for the same model, [redacted] requested the more expensive 72" axle spread, rather than the 60" axle spread from the original quote. Given that this change comes at an additional cost of [redacted] per unit, Max-Atlas offered a unit price on these chassis of [redacted], which is the equivalent of the original quote price, plus the premium for the larger axle spread, minus the discount of $950.[309]

437. Furthermore, the CIMC model has a galvanized finish, rather than a painted finish. Galvanized chassis carry a certain premium over painted chassis. Max-Atlas' quotes in this case were for painted chassis. Had Max-Atlas quoted galvanized chassis to perfectly match the CIMC model, the total discount on unit price would have been [redacted].[310]

438. The result of this discount offered by Max-Atlas is a decrease in gross margin from [redacted]. Per Max-Atlas' estimate of a reasonable proportion of overhead attributable to the production of these chassis, the price offered on the December 10, 2020 quote [redacted]. Max-Atlas was ultimately able to secure the sale of the 25 chassis, but believes that this was only possible due to a lack of CIMC stock, which is expected to be replenished in February 2021.

h) Account-specific example #8 – [redacted]

439. Max-Atlas has obtained an August 2020 quote document that [redacted] had sent to [redacted] for a galvanized CIMC 20-45 tridem chassis at $16,900 USD (or

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[308] Appendix 17 – Account-specific example 7, Max-Atlas, p. 1.

[309] Appendix 17 – Account-specific example 7, Max- Atlas, pp. 2-5.

[310] Appendix 17 – Account-specific example 7, Max-Atlas, p. 3.

$22,436 CAD at the time the quote was made), delivered to Toronto. This model is equivalent to Max-Atlas' CCX2045-3, however it is being offered at a significantly lower price.[311]

440. After subtracting a [ ] dealer markup, Max-Atlas estimates that the base price of this model would actually be [ ]. In contrast, Max-Atlas' factory direct pricing for the equivalent galvanized and painted model would be [ ]. Supposing a [ ] dealer markup is added to both the CIMC and Max-Atlas price, the dealer pricing for the equivalent galvanized CIMC chassis is about [ ], or about [ ] for a painted chassis. If Max-Atlas were to decrease its prices by these amounts in order to compete with the unfairly traded CIMC chassis, it would be left with little room to profit, considering average margins on the CCX2045-3 is nearly [ ] for the galvanized variant and [ ] for the painted variant.[312]

i) Account-specific example #9 – [ ]

441. Max-Atlas has obtained a quote from [ ] regarding the pricing of two tridem models of CIMC container chassis (a 20/40/45 combo chassis and a 40-53' extendable chassis) that are equivalent to the CC 3240-12-3S-12 and CCXT 4053-3S-39, respectively, that Max-Atlas produces.[313] The quotes for the CIMC combo chassis and extendable chassis are $28,900 and $25,400 FOB Delta, respectively.[314] The equivalent Max-Atlas models are priced at [ ], respectively, however these prices are only EXW St. Jean.[315]

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[311] Appendix 58 – Account-specific example 8, Max-Atlas, August 2020, pp. 1-4.
[312] Appendix 58 – Account-specific example 8, Max-Atlas, August 2020, pp. 5-6.
[313] Appendix 71 – Account-specific example 9, Max-Atlas, March 2021, pp. 1, 5-19.
[314] Appendix 71 – Account-specific example 9, Max-Atlas, March 2021, p. 1.
[315] Appendix 71 – Account-specific example 9, Max-Atlas, March 2021, pp. 3-4.

442. The [redacted] prices include transportation and a dealer markup from the original CIMC pricing. In order to permit a proper comparison, these fees must be added to the Max-Atlas pricing, bringing the equivalent Max-Atlas pricing for the combo chassis and extendable chassis to [redacted], respectively.[316] The respective price difference between the Max-Atlas and [redacted] prices would therefore be [redacted].

443. If Max-Atlas were to decrease its prices by this difference in order to compete with the unfairly priced CIMC chassis, Max-Atlas would [redacted]. For the combo chassis, a decrease of [redacted] to Max-Atlas' pricing would result in a gross margin of [redacted], meaning that [redacted]. For the extendable chassis, a price decrease of [redacted] would result in Max-Atlas' gross margin declining to a mere [redacted] of selling price.[317]

Other Injury factors

8.4 Lost sales

444. The account specific examples above demonstrate the direct impact on profitability that CIMC is having on Max-Atlas and the erosion of Max-Atlas' customer base, including its dealer network. In addition to these account-specific allegations, Max-Atlas [redacted], in 2020 or 2021.

445. Furthermore, Max-Atlas has received confirmation from [redacted].[318] This customer is a significant purchaser of the CCXT4053-31 model. In 2015,

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[316] Appendix 71 – Account-specific example 9, Max-Atlas, March 2021, p. 2.
[317] Appendix 71 – Account-specific example 9, Max-Atlas, March 2021, pp. 3-4.
[318] Appendix 57 – Lost Sales from Major Customer, Max-Atlas, 2015 – 2021, pp. 1-3.

[redacted] issued an RFQ for [redacted]. By 2017, Max-Atlas was only awarded [redacted] issued an RFQ. In subsequent years, Max-Atlas' share of the total RFQ awarded declined to [redacted].[319] In addition to losing sales, those chassis sold were at significantly reduced gross margins, declining from [redacted].[320]

446. Similarly, despite [redacted] being another regular purchaser of CCXT4053-3S models from Max-Atlas, and having purchased [redacted] chassis from Max-Atlas in 2018 and 2019, respectively, [redacted] did not purchase a single chassis from Max-Atlas in 2020 or 2021.[321]

447. The lost sales will impact on Max-Atlas' ability to produce models at minimum efficient scale and also allow the company the opportunity to continue to innovate new products for the Canadian market. Due to the commodity nature of popular chassis models, such as those for hauling 40' or 20' containers, many of Max-Atlas' customers prioritize cost as an influential decision informing their purchasing decisions.

448. The Subject Goods are significantly and unfairly underpriced relative to domestically produced goods and, accordingly, domestic producers such as Max-Atlas are unable to compete with these low prices.

449. In addition to the more commodity-like models, where Max-Atlas has felt the impact of CIMC's aggressive pricing and marketing tactics, Max-Atlas also manufactures customized, higher-end, like goods. In order to maintain market share in this more specialized segment of the market, Max-Atlas has invested its returns in research & development, including the design and development of a 60' container chassis to satisfy

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[319] Appendix 57 – Lost Sales from Major Customer, Max-Atlas, 2015 – 2021, p. 4.

[320] Appendix 57 – Lost Sales from Major Customer, Max-Atlas, 2015 – 2021, pp. 11-17.

[321] Appendix 94 – Sales to a Major Customer, Max-Atlas, 2015 – 2021.

demand created by the proprietary containers used by [redacted]. [322] What is concerning Max-Atlas, however, is that Max-Atlas has observed CIMC similarly importing more sophisticated Subject Goods over time, such as extendable chassis models. Such market developments demonstrate that, notwithstanding the proprietary nature of Max-Atlas' technology, Chinese manufacturers have been able to develop like products. Without the intervention of a trade remedy finding, the domestic industry risks losing a key innovator in Max-Atlas.

8.5 Reduced profits

450. Dumping and subsidizing of the Subject Goods have caused injury to Max-Atlas' margins, because the Subject Goods are being sold at unfairly low prices substantially below the market rates. These prices are so low that, if a Canadian producer were to sell at these prices, it would not be able to do so profitably.

451. Max Atlas submits its audited financial statements as Appendix 40, and its unaudited interim financial statements in Appendix 41. Given that Max-Atlas' fiscal year runs from June 1 to May 31, the analysis in this section is based on a summary of figures prepared by Max-Atlas on a calendar year basis and submitted as Appendix 56.

452. The following table summarizes certain key indicators from Max-Atlas' recent financial performance and demonstrates a [redacted]:

Table 9 - Key Financial Indicators[323]

In $ CAD	2017	2018	2019	2020
Sales	[redacted]			
COGS				

[322] Appendix 02 – Max-Atlas Management Presentation, Max-Atlas, September 2019, p. 6.

[323] Appendix 56 – Production and Financial Figures by Calendar Year, Max-Atlas, December 31, 2020.

Gross Margin ($)	[redacted]
Gross Margin (%)	
Net Margin ($)	
Net Margin (%)	

453. The figures in the above table exclude the [redacted] that Max-Atlas [redacted] during the ongoing COVID-19 pandemic. Even with that amount added to the [redacted], Max-Atlas is still [redacted].

454. The financial figures in the above table are on the basis of calendar years, rather than Max-Atlas' fiscal years, as is found in the audited financial statements. The factory overhead found in Appendix 56 is [redacted], due to [redacted]. Despite this [redacted] the factory overhead in [redacted].

455. Despite [redacted], Max-Atlas has been [redacted] to recover [redacted] due to the substantial presence of unfairly priced Chinese-origin Subject Goods on the Canadian market. Furthermore, the above table demonstrates a significant increase in [redacted] in 2018, resulting in lower [redacted]. This increase is due, in part, to [redacted]. Another factor which may affect the data is the onboarding of a new finance director in 2018 and adoption of a new accounting system. As a result, expenses from calendar year 2017 are not as easily compared to those in 2019 due to changes in the way certain expenses were accounted for. While there may be some slightly skewed figures from the transition period in 2018, the figures from fiscal year 2018 onward are comparable as they were all recorded on the new system. This does not, however, have a material effect on the cost of goods manufactured, meaning that a comparison of gross margins from year-to-year remains appropriate and accurate.

456. Gross margins have been [redacted] by the presence of unfairly traded Subject Goods on the Canadian market, [redacted]. While the effects of the COVID-19 pandemic may have somewhat reduced production, the majority of this [redacted] is attributable to [redacted] and follows the observable trend from 2017 through 2019 where the Subject Goods increasingly entered the Canadian market.

457. If Max-Atlas were to raise prices to match increases in costs, it would not be able to compete with the CIMC chassis that are already taking its market share. As can be seen in the account specific allegations, Max-Atlas is already [redacted]. In effect, CIMC's undercutting of the Canadian market is suppressing chassis prices, to the extent that Max-Atlas is left to absorb the result of any cost increases.

458. The effect of this price suppression is further illustrated when examining individual product families of chassis. Appendix 37 contains a sample of prices of similar models quoted to repeat customers over recent years and demonstrates that gross margins have been eroded by the suppressive effect of Chinese Subject Goods on the Canadian market.

459. The average gross margin on the popular CCX2045 family of chassis has declined from [redacted] per unit in 2017 to [redacted] in 2019. This margin has further declined to [redacted] in 2020, representing a decrease of [redacted] when compared to 2017. The CCXT4053 family of chassis have similarly seen average gross margins decline from [redacted] per unit in 2016 to [redacted] in 2019, representing a decrease of [redacted]. CIMC exports equivalent models of these chassis to Canada.[324]

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[324] Appendix 37 – Gross Margin Table, Max-Atlas, December 2020; Appendix 38 – Sample Quote Documents for Gross Margins, Max-Atlas, December 2020.

460. In contrast, the CCX5360 family of chassis, for which CIMC does not have a publicly known equivalent model, has seen its average gross margins grow from [redacted] in 2017 to [redacted] in 2020, representing an increase of [redacted]. Max-Atlas is able to increase prices on this model to match rising costs, unlike the models for which equivalent Subject Goods exist on the Canadian market at dumped and subsidized prices.[325]

461. The declines in gross margins of models for which CIMC sells unfairly traded Subject Goods on the Canadian market, compared to the increases in gross margins of models for which CIMC does not export a corresponding model to Canada, demonstrates the suppressive effect that Chinese exporter pricing has on the domestic industry.

8.6 Other ways of demonstrating injury

462. In addition to the financial injury demonstrated above, Max-Atlas has also suffered injury due to the dumping and subsidization of Chinese Subject Goods. More specifically, Max-Atlas' efforts to expand into the United States and re-enter into the Western provinces following the loss of a key distributor have been frustrated by the presence of unfairly traded Subject Goods. Max-Atlas has also had to engage in sustained layoffs due to decreased demand for its chassis in the Canadian market.

a) Expansion into the United States market

463. Max-Atlas intended to export product to the United States and [redacted].[326] The presence of the Subject Goods in the Canadian market has caused injury to Max-Atlas in such a way that these plans to expand to the United States are now in jeopardy. Anti-dumping and countervailing proceedings are currently underway in the United States against the Subject Goods, making it possible for

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[325] Appendix 37 – Gross Margin Table, Max-Atlas, December 2020; Appendix 38 – Sample Quote Documents for Gross Margins, Max-Atlas, December 2020.

[326] Appendix 42 – Marketing and Sales Plan 2020-2021, Max-Atlas, pp. 22-26.

Max-Atlas to compete in the US market. However, in order to compete in the US market, Max-Atlas must continue sales to Canadian customers, allowing the company to operate on a minimum efficient scale.

464. Currently, Max-Atlas' plant in Saint-Jean-sur-Richelieu operates [redacted] which results in a production capacity of approximately [redacted]. However, the plant is not capacity constrained and Max-Atlas could operate [redacted], allowing it to produce between [redacted]. Such a change would only require a minimal investment in the creation of an additional [redacted]. Furthermore, if Max-Atlas were to expand operations to [redacted], it could likely produce nearly [redacted]. By operating additional shifts, Max-Atlas could further lower its unit cost of production and hire more employees. Without the protections of a trade remedy finding in Canada, Max-Atlas' ability to expand will be severely curtailed, in addition to the injury already suffered in the domestic market.

465. Given the more commodity nature of the standard 40' and 20' container chassis, Max-Atlas continues to innovate and invest in research and development of new chassis designs, such as the Harrier brand which has specialized container loading/unloading features that are particularly tuned to the moving industry. Such investments, however, are costly and require that Max-Atlas be able to continue competing in the more standard chassis market to continue expanding its capabilities and innovating on new products. As previously discussed, Max-Atlas' eroding market share and margins, caused by the presence of unfairly traded CIMC Subject Goods in the Canadian market, are resulting in injury to Max-Atlas' core business, frustrating the possibility of expanding operations.

b) Inability to re-enter the Western Canadian market

466. In 2004, Max-Atlas achieved distribution in British Columbia and Alberta through signing an agreement for Lions Gate Trailers Ltd. ("**Lions Gate**") to act as its dealership network in these provinces. Lions Gate subsequently changed its name to Trailer Wizards Ltd. ("**Trailer Wizards**") and began its expansion into other provinces. By 2011, Trailer

Wizards had opened sales and service facilities across Canada. That year, Max-Atlas signed a new dealership agreement with Trailer Wizards, whereby Trailer Wizards would be the exclusive dealer of Max-Atlas chassis nationwide, except for Quebec and Ontario due to the large market segment existing in these provinces and Max-Atlas' desire to directly maintain client relationships there.

467. At the beginning of 2020, Trailer Wizards was acquired by TIP Trailer Services ("**TIP**"). TIP is a trailer leasing, rental, maintenance and repair service provider with operations in Canada and Europe. TIP has decided that Trailer Wizards would not continue to act as a dealer anymore, and would therefore focus on TIP's core business of leasing and rental. As a result, Max-Atlas is now without a dealership network in western Canada.

468. Max-Atlas has been active in opening up new dealerships in Canada, such as Valley Equipment Ltd. and Northeast Trucking in the Atlantic Region, where CIMC does not yet have a dealership network. However, when trying to negotiate with new prospective dealers in the western provinces, Max-Atlas has encountered difficulties and a lack of interest by potential dealers due to the significant presence of CIMC chassis in those markets. Max-Atlas has therefore decided to try selling directly in western Canada.

469. The CIMC chassis are unfairly priced and the combination of this unfair pricing and the cost of transporting chassis from Saint-Jean-sur-Richelieu has resulted in Max-Atlas being unable to re-establish its distribution network west of Ontario.

c) Layoffs

470. As a result of the diminished production of Max-Atlas, the company has had to undertake layoffs over the past few years, which it would not have done but for the reduced sales volumes resulting from the presence of unfairly traded Chinese-origin chassis on the market.

471. When production levels are low at Max-Atlas' facilities in St. Jean-sur-Richelieu, rather than reduce shifts or close parts of the production line, Max-Atlas lays off employees. This

is necessarily Max-Atlas' only option given that it currently operates with a single shift and requires the full length of the production line to be active to satisfy any orders. For example, in May 2018, Max-Atlas reduced its workforce from about [redacted] employees due to a lack of orders.

472. In 2019, Max-Atlas saw a particularly slow pace of incoming orders due to the significant presence of unfairly priced CIMC chassis on the market. In May 2019, Max-Atlas employed [redacted] people. Due to the slow down in business, Max-Atlas had to lay off [redacted] in October 2019, leaving the company with [redacted] employees on staff. In December 2019, Max-Atlas received a large order from [redacted], leading to some of these employees being called back to work.

473. In January 2020, Max-Atlas had [redacted] employees. Due to the effects of effects of the COVID-19 pandemic exacerbating the existing injury suffered by the reduced incoming orders caused by CIMC's presence in the market, Max-Atlas had to engage in another round of layoffs. In May 2020, Max-Atlas' workforce was [redacted], with only [redacted] employees remaining. During this period from [redacted], Max-Atlas had to [redacted] to cope with the reduced staffing. In December 2020, there have been signs of recovery from the COVID-19 pandemic and more business has returned. Max-Atlas has called most of the employees that were laid off in 2020 back to work. Presently, Max-Atlas has a workforce of [redacted] employees. This is still a far cry from the roughly [redacted] employees that Max-Atlas employed in 2018 and 2019, demonstrating that the largest proportion of the layoffs are attributable to reduced business caused by the presence of unfairly traded Subject Goods on the Canadian market.

474. Max-Atlas submits that, without the protection offered by trade remedies under *SIMA,* it will not be able to expand its operations and increase employment, let alone maintain current levels if CIMC continues its sale of dumped and subsidized Subject Goods into the Canadian market.

8.7 Other factors affecting the Canadian industry

475. The outbreak of the COVID-19 pandemic in Canada caused Max-Atlas to temporarily close for six weeks, beginning in April 2020. The pandemic has also increased the financial strain already placed on Max-Atlas by its already shrinking margins caused by the presence of the Subject Goods on the Canadian market in recent years. The plant is currently operating at a reduced capacity in order to be compliant with any orders of the Minister of Health of Quebec. Max-Atlas believes that the effects of the COVID-19 pandemic will merely be temporary on the domestic industry, particularly given the expected rise in intermodal shipping.

476. However, even after the pandemic has been resolved, Max-Atlas remains particularly vulnerable to the dumping and subsidization of Subject Goods, whether arriving directly from China or by way of the United States.

8.8 Future injury

477. Max-Atlas submits that it has suffered injury caused by the dumping and subsidization of Chinese Subject Goods into the Canadian market. In addition to the injury described above, the threat of injury caused by the dumping and subsidizing of Subject Goods into Canada by CIMC and other Chinese exporters is imminent and foreseeable. The staggering capacity of CIMC alone is sufficient to meet the demand of the Canadian market at least [redacted] and the significant margins of dumping exacerbate the threat of injury. Furthermore, trade measures taken by the United States threaten to result in diversion of Subject Goods to the Canadian market.

a) Market share trends indicate Subject Goods may dominate Canadian market

478. The 2020 market share of Subject Goods and domestically produced goods remained generally consistent with the 2017 – 2019 trends, as per the analysis in Section 8.1. Absolute production and import figures naturally declined due to the COVID-19 pandemic. Due to disruptions to global shipping, these effects have likely favoured the domestic

industry, as Chinese chassis would have encountered more obstacles physically getting to the Canadian market in 2020. Regardless, the data in Table 7 shows that Chinese Subject Goods [redacted].

479. The following table demonstrates the estimated changes in market share over the next three years, supposing that the trend observed between 2017 and 2019 continues. Max-Atlas believes that this trend is likely to continue in the absence of any trade remedies to protect the domestic industry from unfairly traded Subject Goods.

Table 10 – Estimated Market Share[327]

	2021	2022	2023
China imports	[redacted]		
US imports[328]			
All other country imports			
Canadian production			
Total	100	100	100

480. Based on these projections, derived by performing a linear forecast of the 2017 – 2019 trend onto 2021 – 2023, Chinese-origin chassis would capture about [redacted] of the total estimated market by 2023, nearly overtaking the domestic industry's share, while Canadian production would decline to about [redacted]. Such projections are conservative in nature, but realistic given the unfairly traded prices at which the Subject Goods are being sold in the Canadian market.

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[327] Appendix 24 –Estimated Import and Production Volumes, McMillan LLP, April 7, 2021. .

[328] Given that the linear forecasting formula reduce US import market share [redacted]. This is a conservative approach. In examining the trends presented in Table 7, increases in market share gained by the Subject Goods is more likely to [redacted].

481. Although CIE has previously stated that it would begin manufacturing in the United States in 2021, Max-Atlas does not believe this would have a meaningful effect on the market share occupied by US-origin imports. Nothing to date suggests that CIE's current activities constitute domestic production in the United States. Per public submissions filed by CIMC in the United States proceedings, "{CIMC} does not argue that CIE should be considered part of the domestic industry for purposes of the present injury analysis".[329]

482. Furthermore, even if chassis manufactured by CIE were to eventually be sufficiently manufactured in the United States so as to be considered of US-origin, the likely effect of the US anti-dumping and countervailing duties imposed on Chinese subassemblies would likely preclude CIE from being able to cheaply import chassis frames from its parent company in China, meaning that any manufacturing by CIE would be on similar footing to other US manufacturers. Given that the 2017 – 2019 data in section 8.1 shows that [redacted], CIE is unlikely to make further inroads in the Canadian market than their US competitors.

483. Finally, if CIE were to begin manufacturing activities in the United States, CIMC in China would no longer have to export chassis to the United States to meet demand as its affiliate CIE would be better placed to serve the US market. The result of this would be that CIMC's Chinese facilities would have increased excess production capacity that could be diverted to the Canadian market.

b) Massive production capacity of Chinese producers

484. Due to the breadth of products produced by CIMC, specific production capacity figures are not easily obtained. However, CIMC has provided some data that has been published in an equity research report prepared by CMB International. CMB International reports the

[329] Appendix 72 - Pre-Hearing Brief of CIMC Vehicles (Group) Co., Ltd. and CIMC Intermodal Equipment, LLC (extract), CIMC, March 10, 2021, p 3.

production capacity of each of CIMC's plants; however, due to the variety of goods produced at those facilities, it is not possible to discern the precise production capacity dedicated to the Subject Goods. The numbers in the following table should therefore be understood to be theoretical maximums, subject to CIMC's ability to shift capacity from the other products produced in these plants to container chassis:

Table 11 – Estimated Production Capacity of CIMC[330]

Plant	**Annual production capacity (units)**		
	2018	**2019 (estimate)**	**2020 (estimate)**
Dongguan	20,000	20,000	20,000
Zhumadian	20,000	26,000	26,000
Shenzen	15,000	15,000	15,000
Yangzhou	14,500	25,250	36,000
Liangshan I	12,000	12,000	12,000
Baiyin	5,000	5,000	5,000
Yingkou	5,000	5,000	5,000
Qingdao	3,000	3,000	3,000
Total	**94,500**	**111,250**	**122,000**

485. While these production capacity figures may not present precise production capacity figures for the Chinese manufacturers of the Subject Goods, as they only include CIMC, the Subject Goods remain predominantly steel products. China continues to be heavily scrutinized for its non-market economy steel industry, as well as for its role in perpetuating and driving the global steel surplus.

[330] Appendix 43 - CIMC Vehicles (Group), CMB International Securities Company Update, CMB International Securities, August 14, 2019, pp. 6, 8, 10, 21.

486. The CBSA and the Tribunal have long recognized China's leading role in the issue of global excess steel capacity. The CBSA expertly summarized the issue in its most recent expiry review of *OCTG 2* (OCTG2 2020 ER):[331]

> [83] The issue concerning excess capacity of steel in China has also been documented in the CITT safeguard inquiry report in 2019, and in recently concluded CBSA expiry review investigations concerning Chinese steel goods, such as Seamless Casing and Concrete Reinforcing Bar. In its safeguard report GC-2018-001, the CITT noted that China is responsible for 75 percent of new steel capacity since 2000, with its crude steelmaking capacity increasing sevenfold from 150 million tonnes in 2000 to an estimated 1,048 million tonnes in 2018. Currently, China accounts for more than half of the global crude steel production. […]
>
> [86] Despite the existing excess capacity, new steel facilities are being approved for production in China. The following table demonstrates that during the POR, the crude steel production in China is steadily increasing year to year. […]
>
> [87] There was a significant net increase in capacity in 2019, and the new facilities will add 34.9 million MT of new capacity. According to S&P Global Platts, which provides independent energy news and benchmark prices for commodity markets, China's net crude steel capacity increases will total 37.6 million MT per year over 2019-2023.
>
> [88] In its 13th five year plan, (2016-2020), China admits that it must "move quickly to address overcapacity in industries such as steel". China's response has been to acknowledge the problem and to make repeated commitments to reduce steel production capacity. While Chinese crude steel making capacity has declined by about 100 million tonnes since 2015, this is just a small step considering the

[331] *OCTG 2,* Statement of Reasons of the CBSA, OCTG2 2020 ER, August 7, 2020, paras. 83-88.

> exponential growth seen in the previous years. The net result is that China has added nearly 500 million tonnes of new capacity since 2007. The Chinese steel industry has been experiencing an excess capacity crisis for many years, and without a major overhaul of the industry in China, excess capacity will continue
>
> *(footnotes and table omitted, emphasis added)*

487. China has little interest in decreasing its excess capacity in the steel sector, which includes OCTG capacity. All members of the G20, as well as some interested non-G20 members, established the Global Forum on Steel Excess Capacity ("**Global Forum**") in 2016 to increase transparency regarding measures these countries were taking to combat the issue of excess steel capacity and government intervention in their respective steel sectors. Members of the Global Forum are encouraged to make voluntary commitments to reduce excess steel capacity. While China initially participated, in November 2019 it elected not to continue its work in the Global Forum beyond 2019.[332] China's unwillingness to cooperate further in global solutions to the issue of overcapacity in the steel sector demonstrates a clear lack of desire to solve this issue to which it is the largest contributor.

488. The CBSA has historically recognized that China operates as a state-controlled economy. More specifically, over at least the past 20 years, the CBSA has in its investigations found that the steel sector in China is heavily subsidized and operates as a non-market economy pursuant to section 20 of *SIMA.*[333] Furthermore, as discussed at length above, CIMC was

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[332] Appendix 44 – U.S. Statement at the WTO Meeting of the Committee on Subsidies and Countervailing Measures, U.S. Mission to International Organizations in Geneva, November 19, 2019.

[333] See, *inter alia*: *Certain Hot-rolled Carbon Steel Sheet,* 4218-12/CV94, 4258-114/AD1262; *Cold-rolled Steel Sheet Products,* 4258-115/AD1265; *Certain Seamless Carbon or Alloy Steel Oil and Gas Well Casing*, 4214-15/AD1371, 4218-23/CV122; *Certain Carbon Steel Welded Pipe,* 4214-16/AD1373, 4218-24/CVD123; *Certain Metal Bar Grating of Carbon, Alloy or Stainless Steel*, 4214-24/AD1389, 4218-28/CV126; *Certain Concrete Reinforcing Bar,* 4214-42/AD1403,

identified as a major exporter of the Subject Goods, while being a state-owned entity. As a result, the Chinese government has the ability to influence the prices of steel inputs required by CIMC to produce its chassis, as well as control the actions of CIMC through its shareholdings.

489. CIMC is an SOE and is likely to be able to purchase steel inputs at prices far below what a private company operating in the free market would have access to. While Max-Atlas also purchases some steel components from China, the prices which Max-Atlas pays are likely significantly higher than the prices CIMC pays for similar items.

490. The substantial control that the Chinese government may exercise over the chassis industry and its necessary inputs demonstrates a significant threat of injury, in addition to actual injury suffered as a result of the dumped and subsidized Subject Goods entering the Canadian market. If the government of China were to turn its attention to the Canadian market, it could easily dominate the Canadian domestic industry without the discipline of trade remedy findings in place.

c) US trade measures increasing likelihood of the export of Subject Goods to Canada

491. Due to the ongoing trade war between China and the United States, and the general hostility of the American government towards China, the United States has imposed several trade measures against products from China, including those initiated under Section 232 of the *Trade Expansion Act of 1962* (the "**Section 232 Measure**") and Section 301 of the *Trade Act of 1974* (the "**Section 301 Measure**").

4218-39/CV138; *Certain Fabricated Industrial Steel Components,* FISC 2016 IN; *Cold-Rolled Steel,* CRS 2018 IN; *Corrosion-Resistant Steel Sheet*, COR 2018 IN.

492. On September 24, 2018, the United States imposed the 10% Section 301 Measure on several goods, including those found under HS code 8716.39.00, under which the Subject Goods fall. This tariff was increased to 25% on May 10, 2019.

493. Furthermore, on June 1, 2018, the United States implemented the Section 232 Measure and imposed tariffs on steel and aluminum products from most of the world, with certain exempt countries, under the guise of national security. These tariffs were in the amount of 25% for steel products and 10% for aluminum products. Given that the largest component of the Subject Goods is the steel structure which composes the chassis, the Section 232 Measure is likely to have a serious diversionary effect on the exports of Subject Goods from China.

494. As discussed in section 8.1, the Subject Goods were essentially non-existent on the Canadian market in 2017. While this can be partially explained by Ocean Trailers improperly classifying the HS Code of their imports from CIMC, as discussed above in section 5, the rapid expansion of Subject Good imports in Canada between 2017 and 2019 is more likely due to the diversion caused by the Section 232 Measure.

495. Given that Canada has been exempt from the Section 232 Measure since May 20, 2019, it is conceivable that CIMC could even expand operations in Canada, leveraging its Chinese state-ownership for the supply of unfairly priced steel, in order to circumvent the Section 232 Measure in the future. Considering that one of CIMC's affiliates, CIMC Refrigerated Trailer Co. Ltd. plans to open its first Canadian facility in Sarnia, Ontario with a target of 2,000 refrigerated trailers to be produced in 2021, it is only a matter of time before CIMC attempts the same with respect to the Subject Goods.[334]

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[334] Appendix 45 – CIMC plans refrigerated trailer production in Ontario, Trailer Body Builders, October 23, 2020.

496. Finally, the Subject Goods are currently the subject of antidumping and countervailing proceedings in the United States. The countervailing proceedings concluded on April 13, 2021 when the International Trade Commission issued its final determination that chassis from China are subsidized and imposed duties of 44.32%. The Department of Commerce issued its preliminary determination on dumping on February 25, 2021, resulting in a margin of dumping of 188.05%. The final determination in the antidumping proceedings is expected to be issued on May 11, 2021. Any trade remedies imposed by the United States will inevitably increase the risk of diversion of the Subject Goods to Canada, beyond the substantial risk that already exists due to the Section 232 Measure and Section 301 Measure.

497. The troubling trend of dumped and subsidized Subject Goods entering Canada has been exacerbated by existing trade measures imposed by the President of the United States and risks worsening due to the potential imposition of further trade remedies by the Department of Commerce. Without effective protections in place in Canada, Max-Atlas will suffer greater injury through increased volumes of the Subject Goods entering the Canadian market.

d) Inability to expand production facilities

498. In addition to a desire to expand further into the United States export market, Max-Atlas is also planning on driving innovation locally through the expansion of its facilities and automation of certain tasks. In 2018, Max-Atlas decided to begin investments in upgrading its facilities. The project was planned [redacted]. The [redacted] and resulted in [redacted]. The remaining step in this first phase is [redacted]. These investments were justified by roughly $50 million in revenue that Max-

Atlas was making in 2019. The completion of most of the [redacted].

499. The [redacted], at least until Max-Atlas' revenues return to 2019 levels. This [redacted] and will result in the purchase and implementation of [redacted]. Once the [redacted]. If Max-Atlas were able to [redacted], the result would be a significant reduction in [redacted], allowing for [redacted]. These steps are not only crucial for innovating chassis production and development in Canada, but also for attaining the cost efficiencies of larger production volumes destined for export markets.

500. Due to the competition in the Canadian market caused by unfairly traded Chinese chassis, Max-Atlas is unable to acquire sufficient sales volumes to support these expansion efforts, which would stimulate the local economy in Quebec. With trade remedies put in place to prevent unfairly traded Chinese Subject Goods from dominating the Canadian market, Max-Atlas will be able to reach $50 million in revenue again, thereby giving it the [redacted].

e) High margins of dumping magnify threat of injury

501. Based on the section 20 of *SIMA* methodology, dumping margins could be between [redacted]. For subsidies, recent CBSA investigations into Chinese steel products found subsidies of 11.6% of export price, which is much lower than Max-Atlas' estimates of [redacted]

[redacted] above.[335] Based on available information, Max-Atlas estimates that the combined margin of dumping and amount of subsidies could well be in the range of [redacted].

502. Max-Atlas' chassis production, including planned expansion of production capacity to reach export markets like the United States, cannot survive long against high and increasing Chinese import volumes, with no foreseeable limit on these volumes considering significant Chinese capacity. With an unfair pricing advantage between [redacted], dumped and/or subsidized imports of the Subject Goods pose an imminent and foreseeable threat of injury to Max-Atlas.

9. Conclusion

503. For all of the reasons given above, Max-Atlas requests that the President of the CBSA initiate an anti-dumping investigation and a countervailing duty investigation in respect of the injurious dumping and subsidization of the Subject Goods, originating in or exported from the People's Republic of China.

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[335] *Cold-Rolled Steel,* Statement of Reasons of the CBSA, CRS 2018 IN, November 15, 2018, Appendix 1.