



Canadian International
Trade Tribunal

Tribunal canadien du
commerce extérieur

CANADIAN
INTERNATIONAL
TRADE TRIBUNAL

Dumping and Subsidizing

DETERMINATION AND REASONS

Preliminary Injury Inquiry
No. PI-2017-001

Carbon and Alloy Steel Line Pipe

*Determination issued
Tuesday, August 8, 2017*

*Reasons issued
Wednesday, August 23, 2017*

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IN THE MATTER OF a preliminary injury inquiry, pursuant to subsection 34(2) of the *Special Import Measures Act*, respecting:

CARBON AND ALLOY STEEL LINE PIPE

PRELIMINARY DETERMINATION OF INJURY

The Canadian International Trade Tribunal, pursuant to the provisions of subsection 34(2) of the *Special Import Measures Act*, has conducted a preliminary injury inquiry into whether the evidence discloses a reasonable indication that the alleged injurious dumping of carbon and alloy steel line pipe originating in or exported from the Republic of Korea has caused injury or retardation or is threatening to cause injury to the domestic industry.

The goods subject to this preliminary injury inquiry are defined as follows:

Carbon and alloy steel line pipe originating in or exported from the Republic of Korea, welded or seamless, having a nominal outside diameter from 2.375 inches (60.3 mm) up to and including 24 inches (610 mm) (with all dimensions being plus or minus allowable tolerances contained in the applicable standards), including line pipe meeting or supplied to meet any one or several of API 5L, CSA Z245.1, ISO 3183, ASTM A333, ASTM A106, ASTM A53-B or their equivalents, in all grades, whether or not meeting specifications for other end uses (e.g. single-, dual-, or multiple-certified, for use in oil and gas or other applications), and regardless of end finish (plain ends, beveled ends, threaded ends, or threaded and coupled ends), surface finish (coated or uncoated), wall thickness, or length, excluding galvanized line pipe and excluding stainless steel line pipe (containing 10.5 percent or more by weight of chromium), and excluding goods covered by the Canadian International Trade Tribunal's Finding in Inquiry No. NQ-2012-003.

For greater certainty, the product definition includes:

- a. unfinished line pipe (including pipe that may or may not already be tested, inspected, and/or certified to line pipe specifications) originating in the Republic of Korea and imported for use in the production or finishing of line pipe meeting final specifications, including outside diameter, grade, wall-thickness, length, end finish, or surface finish; and
- b. non-prime and secondary pipes ("limited service products").

This preliminary injury inquiry follows the notification, on June 8, 2017, that the President of the Canada Border Services Agency had initiated an investigation into the alleged injurious dumping of the above-mentioned goods.

Pursuant to subsection 37.1(1) of the *Special Import Measures Act*, the Canadian International Trade Tribunal hereby determines that there is evidence that discloses a reasonable indication that the dumping of the above-mentioned goods has caused or is threatening to cause injury to the domestic industry.

Jean Bédard, Q.C.
Jean Bédard, Q.C.
Presiding Member

Jason W. Downey
Jason W. Downey
Member

Rose Ritcey
Rose Ritcey
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The statement of reasons will be issued within 15 days.

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STATEMENT OF REASONS

INTRODUCTION

1. The purpose of this preliminary injury inquiry is to determine whether there is a reasonable indication that the dumping of carbon and alloy steel line pipe originating in or exported from the Republic of Korea has caused injury or is threatening to cause injury to the domestic industry.

2. This preliminary injury inquiry stems from a complaint filed by Evraz Inc. NA Canada and Canadian National Steel Corporation (collectively, Evraz) and the initiation of an investigation on June 8, 2017, by the President of the Canada Border Services Agency (CBSA), into the alleged injurious dumping of carbon and alloy steel line pipe originating from the Republic of Korea.

3. The goods subject to the investigation were defined as follows by the CBSA:¹

Carbon and alloy steel line pipe originating in or exported from the Republic of Korea, welded or seamless, having a nominal outside diameter from 2.375 inches (60.3 mm) up to and including 24 inches (610 mm) (with all dimensions being plus or minus allowable tolerances contained in the applicable standards), including line pipe meeting or supplied to meet any one or several of API 5L, CSA Z245.1, ISO 3183, ASTM A333, ASTM A106, ASTM A53-B or their equivalents, in all grades, whether or not meeting specifications for other end uses (e.g. single-, dual-, or multiple-certified, for use in oil and gas or other applications), and regardless of end finish (plain ends, beveled ends, threaded ends, or threaded and coupled ends), surface finish (coated or uncoated), wall thickness, or length, excluding galvanized line pipe and excluding stainless steel line pipe (containing 10.5 percent or more by weight of chromium), and excluding goods covered by the Canadian International Trade Tribunal's Finding in Inquiry No. NQ-2012-003.

For greater certainty, the product definition includes:

- a. unfinished line pipe (including pipe that may or may not already be tested, inspected, and/or certified to line pipe specifications) originating in the Republic of Korea and imported for use in the production or finishing of line pipe meeting final specifications, including outside diameter, grade, wall-thickness, length, end finish, or surface finish; and
- b. non-prime and secondary pipes ("limited service products").

4. The CBSA estimated that, from January 1, 2016, to December 31, 2016, the subject goods were dumped by a margin of dumping of 58.2 percent, expressed as a percentage of the export price. The CBSA estimated that the volume of imports of the subject goods was not negligible.²

5. As a result of the CBSA's decision to initiate an investigation, the Canadian International Trade Tribunal (the Tribunal) commenced this preliminary injury inquiry on June 9, 2017.

6. As will be further discussed below, Evraz's complaint and this inquiry follow closely after the Tribunal's Inquiry No. NQ-2015-002,³ which resulted in the Tribunal finding, in March 2016, that dumped

1. Exhibit PI-2017-001-05, Vol. 1G at 257.

2. *Ibid.* at 262, 265.

3. *Carbon and Alloy Steel Line Pipe* (29 March 2016), NQ-2015-002 (CITT) [*Line Pipe I*].

and subsidized imports of line pipe from China, defined in substantially the same way as the goods subject to the present preliminary inquiry, had caused injury to the domestic industry.

7. The Tribunal did not receive any notices of participation or submissions in opposition to the complaint. Tenaris Global Services (Canada) Inc., Algoma Tubes Inc. and Prudential Steel ULC (collectively, Tenaris), another domestic producer supporting the complaint, filed notices of participation in the Tribunal's preliminary injury inquiry but did not make submissions. Evraz was granted leave, in the circumstances, to file brief submissions for the sole purpose of establishing that the evidence presented in the complaint discloses a reasonable indication that the dumping of subject goods has caused or is threatening to cause injury to the domestic industry.

8. On August 8, 2017, pursuant to subsection 37.1(1) of *SIMA*, the Tribunal determined that there was evidence disclosing a reasonable indication that the dumping of the subject goods had caused or was threatening to cause injury to the domestic industry.

EVRAZ'S SUBMISSIONS

9. Evraz submitted that the domestic industry suffered injury from 2015 to 2016 due to the subject goods. It submitted that following the Tribunal's finding in *Line Pipe I*, the subject goods began to "flood" the Canadian market. As a result, the domestic industry was unable to recapture sales volumes and increase prices in the wake of the finding in *Line Pipe I* as it had expected to, and was impeded in its efforts to manage the ongoing market contraction. Evraz submitted that, due to the arrival of increasing volumes of subject goods between 2015 and 2016, the domestic industry experienced losses in sales and production volumes, severe price depression and suppression, declining profitability and reductions in employment.

10. Evraz further submitted that the subject goods pose an imminent and foreseeable threat of injury, as there is a likelihood that the increase in volumes of subject goods will continue, causing further negative price effects and injury to the domestic industry.⁴

LEGISLATIVE FRAMEWORK

11. The Tribunal's mandate in a preliminary injury inquiry is set out in subsection 34(2) of *SIMA*. It requires the Tribunal to determine "... whether the evidence discloses a reasonable indication that the dumping or subsidizing of the [subject] goods has caused injury or retardation or is threatening to cause injury."⁵

12. The "reasonable indication" standard that applies in a preliminary injury inquiry is lower than the evidentiary threshold that applies in a final injury inquiry under section 42 of *SIMA*.⁶ The term "reasonable indication" is not defined in *SIMA*, but is understood to mean that the evidence in question need not be "... conclusive, or probative on a balance of probabilities. . . ."⁷

4. Exhibit PI-2017-001-06.01, Vol. 3 at paras. 5 and 6.

5. As a domestic industry is already established, the Tribunal need not consider the question of retardation.

6. *Grain Corn* (10 October 2000), PI-2000-001 (CITT) at 7.

7. *Ronald A. Chisholm Ltd. v. Deputy M.N.R.C.E.* (1986), 11 CER 309 (FCTD).

13. The Tribunal has previously been satisfied that the threshold for the “reasonable indication” standard was met where:⁸

- the alleged injury or threat of injury is substantiated by evidence that is sufficient in the sense that it is “relevant, accurate and adequate”; and
- in light of the evidence, the allegations stand up to a “somewhat probing examination”, even if the theory of the case might not seem convincing or compelling.

14. The evidence in a preliminary injury inquiry will be significantly less detailed and comprehensive than the evidence in a final injury inquiry and it will not be tested to the same extent. At this early stage, the Tribunal will read complaints generously, where necessary. However, the outcome of a preliminary injury inquiry must not be taken for granted.⁹ Simple assertions are not sufficient.¹⁰ Complaints, as well as the cases of parties opposed, must be supported by positive and sufficient evidence. Such evidence must also be relevant, in that it addresses the necessary requirements in *SIMA* and the relevant factors of the *Special Import Measures Regulations*.¹¹

15. In making its preliminary determination of injury, the Tribunal takes into account the factors prescribed in section 37.1 of the *Regulations*, including the import volumes of the dumped goods, the effect of the dumped goods on the price of like goods, the resulting economic impact of the dumped goods on the domestic industry and, if injury or threat of injury¹² is found to exist, whether a causal relationship exists between the dumping of the goods and the injury or threat of injury.

16. Before examining the allegations of injury or threat of injury, the Tribunal must, however, address a number of framework issues. Specifically, the Tribunal must first identify the domestically produced goods that are “like goods” in relation to the subject goods, as well as the domestic industry that produces those like goods. This analysis is required because subsection 2(1) of *SIMA* defines “injury” as “. . . material injury to a domestic industry” and “domestic industry” as “. . . 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” Subsection 2(1) of *SIMA* further defines “like goods”, in relation to any other goods, as “(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.”

8. *Concrete Reinforcing Bar* (12 August 2014), PI-2014-001 (CITT) [*Reinforcing Bar*] at para. 15; *Silicon Metal* (21 June 2013), PI-2013-001 (CITT) at para. 16; *Unitized Wall Modules* (3 May 2013), PI-2012-006 (CITT) at para. 24; *Liquid Dielectric Transformers* (22 June 2012), PI-2012-001 (CITT) at para. 86.

9. *Reinforcing Bar* at paras. 18-19.

10. Article 5 of the World Trade Organization (WTO) *Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994* requires an investigating authority to examine the accuracy and adequacy of the evidence provided in a dumping complaint to determine whether there is sufficient evidence to justify the initiation of an investigation, and to reject a complaint or to terminate an investigation as soon as an investigating authority is satisfied that there is not sufficient evidence of dumping or injury. Article 5 also specifies that simple assertions that are not substantiated with relevant evidence cannot be considered sufficient to meet the requirements of the article.

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

12. In its consideration of whether there is a reasonable indication that the dumping of the subject goods is threatening to cause injury, the Tribunal is guided by subsection 37.1(2) of the *Regulations*, which prescribes factors to be taken into account for the purposes of its threat of injury analysis.

LIKE GOODS AND CLASSES OF GOODS

17. Evraz submitted that domestically produced line pipe is like goods in relation to the subject goods and that there is a single class of goods. Evraz's submissions are consistent with the Tribunal's findings on the issues of like goods and classes of goods in *Line Pipe I*. The Tribunal sees no reason to depart from its findings on this issue in *Line Pipe I*.

18. Accordingly, the Tribunal will conduct its analysis on the basis that line pipe produced in Canada that is of the same description as the subject goods is "like goods" in relation to the subject goods and that there is a single class of goods.

DOMESTIC INDUSTRY

19. According to the complaint, Evraz, Tenaris and Bri-Steel Manufacturing (Bri-Steel) account for the entirety of the known domestic production of line pipe. This is consistent with the Tribunal's findings in *Line Pipe I*.¹³ Furthermore, Evraz submitted, and the CBSA accepted, that Evraz on its own accounts for a major proportion of domestic production of like goods in Canada.

20. Given that the record of this preliminary injury inquiry includes production and financial data for Evraz and Tenaris, but not for Bri-Steel, the Tribunal must conduct its analysis on the basis of these two companies' production of like goods. The Tribunal is satisfied that Evraz and Tenaris represent a major proportion of the total domestic production of the like goods and finds accordingly.

INJURY ANALYSIS

21. The Tribunal must next determine whether the evidence discloses a reasonable indication of injury, taking into account the factors prescribed in section 37.1 of the *Regulations*.

Import Volume of Subject Goods

22. Evraz's estimates¹⁴ show that the volume of subject goods decreased by 77 percent in 2015 before rising by 386 percent in 2016.¹⁵ Overall, from 2014 to 2016, the volume of subject goods increased by approximately 4,000 tonnes. This substantial increase in 2016 appears to coincide with the imposition of provisional anti-dumping and countervailing duties, in late November 2015, on line pipe from China.

23. The CBSA's data show a similar trend in the volume of imports of subject goods, but indicate a smaller overall increase from 2014 to 2016 than estimated by Evraz.¹⁶ The CBSA also noted an "overall trend of rising import shares from the Republic of Korea, which increased from 9.8% of total imports in 2014, to 38.0% in 2016".¹⁷

24. The Tribunal finds that these estimates reasonably indicate a significant increase, in absolute terms, in the volume of subject goods. Of note, the sharp increase in the volume of subject goods in 2016 occurred at the same time as the total Canadian market contracted severely, and in a context where, according to the

13. At para. 82.

14. Based on Statistics Canada data on imports.

15. Exhibit PI-2017-001-02.01, Vol. 1 at 33-34; Exhibit PI-2017-001-03.01 (protected), Vol. 2 at 153.

16. Exhibit PI-2017-001-03.02 (protected), Vol. 2 at 310; Exhibit PI-2017-001-05, Vol. 1G at 268.

17. Exhibit PI-2017-001-05, Vol. 1G at 265.

CBSA, the volume of imports from all other countries declined by 82 percent compared to 2014 figures.¹⁸ Indeed, as was already noted in the Tribunal's inquiry in *Line Pipe I*, demand for line pipe started contracting in 2015 due to weak oil prices,¹⁹ and this contraction continued in 2016. Viewed in this light, the increase in the subject goods' absolute volume in 2016 is significant: the subject goods appear to have made gains in the volume of imports and in their market share compared to previous years in the context of a shrinking, significantly smaller Canadian market.

25. Given that domestic production and sales volumes both declined from 2014 to 2016,²⁰ both the CBSA and Evraz's estimates also show an upward overall trend in the volume of subject goods relative to domestic production as well as to domestic consumption of like goods over this period.

26. The Tribunal finds that there is a reasonable indication of a significant increase in 2016 in the absolute and relative volume of imports of the subject goods.

Effect on Prices of Like Goods

27. Evraz submitted that the subject goods have significantly undercut the price of the like goods, have prevented price increases that would otherwise have occurred and have depressed the prices of the like goods, as the subject goods aggressively replaced Chinese imports as the low-price leaders.

28. Having reviewed the evidence submitted by Evraz, the Tribunal finds it to be relevant, accurate and adequate and to reasonably support its allegations for the purposes of this preliminary injury inquiry. Bearing in mind the lower standard applicable at this stage, this evidence reasonably indicates that the dumping of the subject goods has negatively affected the prices of the like goods, most apparently in 2016, following the imposition of duties on imports of line pipe from China.

29. Evraz's estimates of average prices indicate that, at the aggregate level, the unit import values for the subject goods undercut the domestic selling prices of the like goods in 2014.²¹ The Tribunal notes that, in that year, the subject goods appear to have been priced slightly above the average price of all non-subject imports combined, which at that time included large volumes of dumped and subsidized line pipe from China (prior to the imposition of duties).

30. While the average unit value of subject goods rose significantly in 2015 (at the same time as their volumes dropped), in 2016, it declined significantly, to a level below that of 2014. This decline in the average unit value of the subject goods occurred at the same time as their volumes increased sharply.

18. *Ibid.* at 268.

19. *Line Pipe I* at para. 175.

20. Exhibit PI-2017-001-03.01 (protected), Vol. 2 at 153 and 251.

21. The complainants' estimated import unit values are based on the value for duty of the subject goods, derived from publicly available import data from Statistics Canada and export data from the Korean Customs Service. Import values based on value for duty may underestimate the price at which the goods were actually sold in the Canadian market. However, it is probable that they followed similar trends. Exhibit PI-2017-001-02.01, Vol. 1 at 31; Exhibit PI-2017-001-02.01A, Vol. 1D at 99.

31. The evidence indicates that the average domestic selling price also fell from 2014 to 2016, most notably from 2015 to 2016.²² Meanwhile, the average unit value of non-subject imports rose steadily from 2014 to 2016, and, in 2016, stood well above the average unit values of the subject and like goods.²³

32. The aggregate pricing data reasonably indicate significant price depression, in 2016 in particular, as a result of the downward pressure from the low prices of the subject goods. The aggregate data is consistent with the declaration of Mr. Kelly Smith, of Evraz, where he explains that in “order to keep sales and plant throughput, [Evraz has] been forced to lower [its] pricing.”²⁴

33. The price depressing effect of the subject goods is also supported by Evraz’s specific injury allegations,²⁵ which document a number of instances where subject goods undercut domestic prices and/or forced the domestic industry to lower its prices in an attempt to compete with the low prices of Korean goods. The Tribunal finds this evidence of specific injury allegations to be reasonably reliable for the purposes of the preliminary injury inquiry, bearing in mind that such evidence will need to be fully tested in the context of a final injury inquiry.

34. Finally, the evidence available at this time²⁶ does not indicate price suppression in accordance with the Tribunal’s typical analysis, which compares the changes in the domestic industry’s consolidated \$/tonne cost of goods sold (COGS) to the changes in the weighted average selling prices of the like goods to determine if domestic producers have been able to increase prices in step with increases in their COGS. However, as will be further discussed below, the evidence does indicate a problematic situation of declining unit gross and net margins coincident with increased volumes of low-priced subject goods in 2016.

Resultant Impact on the Domestic Industry

35. As part of its analysis under paragraph 37.1(1)(c) of the *Regulations*, the Tribunal must consider the impact of the dumped goods on the state of the domestic industry and, in particular, all relevant economic factors and indices that have a bearing on the state of the domestic industry.

36. In a preliminary injury inquiry, the Tribunal must determine whether the evidence discloses a reasonable indication of a causal link between the dumping of the subject goods and the injury on the basis of the resultant impact of the volume and price effects of the dumped goods on the domestic industry. The standard is whether there is a reasonable indication that the dumping of the subject goods has, *in and of itself*,²⁷ caused injury.

37. Evraz submitted that the subject goods had caused injury to the domestic industry, particularly from 2015 to 2016, in the form of negative effects on Canadian output, sales, gross margins, net profits, utilization of capacity and employment.

38. Having considered the evidence adduced by Evraz on the confidential and public record in light of the relevant factors, the Tribunal finds that it shows a domestic industry in a deteriorating state. Specifically,

22. Exhibit PI-2017-001-03.01 (protected), Vol. 2 at 34.

23. *Ibid.*

24. Exhibit PI-2017-001-02.01A, Vol. 1D at 111-112.

25. Exhibit PI-2017-001-03.01 (protected), Vol. 2 at 156-165.

26. *Ibid.* at 146, 153, 164; Exhibit PI-2017-001-02.01A, Vol. 1D at 112.

27. *Gypsum Board* (5 August 2016), PI-2016-001 (CITT) at para. 44; *Copper Rod* (30 October 2006), PI-2006-002 (CITT) at paras. 40, 43; *Galvanized Steel Wire* (22 March 2013), PI-2012-005 (CITT) at para. 75; *Circular Copper Tube* (22 July 2013), PI-2013-002 (CITT) at para. 82.

the consolidated financial statements for the domestic industry indicate that the performance of the domestic industry declined consistently from 2014 to 2016, and most significantly from 2015 to 2016, with respect to most publicly available indicators.²⁸

39. The consolidated statements of the domestic industry show that domestic production declined in both 2015 and 2016, accompanied by a drop in capacity utilization rate and employment.²⁹

40. Between 2014 and 2016, sales of domestic production also fell in both volume and value, as did the domestic industry's gross and net income margins.³⁰ This includes a steep decline in these indicators from 2015 to 2016, at a time when the volume of subject goods increased sharply. In this regard, as discussed above, Evraz provided a number of examples of specific instances where it allegedly lost sales to low-priced imports of the subject goods and, in the process of trying to gain sales, had to lower prices in order to compete with the subject goods. This evidence, subject to being fully assessed in the context of a final injury inquiry, reasonably indicates a causal relationship between the dumping and injury to the domestic industry.

41. Evraz alleged that its own profitability has been "adversely impacted most directly by revenues . . . lost on sales [it] managed to maintain in the presence of low-priced dumped Korean line pipe in the market".³¹ Those sales were made by Evraz at depressed prices. This is consistent with the evidence, discussed above, which reasonably indicates that the domestic industry experienced significant price depression while faced with competition from rising volumes of low-priced subject goods entering the Canadian market in 2016.

42. In the present circumstances, the significance of such negative effects on profitability would have been only exacerbated by the fact that the subject goods appear to have started entering the Canadian market in significant numbers immediately following the imposition of duties on dumped and subsidized Chinese line pipe. This took place at a time where the domestic industry had had little opportunity to recover from the injury it experienced in previous years from dumped and subsidized line pipe from China.

43. Overall, the Tribunal finds that the evidence discloses a reasonable indication that the domestic industry has suffered injury in 2016 and that the increasing presence of low-priced, dumped goods was a cause of injury. That said, as the Tribunal already noted in *Line Pipe I*³² with respect to the situation prevalent in 2015, part of the domestic industry's deteriorating performance over this period was likely caused by the declining market demand for line pipe. This does not, however, negate the injury caused by the subject goods in the context of this inquiry.

44. During the final injury inquiry, the Tribunal will be particularly mindful of the various factors affecting the state of the domestic industry in order to fully establish the existence of a causal link between the dumping and material injury to the domestic industry. At this stage, however, the record comprises sufficient relevant evidence disclosing a reasonable indication that the rising volumes of low-priced subject goods have, in and of themselves, caused injury, particularly in 2016, and that this injury was material.

45. As a result of the above finding, the Tribunal will exercise judicial economy and will not consider whether there is a reasonable indication that the dumping of the subject goods is threatening to cause injury.

28. The limited information available on the public record of this inquiry with respect to certain performance indicators did not enable the Tribunal to discuss them in these reasons. The Tribunal has nevertheless taken such indicators into consideration in its analysis and findings.

29. Exhibit PI-2017-001-03.01 (protected), Vol. 2 at 251, 255-257.

30. *Ibid.* at 146.

31. Exhibit PI-2017-001-02.01A, Vol. 1D at 104.

32. *Line Pipe I* at paras. 171-175.

CONCLUSION

46. The Tribunal finds that the evidence discloses a reasonable indication that the dumping of the subject goods has caused injury to the domestic industry.

Jean Bédard, Q.C.

Jean Bédard, Q.C.
Presiding Member

Jason W. Downey

Jason W. Downey
Member

Rose Ritcey

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