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Importer Letter

May 5, 2021

Dear Importer:

This refers to the notice dated December 21, 2020, informing you that, pursuant to subsection 31(1) of the *Special Import Measures Act* (SIMA), investigations have been initiated respecting the alleged injurious dumping and subsidizing of certain upholstered domestic seating from China and Vietnam.

The preliminary phase of the investigations is now complete and, on May 5, 2021, pursuant to subsection 38(1) of SIMA, the Canada Border Services Agency (CBSA) made preliminary determinations of dumping and subsidy respecting certain upholstered domestic seating from China and Vietnam.

A *Statement of Reasons*, which summarizes the information on which these decisions were based and which describes in general terms the future activities related to the investigations, will be issued within 15 days. The *Statement of Reasons* will be available at that time on the CBSA's website at www.cbsa-asfc.gc.ca/sima-lmsi.

The investigations are continuing and the CBSA must make final determinations or terminate the investigations by August 3, 2021.

On February 19 2021, the Canadian International Trade Tribunal (CITT) concluded its preliminary injury inquiry. The CITT determined that there is evidence that discloses a reasonable indication that the dumping and subsidizing of certain upholstered domestic seating from China and Vietnam have caused injury or are threatening to cause injury to the domestic industry. The CITT will continue its inquiry and is expected to issue its finding by September 2, 2021.

Pursuant to section 8 of SIMA, provisional duties are payable on the dumped and subsidized subject goods that are released from the CBSA during the period commencing May 5, 2021 and ending on the earlier of the day the investigations are terminated, the day on which the CITT makes an order or finding, or the day an undertaking is accepted. During this period, referred to as the provisional period, the importer of such goods shall pay, or cause to be paid, provisional duties or post security in the prescribed form.

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The amount of provisional duty payable on imported goods will be based on the sum of the estimated margin of dumping and the estimated amount of subsidy. The rate of provisional duty for all exporters is indicated in **Attachment 1** of this letter.

As an importer, you are required to declare your company's liability, if any, for provisional duties and taxes on any subject goods imported into Canada. In this regard, it is your responsibility to inform your customs broker if you are importing goods subject to provisional duties and to ensure that your liability, if any, is declared at the time of accounting for the goods in question, and that the proper amount of provisional duties has been paid. To assist you in this important function, a copy of the "SIMA Self-Assessment Guide" is available on the CBSA's website at: www.cbsa-asfc.gc.ca/sima-lmsi/self-auto-eng.html.

As explained in **Attachment 2**, the CBSA must specify who the importer in Canada is at the time of the preliminary determinations, based on the information available. The importer in Canada specified under SIMA may be different than the importer of record. Please refer to **Attachment 2** for additional details regarding the CBSA's policy regarding the importer in Canada for SIMA purposes.

Please note that you are also responsible for ensuring that the importations are properly coded. The codes are used in field 32 of the form B3 and field 26 of the form B2. The proper codes and their interpretations are provided in **Attachment 3**. For further information on completing these forms, please refer to Customs Memorandum D17-1-10, *Coding of Customs Accounting Documents*, and D17-2-1, *The Coding, Submission and Processing of Form B2 Canada Customs Adjustment Request*.

Should your company import the subject goods and not complete the SIMA codes, as required in **Attachment 3**, or not describe the goods as required and indicated in **Attachment 4**, an *Administrative Monetary Penalty* (AMP) may be issued. For further information on the AMPS, please consult the CBSA's website at: <https://www.cbsa-asfc.gc.ca/sima-lmsi/amps-rsap-eng.html>.

SIMA provides that, after a preliminary determination of dumping, exporters may give a written undertaking to revise selling prices to Canada so that the margin of dumping or the injury caused by the dumping is eliminated. Similarly, after a preliminary determination of subsidizing, the government of a country may give a written undertaking to eliminate the subsidy on the goods or to eliminate the injurious effect of the subsidy by limiting the amount of the subsidy or the quantity of goods exported to Canada. Exporters, with the consent of their government, may undertake to revise their selling prices so that the injurious effect of the subsidy is eliminated.

Acceptable undertakings must account for all or substantially all of the exports to Canada of the dumped and subsidized goods. In the event that an undertaking is accepted, the required payment of provisional duties on the goods would be suspended.

In view of the time needed for consideration of undertakings, written undertaking proposals should be made as early as possible, and no later than 60 days after the preliminary determinations. Further details regarding undertakings may be found in customs Memorandum D14-1-9 and is available on the CBSA's website at: www.cbsa-asfc.gc.ca/publications/dm-md/d14/d14-1-9-eng.html.

Should you have any questions relating to the investigations, please contact me by e-mail at Kevin.Lambertsen@cbsa-asfc.gc.ca.

Yours truly,



Kevin Lambertsen
Senior Program Officer
Trade and Anti-dumping Programs Directorate

Attachments

Attachment 1

**ESTIMATED MARGINS OF DUMPING,
ESTIMATED AMOUNTS OF SUBSIDY AND PROVISIONAL DUTIES**

Exporter	Estimated Margin of Dumping*	Estimated Amount of Subsidy*	Total Provisional Duties Payable*
China			
Anji Cozy Home Co., Ltd.	40.54%	1.58%	42.12%
Anji Shengxing Office Furniture Co., Ltd.	206.36%	20.09%	226.45%
Dongguan Tianhang Furniture Co., Ltd.	41.09%	0.15% **	41.09%
Foshan DOB Furniture Co., Ltd.	206.36%	0.48% **	206.36%
Haining Nicelink Home Furnishings Co., Ltd.	11.01%	40.77%	51.78%
HaiNing Happy Leather Furniture Co., Ltd.	206.36%	4.51%	210.87%
Zhejiang Happy Smart Furnishings Co., Ltd.	206.36%	5.94%	212.30%
Anji Hengrui Furniture Co.,Ltd.	70.23%	0.00% **	70.23%
Anji Hengyi Furniture Co., Ltd.	32.25%	0.00% **	32.25%
Henglin Home Furnishings Co., Ltd.	38.16%	2.28%	40.44%
HHC Changzhou Corp.	39.19%	1.52%	40.71%
HTL Furniture (China) Co., Ltd.	58.38%	0.08% **	58.38%
HTL Furniture (Huai An) Co., Ltd.	58.76%	1.44%	60.20%
Jiaxing Motion Furniture Co., Ltd.	206.36%	0.81% **	206.36%
Jason Furniture (Hangzhou) Co., Ltd.	47.87%	8.84%	56.71%
Gu Jia Intelligent Household Jiaxing Co., Ltd.	33.07%	4.63%	37.70%
Zhejiang Kuka Merlin Furniture Co., Ltd.	26.70%	9.08%	35.78%
Megain Furniture (Dong Guan) Co., Ltd.	206.36%	2.21%	208.57%
Natuzzi (China) Ltd.	206.36%	1.13%	207.49%
Suzhou Yimei Furniture Co., Ltd.	206.36%	1.93%	208.29%
Taizhou Delancey Street Furniture Co., Ltd.	50.77%	89.54%	140.31%
Anji UES Furniture Co., Ltd.	84.37%	0.59% **	84.37%
UE Furniture Co., Ltd	68.88%	3.34%	72.22%
Vanguard Industrial JiaXing Co., Ltd.	58.37%	1.74%	60.11%
Violino Furniture (Shenzhen) Ltd.	20.65%	0.14% **	20.65%
Zhejiang Botai Furniture Co., Ltd.	206.36%	8.28%	214.64%
Zhejiang Chuanyang Furniture Co., Ltd.	50.63%	0.69% **	50.63%
Zoy Home Furnishing Co., Ltd.	206.36%	1.83%	208.19%
All Other Exporters – China	206.36%	89.54%	295.90%

* Expressed as a percentage of export price.

** Where amounts of dumping and/or subsidy are considered insignificant, the investigation will continue but provisional duties will not be payable.

Exporter	Estimated Margin of Dumping*	Estimated Amount of Subsidy*	Total Provisional Duties Payable*
Vietnam			
Delancey Street Furniture Vietnam Co., Ltd.	89.77%	0.00% **	89.77%
Timberland Co., Ltd.	89.77%	0.00% **	89.77%
Motomotion Vietnam Limited Company	34.98%	0.00% **	34.98%
UE Vietnam Co., Ltd.	89.77%	0.00% **	89.77%
Vietnam Hang Phong Furniture Company Limited	45.60%	0.00% **	45.60%
Wendelbo Interiors A/S	69.37%	N/A	69.37%
Wendelbo SEA JSC	17.44%	0.00% **	17.44%
All Other Exporters – Vietnam	89.77%	11.73%	101.50%

* Expressed as a percentage of export price.

** Where amounts of dumping and/or subsidy are considered insignificant, the investigation will continue but provisional duties will not be payable.

ATTACHMENT 2

IMPORTER IN CANADA FOR *SPECIAL IMPORT MEASURES ACT* PURPOSES

For the purposes of the *Special Import Measures Act* (SIMA), the Canada Border Services Agency (CBSA) must specify who the importer in Canada is at the time of the preliminary determinations, based on the information available. It should be noted that the importer in Canada specified under SIMA may be different from the importer of record identified in the CBSA entry documentation.

Furthermore, it is the CBSA's policy that the importer of record is liable for provisional duty payable on the subject goods that are released from the CBSA during the provisional period.

If, in respect of an importation of goods subject to provisional duty, the CBSA considers that someone other than the importer of record is the importer in Canada for SIMA purposes, the CBSA may request the Canadian International Trade Tribunal (CITT) for a ruling on who is the importer in Canada of the goods, as provided for under section 89 of SIMA. The CITT will make a ruling by determining which person is the importer in Canada of the goods. The CITT's ruling is binding on the CBSA. As provided for in SIMA, provisional duties can be refunded or security returned to the importer of record and assessed against the importer as ruled by the CITT.

ATTACHMENT 3

INTERPRETATION OF SIMA CODES

Field No. 32/26 – SIMA Code

SIMA code is to be reported in field 32 on the B3 Form or field 26 of the B2 Form if the goods are subject to an action under SIMA. Identify the type of SIMA assessment applicable to the goods being imported as well as the mode of payment.

SIMA codes are two-digit numbers. The first digit is from 1 to 5 and represents the type of assessment (see Chart 1 below). The second digit is from 0 to 2 and represents the form of payment (see Chart 2 below).

As an example, code “51” indicates that the goods are subject to an injury finding and/or a Surtax Order, that the SIMA duties and/or the amount of surtax are payable and they are being paid in cash (which includes any accepted cash payment method, i.e. credit card, debit, etc.).

Chart 1 – The first digit is the assessment type:

SIMA code	Explanation
1	Goods, although of the same classification, are specifically exempted from a Tribunal injury finding or from a Surtax Order under the Customs Tariff.
2	Goods are subject to an undertaking under SIMA.
3	Goods are subject to provisional duty.
4	Goods are subject to a Tribunal injury finding, but no SIMA duty is payable.
5	Goods are subject to a Tribunal injury finding and/or a Surtax Order and SIMA duties and/or amount of surtax are payable.

Chart 2 – The second digit indicates the payment type:

SIMA code	Explanation
0	No liability.
1	Cash payment (which includes credit card, debit, etc.).
2	Security Bond (issued by a financial institution or acceptable bonding company). Bonds can only be used for provisional duty or during the time of an expedited review.

ATTACHMENT 4

INFORMATION REQUIRED ON CUSTOMS DOCUMENTS

Listed below is the information that **must be provided** to the CBSA regardless of whether the documentation is provided as paper or electronically (e.g., through the use of ACROSS). Please note that if the following information is not provided, the application of penalties, pursuant to the *Administrative Monetary Penalty System* (AMPS), may result.

The import documentation should clearly indicate the following:

- **Confirmation whether the product is subject to provisional duties**
- Name and address of producer/manufacturer
- Location of plant/mill of production
- Place from which direct shipment to Canada began
- Name and address of vendor (if different from the producer)
- Country of origin
- Country of export
- Canadian customer's name and address
- Canadian importer's name and address (if different from the customer)
- full product description of the goods, including:
 - Product Type
 - Length
 - Cover Material
 - Maximum foam density of seat cushions
 - % memory foam used in seat cushion
 - Feathers
 - Number of power recline
 - Number of power headrest
 - Number of power lumbar
 - Number of manual recline
 - Number of manual headrest
 - Number of other motion mechanisms
 - Additional Movement Types
 - Number of USB outlets
 - Number of AC power outlets
 - Heating
 - Cooling
 - Lights (including LEDs)
 - Massage - Mechanical
 - Massage - Air bladder
 - Vibration (e.g. for movie and gaming effects)
 - Number of speakers
 - Number of cup holders

- Storage

Other Relevant Characteristics:

- Date of sale, date of shipment
- Quantity (state unit of measure, e.g. kilograms, pounds, metric tonnes, etc.)
- Unit selling price and total selling price to importer in Canada
- Currency of settlement used (e.g. US\$, CDN\$, etc.)
- Terms and conditions of sale (e.g. FOB, CIF, etc.)
- All costs, expenses, and charges incurred by the exporter and vendor in the shipment of the subject goods to Canada (includes inland and ocean freight, insurance, duties, port and handling charges, etc.) and
- The amount of any export taxes applicable to the goods