



Canadian International
Trade Tribunal

Tribunal canadien du
commerce extérieur

CANADIAN
INTERNATIONAL
TRADE TRIBUNAL

Dumping and Subsidizing

ORDER AND REASONS

Expiry Review No. RR-2012-003

Carbon Steel Welded Pipe

*Order and reasons issued
Monday, August 19, 2013*

TABLE OF CONTENTS

ORDER	i
STATEMENT OF REASONS	1
INTRODUCTION	1
PRODUCT	1
Product Definition	1
Product Information	2
PRELIMINARY MATTERS	2
LEGAL FRAMEWORK	3
LIKE GOODS AND CLASSES OF GOODS	3
DOMESTIC INDUSTRY	4
CROSS-CUMULATION.....	5
LIKELIHOOD OF INJURY ANALYSIS	5
Changes in International and Domestic Market Conditions.....	5
Likely Volumes of Dumped and Subsidized Goods	9
Likely Prices of Dumped and Subsidized Goods and the Effects on the Prices of Like Goods.....	13
Likely Performance of the Domestic Industry and Likely Impact of the Dumped and Subsidized Goods on the Domestic Industry	17
Factors Other Than the Dumping or Subsidizing	19
CONCLUSION	19

IN THE MATTER OF an expiry review, pursuant to subsection 76.03(3) of the *Special Import Measures Act*, of the finding made by the Canadian International Trade Tribunal on August 20, 2008, in Inquiry No. NQ-2008-001, concerning:

**THE DUMPING AND SUBSIDIZING OF CARBON STEEL WELDED
PIPE ORIGINATING IN OR EXPORTED FROM THE PEOPLE'S
REPUBLIC OF CHINA**

ORDER

The Canadian International Trade Tribunal, pursuant to subsection 76.03(3) of the *Special Import Measures Act*, has conducted an expiry review of its finding made on August 20, 2008, in Inquiry No. NQ-2008-001, concerning the dumping and subsidizing of carbon steel welded pipe, commonly identified as standard pipe, in the nominal size range of 1/2 inch up to and including 6 inches (12.7 mm to 168.3 mm in outside diameter) inclusive, in various forms and finishes, usually supplied to meet ASTM A53, ASTM A135, ASTM A252, ASTM A589, ASTM A795, ASTM F1083 or Commercial Quality, or AWWA C200-97 or equivalent specifications, including water well casing, piling pipe, sprinkler pipe and fencing pipe, but excluding oil and gas line pipe made to API specifications exclusively and excluding (1) carbon steel welded pipe in the nominal pipe size of 1 inch, meeting the requirements of specification ASTM A53, Grade B, Schedule 10, with a black or galvanized finish, and with plain ends, for use in fire protection applications, (2) carbon steel welded pipe in nominal pipe sizes of 1/2 inch to 2 inches inclusive, produced using the electric resistance welding process and meeting the requirements of specification ASTM A53, Grade A, for use in the production of carbon steel pipe nipples, and (3) carbon steel welded pipe in nominal pipe sizes of 1/2 inch to 6 inches inclusive, dual-stencilled to meet the requirements of both specification ASTM A252, Grades 1 to 3, and specification API 5L, with bevelled ends and in random lengths, for use as foundation piles, originating in or exported from the People's Republic of China.

Pursuant to paragraph 76.03(12)(b) of the *Special Import Measures Act*, the Canadian International Trade Tribunal hereby continues its finding in respect of the aforementioned goods.

Serge Fréchette
Serge Fréchette
Presiding Member

Stephen A. Leach
Stephen A. Leach
Member

Ann Penner
Ann Penner
Member

Gillian Burnett
Gillian Burnett
Acting Secretary

Place of Hearing: Ottawa, Ontario
Date of Hearing: June 24, 2013

Tribunal Members: Serge Fréchette, Presiding Member
Stephen A. Leach, Member
Ann Penner, Member

Research Director: Audrey Chapman

Research Manager: Manon Carpentier

Senior Research Officers: Suzanne Cullen
Paula Place

Research Officer: Julie Charlebois

Research Assistants: Daniel Bettencourt
Anmol Singh Metley

Counsel for the Tribunal: Georges Bujold
Courtney Fitzpatrick

Manager, Registrar Programs and Services: Michel Parent

Registrar Officer: Haley Raynor

PARTICIPANTS:**Domestic Producers**

Novamerican Steel Inc.
Nova Tube Inc.
Bolton Steel Tube Co. Ltd.

Energex Tube
Atlas Tube Canada ULC
Welded Tube of Canada

DFI Corporation

Counsel/Representatives

Benjamin P. Bedard
Paul D. Conlin
Drew Tyler
Paul Brunetta
Anne-Marie Guindon
Lawrence L. Herman

Dalton Albrecht
Marie-Claude Marcil
Sylvain Golsse

WITNESSES:

Lawrence P. Cannon
Chief Financial Officer
Novamerican Steel Inc.

Alexandre Gravel
Commercial Director
Nova Tube Inc.

Kevin Kelly
Vice-President of Canadian Sales
Atlas Tube Canada ULC

Barry Strauss
Senior Vice-President
DFI Corporation

Scott B. Jones
President
Novamerican Steel Inc.
Nova Tube Inc.

Winston Penny
President
Bolton Steel Tube Co. Ltd.

Mark Agnew
Chief Financial Officer
DFI Corporation

Please address all communications to:

The Secretary
Canadian International Trade Tribunal
15th Floor
333 Laurier Avenue West
Ottawa, Ontario K1A 0G7

Telephone: 613-993-3595
Fax: 613-990-2439
E-mail: secretary@citt-tcce.gc.ca

STATEMENT OF REASONS

INTRODUCTION

1. This is an expiry review, pursuant to subsection 76.03(3) of the *Special Import Measures Act*¹ of a finding made by the Canadian International Trade Tribunal (the Tribunal) on August 20, 2008, in Inquiry No. NQ-2008-001, concerning the dumping and subsidizing of carbon steel welded pipe (CSWP), commonly identified as standard pipe, in the nominal size range of 1/2 inch up to and including 6 inches (12.7 mm to 168.3 mm in outside diameter) inclusive, in various forms and finishes, usually supplied to meet ASTM A53, ASTM A135, ASTM A252, ASTM A589, ASTM A795, ASTM F1083 or Commercial Quality, or AWWA C200-97 or equivalent specifications, including water well casing, piling pipe, sprinkler pipe and fencing pipe, but excluding oil and gas line pipe made to American Petroleum Institute (API) specifications exclusively and excluding other CSWP products that are described in the Tribunal's finding,² originating in or exported from the People's Republic of China (China) (the subject goods).

2. The Tribunal initiated this expiry review on December 5, 2012.³ It notified the Canada Border Services Agency (CBSA) and sent letters to known domestic producers, importers, foreign producers and exporters requesting that they complete expiry review questionnaires. The Tribunal's period of review (POR) is from January 1, 2010, to March 31, 2013.

3. On December 6, 2012, the CBSA initiated its investigations to determine whether the expiry of the Tribunal's finding was likely to result in the continuation or resumption of dumping and/or subsidizing.

4. On April 4, 2013, the CBSA determined, pursuant to paragraph 76.03(7)(a) of *SIMA*, that the expiry of the finding was likely to result in the continuation or resumption of dumping and subsidizing of the subject goods.

5. Following the CBSA's determination, on April 5, 2013, the Tribunal commenced its part of the expiry review to determine, pursuant to subsection 76.03(10) of *SIMA*, whether the expiry of the finding was likely to result in injury or retardation. On April 25, 2013, as part of these proceedings, the Tribunal sent a *Short-form Importers' Questionnaire* to importers that had not completed the original *Expiry Review Questionnaire – Importer*.

6. The Tribunal held a public hearing in Ottawa, Ontario, on June 24, 2013, where it heard oral submissions from counsel for the domestic producers, as well as testimony from several witnesses.

7. The Tribunal received no requests for product exclusions.

PRODUCT

Product Definition

8. The goods subject to this expiry review are CSWP, commonly identified as standard pipe, in the nominal size range of 1/2 inch up to and including 6 inches (12.7 mm to 168.3 mm in outside diameter) inclusive, in various forms and finishes, usually supplied to meet ASTM A53, ASTM A135, ASTM A252,

1. R.S.C. 1985, c. S-15 [*SIMA*].

2. As discussed below, on August 20, 2008, the Tribunal excluded certain CSWP products from the scope of its injury finding in addition to excluding oil and gas line pipe made to API specifications exclusively.

3. C. Gaz. 2012.I.3393.

ASTM A589, ASTM A795, ASTM F1083 or Commercial Quality, or AWWA C200-97 or equivalent specifications, including water well casing, piling pipe, sprinkler pipe and fencing pipe, but excluding oil and gas line pipe made to API specifications exclusively, originating in or exported from China.

9. On August 20, 2008, the Tribunal excluded the following goods from its injury finding:
- CSWP in the nominal pipe size (NPS) of 1 inch, meeting the requirements of specification ASTM A53, Grade B, Schedule 10, with a black or galvanized finish, and with plain ends, for use in fire protection applications;
 - CSWP in the NPSs of 1/2 inch to 2 inches inclusive, produced using the electric resistance welding process and meeting the requirements of specification ASTM A53, Grade A, for use in the production of carbon steel pipe nipples; and
 - CSWP in the NPSs of 1/2 inch to 6 inches inclusive, dual-stencilled to meet the requirements of both specification ASTM A252, Grades 1 to 3, and specification API 5L, with bevelled ends and in random lengths, for use as foundation piles (piling pipe).⁴
10. Therefore, these excluded products are not subject goods in this expiry review.

Product Information

11. CSWP is generally intended for the low-pressure conveyance of steam, water, natural gas, air and other liquids, and gases in applications such as plumbing and heating, air conditioning and sprinkler systems for fire protection. CSWP is also used as piling and as structural support for fencing, as well as for other mechanical and light load-bearing applications.

12. The most common grades of CSWP are ASTM A53, ASTM A135, ASTM A252, ASTM A589, ASTM A795, ASTM F1083, Commercial Quality and AWWA C200-97 or equivalent specifications. CSWP may also be produced to proprietary or foreign specifications, as is often the case with fencing pipe. For example, imported CSWP may be produced to British Standard 1387.

PRELIMINARY MATTERS

13. The Tribunal notes that no parties provided submissions or made arguments in opposition to a continuation of the finding. Pursuant to Article 6.2 of the *Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994*,⁵ failure by a party to participate in proceedings shall not be prejudicial to that party's case. Therefore, the Tribunal has not drawn any negative inference from the importers' and foreign producers' lack of participation in the expiry review process.⁶ This approach is consistent with the Tribunal's past practice.⁷

4. The Tribunal's finding in Inquiry No. NQ-2012-002, dated November 30, 2012, concerning steel piling pipe from China covers these dual-stencilled products.

5. 15 April 1994, 1868 U.N.T.S. 201 (entered into force 1 January 1995) [*Antidumping Agreement*], available at <http://www.wto.org/english/docs_e/legal_e/19-adp_01_e.htm>.

6. The Tribunal notes that *SIMA* is to be applied, insofar as possible, in a manner consistent with Canada's international treaty obligations, including the *Antidumping Agreement*. See *Németh v. Canada (Justice)*, 2010 SCC 56, [2010] 3 SCR. 281 at para. 34 and cases cited therein.

7. See *Carbon Steel Welded Pipe* (3 June 2005), RR-2004-003 (CITT) at para. 34; *Hot-rolled Carbon Steel Plate and High-strength Low-alloy Plate* (17 May 2004), RR-2003-001 (CITT) at para. 104; *Seamless Carbon or Alloy Steel Oil and Gas Well Casing* (11 March 2013), RR-2012-002 (CITT) at paras. 52-53.

14. In light of the foregoing, the Tribunal was vigilant in its assessment of the information contained on the record in order to ensure that its determinations were based on positive, accurate evidence and involved an objective examination of all the factors that are relevant to the likelihood of an injury determination. In this respect, Tribunal staff conducted a rigorous review of all questionnaire replies to ensure that they were complete, that inconsistencies were addressed and errors corrected, that the data reconciled and were reasonable, and that any anomalies were explained. For example, certain amounts in the replies to questionnaires with respect to manufacturing costs raised concerns. As such, Tribunal staff followed up with the questionnaire respondents in order to address those concerns. Additional enquiries and exchanges of information occurred between Tribunal staff and the respondents. Revisions were received and reasonable explanations for the anomalies were provided.

15. In addition, to ensure complete representation of the domestic industry, on May 17, 2013, the Tribunal issued a production order to Quali-T-Groupe ULC (Quali-T-Groupe) requiring it to complete the *Expiry Review Questionnaire – Canadian Producer*. Quali-T-Tube, the division of Quali-T-Groupe that produces commercial quality CSWP, provided its reply to the expiry review questionnaire on May 21, 2013, and provided revisions on May 22, 2013.

LEGAL FRAMEWORK

16. The Tribunal is required, pursuant to subsection 76.03(10) of *SIMA*, to determine whether the expiry of the finding in respect of the subject goods is likely to result in injury or retardation.⁸

17. The Tribunal is also required, pursuant to subsection 76.03(12) of *SIMA*, to make an order either rescinding the finding in Inquiry No. NQ-2008-001, if it determines that its expiry is unlikely to result in injury, or continuing the finding, with or without amendment, if it determines that the expiry of the finding is likely to result in injury.

18. Before proceeding with its analysis of the likelihood of injury, the Tribunal must first determine what constitutes “like goods”. Once that determination has been made, the Tribunal must determine what constitutes the “domestic industry”.

19. The Tribunal must also determine whether it will make an assessment of the cumulative effect of the dumping and subsidizing of the subject goods (i.e. whether it will cross-cumulate the effect).

LIKE GOODS AND CLASSES OF GOODS

20. In order for the Tribunal to determine whether the resumed or continued dumping and subsidizing of the subject goods is likely to cause material injury to the domestic producers of like goods, it must determine which domestically produced goods, if any, constitute like goods in relation to the subject goods. The Tribunal must also assess whether there is, within the subject goods and the like goods, more than one class of goods.⁹

8. Subsection 2(1) of *SIMA* defines “injury” as “material injury to the domestic industry” and “retardation” as “*material* retardation of the establishment of a domestic industry” [emphasis added]. Given that there is currently an established domestic industry, the issue of whether the expiry of the finding is likely to result in retardation does not arise in this expiry review.

9. Should the Tribunal determine that there is more than one class of goods in this expiry review, it must conduct a separate injury analysis and make a decision for each class that it identifies. See *Noury Chemical Corporation and Minerals & Chemicals Ltd. v. Pennwalt of Canada Ltd. and Anti-dumping Tribunal*, [1982] 2 F.C. 283 (F.C.).

21. Subsection 2(1) of *SIMA* defines “like goods”, in relation to any other goods, as follows:

- (a) goods that are identical in all respects to the other goods, or
- (b) in the absence of any goods described in paragraph (a), goods the uses and other characteristics of which closely resemble those of the other goods.

22. In deciding the issue of like goods when goods are not identical in all respects to the other goods, the Tribunal typically considers a number of factors, including the physical characteristics of the goods (such as composition and appearance) and their market characteristics (such as substitutability, pricing, distribution channels, end uses and whether the goods fulfill the same customer needs).¹⁰

23. In Inquiry No. NQ-2008-001, the Tribunal found that domestically produced CSWP closely resembled the subject goods in terms of physical and market characteristics, could generally be substituted for them and competed directly with them in the Canadian market. On that basis, the Tribunal determined that domestically produced CSWP constituted like goods in relation to the subject goods.¹¹ It also determined that CSWP constituted a single class of goods.¹²

24. In the current expiry review, the Tribunal was presented with no evidence or argument that warrants departing from these determinations. Accordingly, the Tribunal continues to be of the view that there is one class of goods in this expiry review and that domestically produced CSWP are “like goods” in relation to the subject goods.

DOMESTIC INDUSTRY

25. Subsection 2(1) of *SIMA* defines “domestic industry” as follows:

... the domestic producers as a whole of the like goods or those domestic producers whose collective production of the like goods constitutes a major proportion of the total domestic production of the like goods except that, where a domestic producer is related to an exporter or importer of dumped or subsidized goods, or is an importer of such goods, “domestic industry” may be interpreted as meaning the rest of those domestic producers.

26. The Tribunal must therefore determine whether there is a likelihood of injury to the domestic producers as a whole or those domestic producers whose production represents a major proportion of the total production of like goods.

27. There are six domestic producers of CSWP as defined in this expiry review,¹³ Atlas Tube Canada ULC (Atlas Tube), Bolton Steel Tube Co. Ltd. (Bolton Steel Tube), DFI Corporation (DFI), Energex Tube (Energex), Nova Tube Inc. (Nova Tube)¹⁴ and Quali-T-Tube. Together, these companies account for close to 100 percent of the total known domestic production of like goods¹⁵ and, as such, constitute the “domestic industry” for the purposes of the Tribunal’s analysis of likelihood of injury.¹⁶

10. See, for example, *Copper Pipe Fittings* (19 February 2007), NQ-2006-002 (CITT) at para. 48.

11. *Carbon Steel Welded Pipe* (20 August 2008), NQ-2008-001 (CITT) at para. 42.

12. *Ibid.* at para. 45.

13. Evraz Inc. NA Canada and Canadian National Steel Corporation, which were identified as potential domestic producers, indicated to the Tribunal that they did not produce or import CSWP during the POR. Welded Tube of Canada indicated that it has the ability to produce CSWP but made only *de minimus* sales of this product during the POR. These producers are therefore not part of the domestic industry for the purposes of this expiry review.

14. Nova Tube’s questionnaire reply included information from Nova Steel Baie-d’Urfé and Delta Tube Inc.

15. *Protected Staff Report*, 23 May 2013, Tribunal Exhibit RR-2012-003-06 (protected), Administrative Record, Vol. 2.1 at 14-16, 25.

16. In *Carbon Steel Welded Pipe* (11 December 2012), NQ-2012-003 (CITT) at para. 65, a case dealing with the same like goods as the present expiry review, the Tribunal found that Atlas Tube, Bolton Steel Tube, DFI, Nova Tube and Quali-T-Tube formed the domestic industry for the purposes of the Tribunal’s injury analysis.

28. Atlas Tube, Bolton Steel Tube, DFI, Energex and Nova Tube, jointly with its parent company, Novamerican Steel Inc., filed submissions in support of the continuation of the Tribunal's finding and participated in the hearing. For the purposes of this statement of reasons, references made to submissions by the domestic producers or the domestic industry is a reference to those domestic producers that filed submissions and participated in the hearing.

CROSS-CUMULATION

29. The Tribunal must also determine whether it will make an assessment of the cumulative effect of the dumping and subsidizing of the subject goods. In Inquiry No. NQ-2008-001, the Tribunal stated that it would not differentiate any effect resulting from the dumping of the subject goods from any effect resulting from the subsidizing of the same goods for the purposes of its analysis, as it continued to hold the view that it was not possible to isolate the effects caused by the dumping of goods from those caused by the subsidizing of the same goods because they are so closely intertwined that it was impossible to unravel them so as to allocate specific or discrete portions to the dumping and subsidizing.¹⁷

30. The Tribunal was presented with no evidence or argument that warrants departing from this approach. Accordingly, the Tribunal continues to be of the view that it is appropriate to assess the cumulative effect of the dumping and subsidizing of the subject goods for the purposes of its likelihood of injury analysis.

LIKELIHOOD OF INJURY ANALYSIS

31. In making its assessment of likelihood of injury, the Tribunal has consistently taken the view that the focus should be on circumstances that can reasonably be expected to exist in the near to medium term. Subsection 37.2(2) of the *Special Import Measures Regulations*¹⁸ lists the factors that the Tribunal may consider. The factors that the Tribunal considers relevant in this expiry review are discussed in detail below.

Changes in International and Domestic Market Conditions

32. In order to assess the likely volumes and prices of the subject goods and their impact on the domestic industry if the finding is allowed to expire, the Tribunal will first consider changes in international and domestic market conditions.¹⁹

33. It is generally recognized that the market for steel is a global market. Since the initial injury inquiry in 2008, there have been some significant changes in the international and domestic steel markets.

International Market Conditions

34. The global financial crisis that occurred shortly after the issuance of the Tribunal's injury finding in August 2008 resulted in a serious economic downturn that affected the global steel market in general and the markets for electric-resistance welded (ERW) pipe and tube and for CSWP in particular.

35. The 2008 global financial crisis caused a sudden decrease in steel demand at a time when steelmakers were operating at high capacity. This resulted in oversupply and excess capacity problems.²⁰

17. *Carbon Steel Welded Pipe* (20 August 2008), NQ-2008-001 (CITT) at paras. 50-52.

18. S.O.R./84-927 [*Regulations*].

19. See paragraph 37.2(2)(j) of the *Regulations*.

20. Tribunal Exhibit RR-2012-003-03A, Administrative Record, Vol. 1A at 18.

36. While the global steel market has experienced some periods of growth since 2009, it has generally remained soft.²¹ The market's marginal recovery was linked in part to stimulus packages used by governments of major economies to spur investment in infrastructure and other steel-intensive projects in 2010 and 2011. Nevertheless, the stimulus packages failed to generate a recovery to pre-2008 levels of steel consumption and production for developed countries, such as those in the European Union and the United States.²²

37. In fact, the European Union and the United States were faced with a major financial and fiscal crisis in 2011, which caused significant market uncertainty around the world. This crisis resulted in some countries suspending investment in infrastructure and in certain industries altogether. This, in turn, had a detrimental impact on steel demand. With reduced demand, previous expectations of stronger steel market growth in 2011 were not realized, the problem of excess capacity was exacerbated, consumer confidence was shaken, and the recovery of the construction sector was halted.²³

38. The OECD Steel Committee (the Committee) reported at its December 2011 meeting that world steel production and demand growth had slowed in 2011 and that "[d]espite uncertainties in the demand outlook for steel, steelmaking capacity continues to grow out of line with demand, raising concerns about supply and demand imbalances."²⁴

39. These trends continued in 2012, as reported at the most recent meeting of the Committee in December 2012. The Committee noted that the short-term market outlook had been revised downwards again. Although the long-term prospects for the steel market were more favourable, the steel industry was expected to face significant challenges in the medium term.²⁵

40. A recent report by Ernst & Young notes a marked decrease in the growth of steel demand in both developed and emerging markets, with apparent global steel usage in 2012 growing by only 2.1 percent (compared to a 6.2 percent growth in 2011). In addition, the report notes that capacity utilization rates in the steel sector remained below 80 percent. According to Ernst & Young, apparent steel use in the European Union was expected to decline by 5.6 percent in 2012.²⁶ Other steel publications report that, in Europe, demand was weak but prices remained fairly resistant to declines up to September 2012 and were expected to soften thereafter.²⁷ Similarly, in the Americas, the price of hot-rolled coil, the raw material used to produce ERW pipe and tube and CSWP, fell in April 2013 and, while demand remained stable overall, excess supply from imports continued to weigh on the steel market.²⁸

41. Furthermore, according to Ernst & Young, excess capacity will remain the most significant issue in the steel sector. Growth in global steel demand is not expected to improve significantly in 2013,²⁹ and world GDP is forecast to increase only slightly in 2013 and 2014, over 2012.³⁰

21. Manufacturer's Exhibit A-09 (protected), Administrative Record, Vol. 2.01H.

22. Tribunal Exhibit RR-2012-003-03A, Administrative Record, Vol. 1A at 18.

23. *Ibid.*; Manufacturer's Exhibit A-07, tabs 2, 12, Administrative Record, Vol. 11A.

24. *Ibid.*, tab 2 at 2.

25. *Ibid.*, tab 2.

26. *Ibid.*, tab 1 at 9.

27. Manufacturer's Exhibit A-08 (protected), tab 38 at 10, Administrative Record, Vol. 2.01G.

28. *Ibid.* at 69.

29. Manufacturer's Exhibit A-07, tab 1 at 5, 9, Administrative Record, Vol. 11A.

30. Tribunal Exhibit RR-2012-003-35.01, Administrative Record, Vol. 1A at 76.

42. The strong production imperative in the steel industry, as noted by the Tribunal in previous cases, is a contributing factor to the excess capacity issue. In light of the capital-intensive nature of steel production, producers have an incentive to protect their capital investment by maintaining production volumes if they can continue producing at their marginal cost of production.³¹ This fact, combined with the decline in global demand, continues to intensify the global overcapacity problem in the steel, ERW pipe and tube and CSWP markets.

43. Even more importantly, the widespread overcapacity issue in the global steel market is largely attributable to the rapid growth of China's steel industry, which is the largest in the world with respect to production and consumption. China's steel industry has reported overcapacity since 2005, and there are reports that this overcapacity will continue unless the Government of China implements "... new radical policy measures toward industry consolidation."³² Citigroup stated that it foresees the Chinese steel industry's "... excessive capacity becoming more excessive ..."³³ An April 2013 article reported that China's steel overcapacity was expected to worsen throughout 2013.³⁴ According to the China Iron and Steel Association, China's steel output grew by 3.1 percent in 2012, while profits decreased by 98 percent.³⁵ A recent market study by Shanghai Ganglian E-Commerce Co. of China indicated that Chinese steel pipe producers were expected to have "razor-thin" profits or only break even.³⁶

44. In terms of the economic conditions in China, according to the International Monetary Fund (IMF), China's annual rate of GDP growth was 7.8 percent in 2012 and is forecast at 8.0 percent in 2013 and 8.2 percent in 2014.³⁷ TD Economics forecasts lower rates of GDP growth of 7.9 percent for China in 2013 and 2014.³⁸ Despite low growth rates and a decline in steel demand from downstream industries, such as railways, property development and shipbuilding,³⁹ China's overall steel industry has continued to produce at high volumes.⁴⁰

45. China's slowing rate of economic growth makes it clear to the Tribunal that China's internal demand will not keep pace with production. According to the April 2013 edition of *Metal Bulletin Research* (MBR), Chinese stocks are high, output is high, and new capacity is being laid down. Domestic prices in China remain fragile, and mills will continue to rely on export markets for sales, given weakened domestic demand.⁴¹

46. This negative global market outlook for steel also applies to the ERW pipe and tube industry. According to the May 2013 edition of *MBR*, welded pipe capacity remains in excess of domestic consumption in almost all countries in the Asian region, including China.⁴²

31. Tribunal Exhibit RR-2012-003-17.03A, Administrative Record, Vol. 3A at 164.

32. *Ibid.*, Vol. 3B at 165.

33. *Ibid.* at 87.

34. Manufacturer's Exhibit A-07, tab 3 at 1, Administrative Record, Vol. 11A.

35. *Ibid.*, tab 9.

36. *Ibid.*, tab 5.

37. *Ibid.*, tab 18 at 12.

38. Tribunal Exhibit RR-2012-003-35.01, Administrative Record, Vol. 1A at 80.

39. Manufacturer's Exhibit A-07, tab 9, Administrative Record, Vol. 11A.

40. Manufacturer's Exhibit A-08 (protected), tab 38 at 8, 21, 73, Administrative Record, Vol. 2.01G.

41. *Ibid.* at 72.

42. Manufacturer's Exhibit A-09 (protected) at 1, Administrative Record, Vol. 2.01H.

47. For example, from 2010 to 2012, the period for which data are available, China's annual production in the ERW pipe and tube sector exceeded its apparent consumption. China's 2012 production levels, a record high according to Steel Business Briefing,⁴³ have already exceeded the 38 million to 43 million tonnes of production that the Government of China prescribed for the end of 2015 under its 12th Five-Year Plan.⁴⁴ In addition, exports of Chinese ERW pipe and tube averaged over 3 million tonnes between 2010 and 2012.⁴⁵

48. In summary, weak economic conditions exacerbated by overcapacity (driven primarily by Chinese producers), have had and will continue to have significant impacts on global steel prices and demand in general and ERW pipe and tube and CSWP in particular.

Domestic Market Conditions

49. The Canadian economy was also negatively affected by the 2008 financial crisis but has shown some signs of improvement. However, the pace of recovery has recently slowed, and forecasts for Canadian economic growth have been revised downward due to the fragility of the global economy and the European and the U.S. debt crises, as well as a cooling Canadian housing market and policies designed to rein in deficits.⁴⁶ Overall, market conditions in Canada are expected to remain soft over the next 12 to 18 months and demand is not expected to increase to any large extent.⁴⁷

50. The Canadian economy recorded GDP growth of 1.8 percent in 2012.⁴⁸ In April 2013, the IMF downgraded its growth forecast for Canada to 1.5 percent from 2.0 percent. It predicts that there will be few improvements for Canada's economy in the next two years.⁴⁹ The Royal Bank of Canada (RBC) also projects weak conditions for the Canadian economy through 2013 due to a slowdown in the manufacturing and construction sector in 2012. In May 2013, RBC expected Canada's real GDP to grow by only 1.8 percent in 2013 and by 2.9 percent in 2014.⁵⁰ While Canada's GDP and building permits increased from 2010 to 2012, the number of building permits for all types of construction (except commercial construction) decreased in 2013.⁵¹ Furthermore, RBC forecasts that housing starts will shrink in 2013 and recover only slightly in 2014.⁵² The Construction Sector Council predicts that spending on non-residential construction will grow by 3.0 percent in 2013 and by 0.62 percent in 2014⁵³ (compared to investment growth of 6.3 percent in 2011 and 11.5 percent in 2010).

51. With respect to the Canadian CSWP market, three important changes have been observed since the issuance of the original finding. First, the size of the Canadian CSWP market has shrunk since the original finding. In 2007, it was 211,000 tonnes compared to 195,000 tonnes in 2012. The original finding, together with the reduced size of the market, has allowed the domestic industry to capture a larger share of the market.⁵⁴

43. Manufacturer's Exhibit D-05, tab 1 at 42, Administrative Record, Vol. 11C.

44. Tribunal Exhibit RR-2012-003-17.03A, Administrative Record Vol. 3A at 100.

45. Manufacturer's Exhibit A-02 (protected) at para. 57, Administrative Record, Vol. 12.

46. Manufacturer's Exhibit A-07, tab 11, Administrative Record, Vol. 11A.

47. *Ibid.*, tab 13.

48. *Ibid.*; Tribunal Exhibit RR-2012-003-35.01, Vol. 1A at 76.

49. Manufacturer's Exhibit A-07, tab 11, Administrative Record, Vol. 11A.

50. *Ibid.*, tab 13.

51. Tribunal Exhibit RR-2012-003-35.02, Administrative Record, Vol. 1A at 122, 124.

52. Manufacturer's Exhibit A-07, tab 13, Administrative Record, Vol. 11A.

53. *Ibid.*, tab 15.

54. *Staff Report*, 23 May 2013, Tribunal Exhibit RR-2012-003-05, Administrative Record, Vol. 1.1 at 34-36; Tribunal Exhibit RR-2012-003-10B, Administrative Record, Vol. 1.3A at 48, 50.

52. Second, in 2007, imports from China represented 38 percent of the Canadian CSWP market. During the POR, however, there were virtually no imports of the subject goods. Only 769 tonnes entered the Canadian CSWP market in 2011, representing less than half a percent of the market, and the subjectivity of those imports is currently being considered by the Tribunal.⁵⁵ However, imports of non-subject goods remained significant. From 2009 to 2012, China imported significant volumes of CSWP in NPSs larger than 6 inches—piling pipe not covered by this expiry review—and the Tribunal found, in November 2012, that this product was threatening to cause injury to the domestic industry.⁵⁶

53. Third, imports of CSWP from new offshore sources have been entering the Canadian market in significant volumes and at aggressively low prices. In 2011, sales of imports from non-subject countries, excluding the United States, were as high as 72,000 tonnes and captured 40 percent of domestic market share.⁵⁷ In December 2012, the Tribunal issued an injury finding against such imports from Chinese Taipei, the Republic of India, the Sultanate of Oman, the Republic of Korea, Thailand and the United Arab Emirates.⁵⁸ Following that finding, importers began sourcing CSWP from other low-cost producers in Malaysia, the Philippines, Vietnam and Turkey.⁵⁹

Likely Volumes of Dumped and Subsidized Goods

54. Paragraph 37.2(2)(a) of the *Regulations* directs the Tribunal to consider the likely volume of the dumped or subsidized goods if the finding is allowed to expire, and, in particular, whether there is likely to be a significant increase in the volume of imports of the dumped or subsidized goods, either in absolute terms or relative to the production or consumption of like goods.

55. The Tribunal's assessment of the likely volumes of dumped and subsidized imports encompasses the likely performance of the foreign industry, the potential for foreign producers to produce goods in facilities that are currently used to produce other goods, evidence of the imposition of anti-dumping and/or countervailing measures in other jurisdictions, and whether measures adopted by other jurisdictions are likely to cause a diversion of the subject goods to Canada.⁶⁰

56. The domestic producers submitted that substantial volumes of the subject goods will enter Canada in the near term if the finding is allowed to expire. They submitted that China has very high production volumes and substantial excess capacity, decelerating domestic growth and high levels of exports.⁶¹

55. *Staff Report*, 23 May 2013, Tribunal Exhibit RR-2012-003-05, Administrative Record, Vol. 1.1 at 34; Appeal Nos. AP-2012-047 and AP-2012-048 (decisions pending).

56. *Steel Piling Pipe* (30 November 2012), NQ-2012-002 (CITT).

57. *Staff Report*, 23 May 2013, Tribunal Exhibit RR-2012-003-05, Administrative Record, Vol. 1.1 at 34, 36.

58. *Carbon Steel Welded Pipe* (11 December 2012), NQ-2012-003 (CITT).

59. Manufacturer's Exhibit A-01 at paras. 125-27, Administrative Record, Vol. 11; Manufacturer's Exhibit D-01 at paras. 20-22, Administrative Record, Vol. 11C; *Transcript of Public Hearing*, 24 June 2013, at 14, 23, 41, 53.

60. Paragraphs 37.2(2)(a), (d), (f), (h) and (i) of the *Regulations*.

61. *Transcript of Public Hearing*, 24 June 2013, at 78; Manufacturer's Exhibit A-01 at paras. 52, 57-59, 61-62, 87, 109-17, Administrative Record, Vol. 11; Manufacturer's Exhibit A-02 (protected) at paras. 48-55, 57, 61, 111, Administrative Record, Vol. 12; Manufacturer's Exhibit A-03 at paras. 52, 57-59, 61-63, Administrative Record, Vol. 11; Manufacturer's Exhibit A-07, tabs 4-7, 9-10, 17, 18 at 12, 19-20, Administrative Record, Vol. 11A; Manufacturer's Exhibit A-08 (protected), tab 37 at 7, tab 38 at 8, 21, 73, Administrative Record, Vol. 2.01G; Tribunal Exhibit RR-2012-003-17.03A, Administrative Record, Vol. 3A at 100; Tribunal Exhibit RR-2012-003-17.03A, Administrative Record, Vol. 3B at 165.

57. A witness for the domestic industry submitted that "... Chinese product would dominate the Canadian market . . . in a very short period of time"⁶² if the finding is allowed to expire, especially given the soft market conditions in China, the current and expected low selling prices of the Chinese producers in 2013 and 2014, declines in fixed investment and construction, and government influence over the Chinese pipe and tube sector.⁶³

58. The Tribunal notes that data specific to CSWP, as defined in this expiry review, are scarce with respect to China. However, as CSWP is generally produced on ERW mill equipment that can also manufacture pipe and tubular products, China's production and capacity of the subject goods can be estimated from data available for the pipe and tube industry, in general, and more specifically for ERW pipe.⁶⁴

59. As mentioned earlier, China is the world's largest country with respect to the production of steel pipe and tube. The Tribunal observes that China's overall capacity, excess capacity and continued capacity additions are very large in relation to the Canadian market.⁶⁵ Available data for the Chinese pipe and tube industry indicate that China's capacity utilization was estimated at 75 percent in 2011 and 86 percent in 2012.⁶⁶ In addition, the record shows that Chinese steel companies continue to invest in new capacity even though debt is rising and losses are increasing.⁶⁷ It is undisputed across industry and government sources from around the world that China will continue to overproduce in the coming years.⁶⁸ Furthermore, the CBSA determined that there was indeed a huge surplus of ERW pipe that could be directed to markets that are open to dumped and subsidized products and that additional welded pipe capacity was planned for 2012.⁶⁹ There is also evidence on the record of further additional welded pipe capacity forecast for 2013.⁷⁰

60. With respect to CSWP, evidence on the record indicates that the Chinese industry's capacity to produce CSWP can be conservatively estimated at a minimum of 2.35 million tonnes or 12 times the size of the total apparent Canadian market of approximately 200,000 tonnes. Estimates also show that apparent Chinese CSWP production exceeded domestic consumption by over 170,000 tonnes, leaving over 180,000 tonnes for the export markets (an amount almost equal to the size of the total apparent Canadian market).⁷¹

62. *Transcript of Public Hearing*, 24 June 2013, at 52.

63. Manufacturer's Exhibit A-01 at paras. 35, 78, 87-97, Administrative Record, Vol. 11; Manufacturer's Exhibit A-02 (protected) at paras. 83, 129-33, Administrative Record, Vol. 12; Manufacturer's Exhibit A-07, tab 1 at 23-24, tabs 6, 20, 21, Administrative Record, Vol. 11A; Manufacturer's Exhibit A-07, tab 31, Administrative Record, Vol. 11B; Manufacturer's Exhibit A-08 (protected), tab 38 at 6, Administrative Record, Vol. 2.01G; Manufacturer's Exhibit C-04 (protected) at para. 7, Administrative Record, Vol. 12; Tribunal Exhibit RR-2012-003-18.03D (protected) at para. 7, Administrative Record, Vol. 4A at 63-64.

64. Tribunal Exhibit RR-2012-003-03A, Administrative Record, Vol. 1A at 20, 22; Manufacturer's Exhibit A-01 at paras. 47, 60, 112, Administrative Record, Vol. 11; Manufacturer's Exhibit A-03 at para. 41, Administrative Record, Vol. 11.

65. *Staff Report*, 23 May 2013, Tribunal Exhibit RR-2012-003-05, Administrative Record, Vol. 1.1 at 34.

66. Manufacturer's Exhibit A-01 at para. 50, Administrative Record, Vol. 11; Tribunal Exhibit RR-2012-003-03A, Administrative Record, Vol. 1A at 15.

67. Manufacturer's Exhibit A-01 at paras. 54, 78, 103-105, Administrative Record, Vol. 11; Manufacturer's Exhibit A-08 (protected), tab 37, tab 38 at 6-7, Administrative Record, Vol. 2.01G.

68. Manufacturer's Exhibit A-01 at paras. 107-108, Administrative Record, Vol. 11; Manufacturer's Exhibit A-07, tab 1 at 8, Administrative Record, Vol. 11A.

69. Tribunal Exhibit RR-2012-003-03A, Administrative Record, Vol. 1A at 52, 53; *Transcript of Public Hearing*, 24 June 2013, at 99-100.

70. Manufacturer's Exhibit A-02 (protected) at paras. 48-50, Administrative Record, Vol. 12.

71. *Staff Report*, 23 May 2013, Tribunal Exhibit RR-2012-003-05, Administrative Record, Vol. 1.1 at 34; Manufacturer's Exhibit A-01 at paras. 52-63, Administrative Record, Vol. 11; Manufacturer's Exhibit A-02 (protected) at paras. 54, 57, 61, Administrative Record, Vol. 12; Manufacturer's Exhibit A-03 at para. 57, Administrative Record, Vol. 11; Tribunal Exhibit RR-2012-003-03A, Administrative Record, Vol. 1A at 52, 53.

61. Chinese overproduction is heavily influenced by the active role that the Government of China plays in the development and management of the Chinese steel industry. In this respect, the evidence indicates that the Government of China's steel policies encourage sustained overproduction and overcapacity and that profit maximization is not a primary goal.

62. In fact, Chinese steel policies mean that producers can and do operate at significant losses, and do not base their production decisions on usual business considerations.⁷² For example, the Tribunal heard that, in April 2013, the price of hot-rolled coil in the Chinese domestic market exceeded the price of pipe by almost CAN\$75 per tonne, making the raw materials more expensive than the finished product.⁷³ This supports the observation made by the Tribunal in Expiry Review No. RR-2010-001⁷⁴ where it found that there was a production imperative in the steel industry and that Chinese mills had a tendency to maintain output, irrespective of the price of the final goods or the profits made.

63. Chinese government policies encourage high levels of exports as well. Some reports suggest that an export tax rebate as high as 17 percent for steel products is being considered.⁷⁵ Evidence on the record clearly demonstrates that Chinese producers are export-oriented. Overall, Chinese exports of steel pipe are at their highest level in more than three years. In this respect, China's exports of ERW pipe products reportedly increased by 67 percent from 2010 to 2012.⁷⁶ If only 10 percent of the volume reported for each year was CSWP, this would equal an amount approximately the size of the entire apparent Canadian market for CSWP in any given year.⁷⁷

64. Having found that the Chinese pipe and tube sector has immense capacity and production levels, as well as substantial excess capacity that could be used to produce the subject goods, and that there are significant quantities of exports of ERW pipe and tube that could be diverted to Canada, the Tribunal will now assess the likely import volumes of dumped and subsidized CSWP from China and consider whether there would be a significant increase in the volume of the subject goods exported to Canada if the finding is allowed to expire.

65. The Tribunal notes that the Chinese economy has been slowing down, a trend that is forecast to continue.⁷⁸ This slowdown and the resulting impact on Chinese producers, which are faced with overcapacity and lower domestic demand for steel pipe, will likely incent Chinese producers to sell their products, including CSWP, aggressively on foreign markets. The range of markets open to Chinese goods is however limited. Anti-dumping and countervailing duty orders or actions against Chinese products substitutable for, or made on the same equipment as, CSWP in the United States, Brazil and the European Union have virtually closed these markets to the subject goods.⁷⁹

72. Manufacturer's Exhibit A-01, at paras. 31, 65, Administrative Record, Vol. 11; Manufacturer's Exhibit A-07, tabs 3, 5, 9, Administrative Record, Vol. 11A; Manufacturer's Exhibit A-08 (protected), tab 38 at 72, Administrative Record, Vol. 2.01G.

73. *Transcript of Public Hearing*, 24 June 2013, at 76; Manufacturer's Exhibit A-09 (protected) at 7, Administrative Record, Vol. 2.01H. To calculate these prices, the Tribunal used the exchange rate of 6.072 RMB to CAN\$1. Manufacturer's Exhibit A-02 (protected) at paras. 129, 130, Administrative Record, Vol. 12; Manufacturer's Exhibit A-07, tab 31 at 1, Administrative Record, Vol. 11A.

74. *Flat Hot-rolled Carbon and Alloy Steel Sheet and Strip* (15 August 2011) (CITT) at para. 132.

75. Manufacturer's Exhibit A-08 (protected), tab 44 at 202, Administrative Record, Vol. 2.01G.

76. Manufacturer's Exhibit A-02 (protected) at para. 111, Administrative Record, Vol. 12; Manufacturer's Exhibit A-08 (protected), tab 38, Administrative Record, Vol. 2.01G.

77. *Staff Report*, 23 May 2013, Tribunal Exhibit RR-2012-003-05, Administrative Record, Vol. 1.1 at 34.

78. Tribunal Exhibit RR-2012-003-35.01, Administrative Record, Vol. 1A at 80, 81, 99.

79. *Staff Report*, 23 May 2013, Tribunal Exhibit RR-2012-003-05, Administrative Record, Vol. 1.1 at 12; Manufacturer's Exhibit A-01 at paras. 122-24, Administrative Record, Vol. 11; Manufacturer's Exhibit A-07, tab 30 at 1-22, Administrative Record, Vol. 11B.

66. Consequently, the restrictions imposed on Chinese exports and the resulting limited export opportunities contribute to the attractiveness of the Canadian market and increase the likelihood that Chinese producers will export significant volumes of dumped CSWP to Canada, both in absolute numbers and relative to domestic production, if the finding were allowed to expire. When these issues are considered alongside China's substantial excess capacity and clear pattern of aggressive exporting practices, the Tribunal is of the view that there is a significant danger of diversion of CSWP to Canada if the Tribunal allows the finding to expire.

67. Moreover, there are other factors that lead the Tribunal to conclude that the expiry of the finding will likely result in a significant increase in the volume of imports of the subject goods into Canada.

68. First, the Tribunal considered the recent behaviour of Chinese exporters of goods similar to CSWP in the Canadian market. In a recent inquiry covering certain steel piling pipe, the Tribunal found that imports of those goods from China had increased more than threefold relative to domestic production of the like goods between 2009 and 2011, a period during which steel piling pipe was not restrained by the imposition of final anti-dumping and countervailing measures.⁸⁰ With respect to CSWP, the evidence on the record shows that, in 2012, Chinese exporters had permits to export over 106,000 tonnes of CSWP to Canada.⁸¹ Although these data include CSWP outside the size ranges covered in this expiry review, they nonetheless provide clear evidence of China's willingness and ability to export to Canada CSWP in NPSs larger than 6 inches in diameter and provide a clear indication of the volume of the subject goods that can be expected in the Canadian market if the finding is allowed to expire.

69. Second, the price of the like goods in Canada is a factor that would influence the likely volume of imports of the subject goods. The evidence on the record indicates that prices of CSWP in North America are generally the highest in the world and much higher than Chinese home market prices.⁸² Given that Canadian prices track North American prices, Canada would be a very attractive market for the subject goods if the finding were allowed to expire, especially in light of the finding in place in the United States.

70. Third, Chinese exporters are facing increased competition from neighbouring countries, such as India, Chinese Taipei and the Philippines. Producers in these countries are increasing their own production capacity and are themselves exporting more steel to markets at close proximity, as well as to North America and other markets, thus increasing competition and limiting the opportunities for Chinese exporters.⁸³

71. Therefore, the Tribunal agrees with the domestic producers that it is reasonable to expect that volumes of the subject goods will increase and that Chinese exports will quickly regain substantial market share if the finding is allowed to expire. In addition to the factors already considered by the Tribunal, the evidence shows that the subject goods held 39 percent of Canadian market share in 2008⁸⁴ and that there is an ongoing presence of well-established distribution networks used by Chinese exporters in the Canadian market, which would allow for easy access to the Canadian market.

80. *Steel Piling Pipe* (30 November 2012), NQ-2012-002 (CITT) at para. 230.

81. Manufacturer's Exhibit A-05, tab 5 at 1-2, Administrative Record, Vol. 11.

82. Manufacturer's Exhibit A-02 (protected) at para. 83, Administrative Record, Vol. 12; *Protected Staff Report*, 23 May 2013, Tribunal Exhibit RR-2012-003-06 (protected), Administrative Record, Vol. 2.1 at 40; Manufacturer's Exhibit A-07, tab 6, Administrative Record, Vol. 11A. Data converted to Canadian currency using Bank of Canada exchange rate for April 2013.

83. Manufacturer's Exhibit A-01 at paras. 98-102, Administrative Record, Vol. 11; Manufacturer's Exhibit A-05, tab 5 at 1, Administrative Record, Vol. 11; Manufacturer's Exhibit A-07, tab 22, tab 23 at 2, tab 24 at 1, Administrative Record, Vol. 11A; Manufacturer's Exhibit A-07, tab 28 at 22, Administrative Record, Vol. 11B.

84. Tribunal Exhibit RR-2012-003-10B, Administrative Record, Vol. 1.3A at 50.

72. In summary, the Tribunal is of the view that Chinese producers have a continuing interest in the Canadian market, as demonstrated by the continuing presence of significant quantities of non-subject CSWP in the marketplace, the significant excess capacity in the ERW pipe and tubular products industry in China, the relatively higher prices of CSWP in the Canadian market, the ability of Chinese exporters to respond to increases in Canadian demand for CSWP, the findings in other jurisdictions that would likely prompt the diversion of exports of the subject goods to Canada and an existing well-established distribution network for the subject goods in Canada. Accordingly, the Tribunal finds that there is likely to be a significant increase in the volume of imports of the subject goods in the near to medium term if the finding is allowed to expire.

Likely Prices of Dumped and Subsidized Goods and the Effects on the Prices of Like Goods

73. The Tribunal must consider, if the finding is allowed to expire, whether the dumping and/or subsidizing of the subject goods is likely to significantly undercut the prices of the like goods, depress those prices or suppress them by preventing increases in those prices that would likely have otherwise occurred.⁸⁵

74. The domestic producers argued that it is reasonable to expect that there will be significant price undercutting if the finding is allowed to expire and that this undercutting will both depress and suppress domestic price levels, given the history of Chinese CSWP prices being significantly lower than those in other markets.

75. The domestic producers further submitted that Chinese producers are selling CSWP at or below the competitive market price, as well as below cost, in their home market. It is therefore reasonable to infer that Chinese producers will sell at the same low price levels, or even lower, in export markets. The domestic producers submitted that China would likely sell CSWP into the Canadian market at prices at least \$100 per tonne below Canadian market prices.⁸⁶ In fact, their estimates showed that prices of CSWP from China would likely be more than \$100 per tonnes below Canadian market prices.⁸⁷

76. New entrants in the Canadian market are another factor impacting price. The domestic producers submitted that, after the original finding in 2008, source switching was evident and the influx of low-cost CSWP from countries such as Malaysia, the Philippines and Vietnam, among others, suppressed prices in the Canadian market.⁸⁸

77. Finally, the domestic producers submitted that Chinese exporters are now selling seamless pipe as a substitute for pipe used in fence applications because of the restrictions imposed on CSWP as a result of the current finding. They submitted that seamless pipe from China is sold in the Canadian market at prices below the domestic price for welded fence pipe, even though it is generally much more costly than CSWP and is usually used in critical, higher-cost applications. The domestic producers argued that Chinese exporters' willingness to substitute a product with a significantly higher value in commodity fence pipe

85. Paragraph 37.2(2)(b) of the *Regulations*.

86. *Transcript of Public Hearing*, 24 June 2013, at 19-20, 82-85.

87. Manufacturer's Exhibit A-02 (protected) at paras. 63-64, 129-33, 139-52, Administrative Record, Vol. 12; *Protected Staff Report*, 23 May 2013, Tribunal Exhibit RR-2012-003-06 (protected), Administrative Record, Vol. 2.1 at 40; Manufacturer's Exhibit A-05, tab 5 at 1, Administrative Record, Vol. 11; Manufacturer's Exhibit A-06 (protected), tab 6 at 6, Administrative Record, Vol. 12.

88. *Transcript of Public Hearing*, 24 June 2013, at 14, 23, 41, 53; Manufacturer's Exhibit A-01 at paras. 127, 137, 139, Administrative Record, Vol. 11; Manufacturer's Exhibit A-07, tab 24, Administrative Record, Vol. 11A; Manufacturer's Exhibit A-07, tab 28 at 20-24, Administrative Record, Vol. 11B; Manufacturer's Exhibit C-03 at para. 18, Administrative Record, Vol. 11C.

applications, and still undercut Canadian CSWP prices, demonstrates the seriousness of the threat posed to the domestic industry if the finding is allowed to expire.⁸⁹

78. The Tribunal has consistently found that CSWP is a commodity product and that price is an important factor when purchasing CSWP.⁹⁰ The Tribunal sees no reason to depart from its previous conclusion that this product trades largely on the basis of price.

79. The Tribunal observes that the near absence of imports from China during the POR indicates that Chinese producers are unable to compete in the Canadian market at non-dumped and non-subsidized prices. Given that there were essentially no imports of the subject goods during the POR, the Tribunal looked to other factors to determine whether the subject goods are likely to significantly undercut, depress or suppress the prices of the like goods, if the finding is allowed to expire.

80. First, the Tribunal considered the presence in the Canadian market of imports of CSWP from offshore sources. The record shows that, during the POR, the average unit selling value of imports from sources other than the United States were consistently lower than the average prices of the like goods. Evidence on the record shows that, during the POR, imports from new source countries, such as India, Korea, Chinese Taipei and Turkey, were offered at extremely low prices in the Canadian market, thereby suppressing prices of domestically produced CSWP and prices in the Canadian CSWP market.⁹¹ Specifically, during the POR, imports of CSWP from eight non-subject countries were sold in the Canadian market at average unit prices that were lower than the average unit selling prices of domestically produced CSWP.⁹²

81. Second, the Tribunal examined the presence of imports from offshore sources at specific accounts. The evidence on the record indicates that, since the beginning of 2013, domestic producers have had to lower their prices in order to compete with low-priced imports from new offshore sources, such as Vietnam, the Philippines and Turkey. However, in some instances, the domestic producers were unable to match these low-priced imports and lost the business.⁹³

82. Third, the Tribunal analyzed the import permit data on the record for total imports of CSWP. In 2011 and 2012, the unit value for duty of all CSWP, including CSWP originating in China with NPSs outside the product definition, was the lowest reported. For the time period from January to May 2013,

89. Manufacturer's Exhibit A-01 at paras. 157-61, Administrative Record, Vol. 11; Manufacturer's Exhibit C-04 (protected) at paras. 27-28, Administrative Record, Vol. 12.

90. *Carbon Steel Welded Pipe* (11 December 2012), NQ-2012-003 (CITT) at paras. 61-62, 99.

91. *Protected Staff Report*, 23 May 2013, Tribunal Exhibit RR-2012-003-06 (protected), Administrative Record, Vol. 2.1 at 40.

92. Tribunal Exhibit RR-2012-003-21.01 (protected), Administrative Record, Vol. 6 at 13; Tribunal Exhibit RR-2012-003-21.02A (protected), Administrative Record, Vol. 6 at 182; Tribunal Exhibit RR-2012-003-24.01 (protected), Administrative Record, Vol. 6.1 at 6; Tribunal Exhibit RR-2012-003-24.02A (protected), Administrative Record, Vol. 6.1 at 26, 27; Tribunal Exhibit RR-2012-003-24.03A (protected), Administrative Record, Vol. 6.1 at 50; Tribunal Exhibit RR-2012-003-24.04 (protected), Administrative Record, Vol. 6.1 at 62, 63; Tribunal Exhibit RR-2012-003-24.05 (protected), Administrative Record, Vol. 6.1 at 72; Tribunal Exhibit RR-2012-003-21.11 (protected), Administrative Record, Vol. 6A at 79; Tribunal Exhibit RR-2012-003-24.06 (protected), Administrative Record, Vol. 6.1 at 90, 91; Tribunal Exhibit RR-2012-003-21.06A (protected), Administrative Record, Vol. 6A at 13.

93. Manufacturer's Exhibit A-06 (protected) at paras. 11-26, Administrative Record, Vol. 12; Manufacturer's Exhibit C-04 (protected) at paras. 24-28, Administrative Record, Vol. 12.

Malaysia and the Philippines reported the lowest unit values for duty, followed closely by China.⁹⁴ The Tribunal is of the view that, if the finding is allowed to expire, Chinese exporters will engage in similar pricing behaviour with respect to the subject goods in order to address the excess capacity and production that exists in the Chinese market and will compete with low-priced CSWP from various offshore sources, including Malaysia, the Philippines and Turkey.

83. Therefore, given the commodity nature of CSWP, the Tribunal is persuaded that, if the subject goods were to re-enter the Canadian market, they will likely compete with low-priced imports and most certainly meet, if not be lower than, the low prices of imports from new offshore sources. The record of this inquiry, as well as past Tribunal cases involving CSWP, clearly demonstrates that purchasers seek out the lowest-priced goods. If the subject goods were to re-enter Canada, Chinese exporters would likely exert further downward pressure on the price of the domestically produced like goods.

Price Undercutting and Price Depression

84. Generally speaking, Chinese prices are very low in the global market. Even when considering shipping rates to Canada, the estimated selling price of Chinese CSWP would likely be significantly less than the selling price of like goods in the Canadian market. Estimates derived from the April 2013 edition of *MBR* suggest that the subject goods could be sold in the Canadian market at a price that is 30 percent lower than the average selling price of domestically produced goods—approximately \$850 per tonne as opposed to \$1,176 per tonne.⁹⁵

85. The evidence is clear that low-priced imports from non-subject countries have been exerting downward pressure on Canadian prices. The domestic producers provided examples of low-priced competition at specific Canadian accounts. As noted above, in 2013, low-priced CSWP imported from Turkey and the Philippines was offered to Nova Tube's customers. A comparison of Nova Tube's unit selling prices to those of offshore sources reveals significant price undercutting with respect to imports of black CSWP and an even more severe price undercutting with respect to galvanized CSWP. At some accounts, the price undercutting observed surpassed \$400 per tonne. A witness for Nova Tube stated that, in some instances, in order to secure the business, the company had to reduce its unit selling prices by more than \$300 per tonne. In other instances, Nova Tube lost the business to low-priced imported CSWP from Turkey and the Philippines.⁹⁶

86. Further to the domestic industry's submissions that seamless pipe is being sold in the Canadian market at prices below the domestic price for welded fence pipe, the witness for Bolton Steel testified that, in the first and second quarters of 2013, the company experienced import competition from Vietnamese CSWP that was priced significantly lower than its selling price. Bolton Steel also suffered price undercutting from Chinese seamless pipe; however, the price differential between its selling price and the Chinese selling price was double that observed when comparing it to the Vietnamese selling price.⁹⁷

94. Manufacturer's Exhibit A-05, tab 5, Administrative Record, Vol. 11.

95. Manufacturer's Exhibit A-02 (protected) at paras. 63-64, 149-50, Administrative Record, Vol. 12; Manufacturer's Exhibit A-08 (protected), tab 38 at 73, Administrative Record, Vol. 2.01G; Manufacturer's Exhibit A-07, tab 6, Administrative Record, Vol. 11A; Manufacturer's Exhibit A-06 (protected), tab 6 at 6, Administrative Record, Vol. 12; *Staff Report*, 23 May 2013, Tribunal Exhibit RR-2012-003-05, Administrative Record, Vol. 1.1 at 23.

96. Manufacturer's Exhibit A-06 (protected) at paras. 11-26, Administrative Record, Vol. 12.

97. Manufacturer's Exhibit C-04 (protected) at paras. 24-28, tabs 2, 3, Administrative Record, Vol. 12.

Price Suppression

87. An analysis of the consolidated income statement and the statement of the consolidated cost of goods manufactured for domestic sales shows that, for the domestic industry as a whole, the cost of goods manufactured, on a dollar-per-tonne basis, increased every year over the POR. It increased by 4 percent in 2011, by 1 percent in 2012 and by 4 percent in the first quarter of 2013 compared to the first quarter of 2012. In comparison, the average net sales value on a dollar-per-tonne basis increased by less than 1 percent in 2011, decreased marginally in 2012 and increased by 3 percent in the first quarter of 2013 compared to the first quarter of 2012. As such, the domestic industry was unable to recover increases in its cost of goods manufactured in any period of the POR.⁹⁸

88. Confirming the analysis of the financial data, the record also shows that average unit net delivered selling prices in the Canadian market have essentially “flat-lined”, increasing by only 1 to 3 percent during the POR. The evidence shows that the domestic producers have not been able to increase prices because of pressure from low-priced imports. In the first quarter of 2013, the market table indicates that the average unit selling price of imports from non-subject countries, excluding the United States, was 10 percent lower than the average unit selling prices of domestically produced goods.⁹⁹ However, the Tribunal agrees with the domestic producers that a more representative comparison of prices is the average unit purchase value of imports from non-subject countries, excluding the United States, compared to the average unit delivered selling prices of domestic producers, because most sales are at the distributor level and most importers are distributors. Using this comparison, in the first quarter of 2013, the average unit purchase value of imports was approximately 14 percent lower than the average unit selling price of domestically produced goods.¹⁰⁰

89. During the POR, the low-priced imports from new entrants into the market appear to be the main source of price competition. In this respect, the Tribunal heard testimony that source “shifting” and the influx of low-priced imports from new non-subject countries have “suppressed Canadian prices”.¹⁰¹

90. Therefore, the Tribunal is of the view that, if given the opportunity to sell in Canada, Chinese exporters will price aggressively. In particular, if the finding is allowed to expire, Chinese producers will match or beat the lowest selling prices in the Canadian market in an effort to gain back the market share that they held prior to the 2008 finding.

91. On the basis of the above, the Tribunal concludes that, if the finding is allowed to expire, it is more than likely that the lowest-priced goods in the Canadian market will be from China, given its history of aggressive pricing, government support and the fact that profit maximization is not the primary concern of Chinese mills. As such, imports of the subject goods would enter Canada at prices that would significantly undercut the prices of the like goods, thereby causing price depression, and significantly suppress these prices by preventing price increases that would have otherwise occurred.

98. *Staff Report*, 23 May 2013, Tribunal Exhibit RR-2012-003-05, Administrative Record, Vol. 1.1 at 51, 54.

99. *Ibid.* at 40.

100. *Transcript of Public Hearing*, 24 June 2013, at 114-15; *Staff Report*, 23 May 2013, Tribunal Exhibit RR-2012-003-05, Administrative Record, Vol. 1.1 at 32, 42, 68, 70; *Protected Staff Report*, 23 May 2013, Tribunal Exhibit RR-2012-003-06 (protected), Administrative Record, Vol. 2.1 at 42.

101. Manufacturer’s Exhibit D-03 at para. 9, Administrative Record, Vol. 11C.

Likely Performance of the Domestic Industry and Likely Impact of the Dumped and Subsidized Goods on the Domestic Industry

92. The Tribunal will next turn to an assessment of the likely impact of the above volumes and prices on the domestic industry if the finding is allowed to expire, taking into consideration the likely performance of the domestic industry.¹⁰²

93. The domestic producers stated that, if the finding is allowed to expire, the domestic industry would experience material injury to its production, sales, market share, profits, productivity, return on investment, capacity utilization, cash flow, employment, growth and ability to raise capital.¹⁰³ They argued that, even with the finding in place, the domestic industry has faced continued challenges, including the global recession and the increasing volumes of low-priced imports of CSWP from new offshore countries.

94. The domestic producers argued that Chinese exporters would likely resume selling CSWP at very low prices in order to compete with the low prices of non-subject imports. As noted above, given that CSWP is a commodity product, even a small price decline would have a significant negative effect on the domestic industry in current market conditions, as well as market conditions that are expected in the near term. For example, it was submitted that a decline of \$50 per tonne of the domestic industry's net sales value in 2012 would have led to a net loss before taxes of \$6 million dollars; which is more than \$3 million greater than the actual loss incurred by the domestic industry that year.¹⁰⁴

95. A witness for Nova Tube testified that the steel business is very capital intensive and that investments are required on a continuous basis in order to sustain and improve steel manufacturing operations, as well as to enhance the ability to compete. In order to sustain such investments, Nova Tube must operate profitably in Canada; however, the presence of dumped and subsidized CSWP in the Canadian market would pose a threat to its ability to continue making necessary investments.¹⁰⁵

96. In considering the likely performance of the domestic industry and the likely impact of the dumped and subsidized goods on the domestic industry, the Tribunal took into account relevant economic factors, including any potential decline in output, sales, market share, utilization of production capacity and profits.

97. The Tribunal is of the view that, to date, the finding has had its intended effect, as imports of the subject goods have effectively stopped and the domestic industry has slowly been able to recover with respect to certain factors, albeit to a limited degree.¹⁰⁶

98. In assessing the likely impact of the subject goods if the finding is allowed to expire, the Tribunal began by examining the recent performance of the domestic industry. Between 2010 and 2012, domestic production of the like goods increased by 27 percent, and sales of the like goods increased by close to 9 percent. When comparing the first quarter of 2013 to the first quarter of 2012, the Tribunal observes that domestic production of the like goods increased by 11 percent and that domestic sales of the like goods increased by 17 percent.¹⁰⁷

102. See paragraphs 37.2(2)(c), (e) and (g) of the *Regulations*.

103. Manufacturer's Exhibit A-01 at para. 171, Administrative Record, Vol. 11.

104. *Ibid.* at para. 162; *Staff Report*, 23 May 2013, Tribunal Exhibit RR-2012-003-05, Administrative Record, Vol. 1.1 at 51.

105. Manufacturer's Exhibit A-04 (protected) at paras. 80-81, Administrative Record, Vol. 12.

106. *Staff Report*, 23 May 2013, Tribunal Exhibit RR-2012-003-05, Administrative Record, Vol. 1.1 at 25, 26, 34, 36, 40, 62.

107. *Ibid.* at 25, 34, 35.

99. The domestic industry increased its practical plant capacity in 2012 by 4 percent. Given this capacity increase and, notwithstanding the increased production over the POR, the domestic industry was only able to maintain a capacity utilization rate for the like goods that ranged between 9 and 11 percent over the POR.¹⁰⁸

100. In terms of market share, the domestic industry captured 47 percent of the apparent Canadian market in the first quarter of 2013, an increase of 13 percentage points from 2010.¹⁰⁹

101. Notwithstanding the increases noted in the above factors, an examination of the domestic industry's financial results for domestic sales shows that the consolidated gross margin and net income of the domestic industry, at both the aggregate and unit levels, decreased significantly over the POR.¹¹⁰

102. The evidence shows that, despite the finding that is currently in place, the domestic industry is still vulnerable and operated at a loss over the POR. This inability to make a profit is largely due to pressure from low-priced imports from non-subject countries.

103. As previously noted, if the finding is allowed to expire, the volume of imports of the subject goods from China is expected to be very high, saturating the Canadian market, as was the case before 2008. In the Tribunal's view, this is a reasonable projection, given the massive overcapacity issue in China's steel industry, the export orientation of Chinese producers, the fact that Canadian prices are among the highest in the world and the presence of anti-dumping and countervailing measures in other key markets. Prices of the subject goods will be low relative to domestic prices. These expected volumes and low prices will undoubtedly result in lost sales and lost market share for domestic producers.

104. In turn, this reduced demand for domestically produced goods would likely lead to a decline in production and capacity utilization rates. Furthermore, the likely price effects will result in declining gross margin and net income for the domestic industry. Indeed, should the finding be allowed to expire, the Tribunal heard testimony that imports of Chinese CSWP would compete with imports of CSWP from non-subject countries, at prices of at least \$75 per tonne lower.¹¹¹ The evidence on the record shows that no Canadian producer can offer prices as low as the distributors of CSWP imported from China.¹¹² Since the domestic industry is already struggling to compete with current low-priced imports from non-subject countries, the situation will only intensify with the presence of Chinese CSWP, if the finding is allowed to expire.

105. As previously mentioned, the domestic industry has been operating at increasing losses with its gross margin and net income deteriorating over the POR. A witness during the hearing testified that margins are always under pressure in the pipe business.¹¹³ With the deteriorating financial performance of the domestic industry, the Tribunal is of the view that, should the finding be allowed to expire, the declining trend of the gross margin and the net loss is expected to continue and even worsen.

106. Given the above, the domestic industry will almost certainly suffer from significant and serious material injury to the extent that some domestic producers admitted that they may be forced to cease production altogether. The witness for Bolton Steel Tube indicated that, if Chinese CSWP is allowed to

108. *Ibid.* at 62.

109. *Ibid.* at 36.

110. *Ibid.* at 51.

111. *Transcript of Public Hearing*, 24 June 2013, at 23-24, 31; *Transcript of In Camera Hearing*, 24 June 2013, at 3-5.

112. Manufacturer's Exhibit G-03 at para. 29, Administrative Record, Vol. 11C.

113. *Transcript of Public Hearing*, 24 June 2013, at 14.

enter the Canadian market, the company will not be able to operate profitably in 2013 and 2014.¹¹⁴ The witness for DFI submitted that domestic producers cannot rationally continue to manufacture CSWP if dumped and subsidized goods from China enter the Canadian market, as they would not be able to sell above their production costs.¹¹⁵

107. In summary, the Tribunal is of the view that, if the finding is allowed to expire, the likely impact of the dumped and subsidized subject goods on the domestic industry will be material and immediate. The Tribunal has no doubt that the impact of the increased volume of the subject goods, at prices that will likely undercut, depress and suppress those of the like goods, will result in a decline in the domestic industry's sales, apparent market share, production, gross margin, net income, profits, return on investment and capacity utilization.

Factors Other Than the Dumping or Subsidizing

108. Pursuant to paragraph 37.2(2)(k) of the *Regulations*, the Tribunal may consider any other factors that are relevant in the circumstances. Accordingly, the Tribunal reviewed certain factors unrelated to dumping or subsidizing that could adversely affect the domestic industry.

109. The Tribunal heard testimony and there is evidence on the record which suggests that imports from countries other than China negatively affected the domestic industry during the POR. During the POR, imports of CSWP from non-subject countries were consistently sold in the Canadian market below the average unit selling value of the domestic industry.¹¹⁶

110. At the hearing, a witness for Nova Tube testified that the domestic market for CSWP had been under attack from imports and that countries such as the Philippines and Malaysia were becoming very aggressive in the Canadian market.¹¹⁷ The witness for Bolton Steel Tube added that these new entrants were shipping to Canada at prices that are below the domestic producers' pricing.¹¹⁸

111. The Tribunal recognizes that the domestic industry may have experienced, and may continue to experience in the near to medium term, competition and injury as a result of low-priced imports from non-subject countries. However, it does not consider that this injury eliminates the potential injury attributable to the likely volume and prices of dumped and subsidized goods that will enter the Canadian market if the finding is rescinded.

CONCLUSION

112. In conclusion, on the basis of its review of the evidence on the record and taking into account the arguments put forth by the domestic industry, the Tribunal finds that to allow the expiry of the current finding will likely result in a significant increase in imports of the subject goods at prices that could be expected to significantly undercut, depress and suppress those of the like goods, thereby causing material injury to the domestic industry.

114. *Ibid.* at 40; *Transcript of In Camera Hearing*, 24 June 2013, at 8-9; Manufacturer's Exhibit C-03 at para. 57, Administrative Record, Vol. 11C; Manufacturer's Exhibit C-04 (protected) at para. 57, Administrative Record, Vol. 12.

115. Manufacturer's Exhibit G-03 at para. 24, Administrative Record, Vol. 11C.

116. *Protected Staff Report*, 23 May 2013, Tribunal Exhibit RR-2012-003-06 (protected), Administrative Record, Vol. 2.1 at 32, 40, 42.

117. *Transcript of Public Hearing*, 24 June 2013, at 14.

118. *Ibid.* at 41.

113. On the basis of the foregoing analysis, and pursuant to paragraph 76.03(12)(b) of *SIMA*, the Tribunal hereby continues its finding in respect of CSWP originating in or exported from China.

Serge Fréchette
Serge Fréchette
Presiding Member

Stephen A. Leach
Stephen A. Leach
Member

Ann Penner
Ann Penner
Member